

SELECT BOARD

Minutes of the Meeting of April 5, 2023. The hybrid meeting took place in person at the Public Safety Facility Community Room at 4 Fairgrounds Road; and, via remote participation using Zoom Webinar. Members of the Board present were Matt Fee, Dr. Malcolm MacNab and Brooke Mohr. Dawn Holdgate participated remotely and Jason Bridges was absent.

I. CALL TO ORDER

Vice Chair Holdgate acting as Chair called the meeting to order at 5:30 PM following the Pledge of Allegiance.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted as posted with one change: Ms. Holdgate noted that one item of Pending Contracts has been removed, a sale of surplus Fire Department equipment for \$500.

III. ANNOUNCEMENTS

1. The Select Board Meeting is Being Audio/Video Recorded.

2. Select Board Announcements/Comments. Ms. Mohr reviewed a “Housing Advocacy Day” in Boston last week, with many attendees from Nantucket and the Vineyard. She spoke on her observations and said that legislators seemed surprised by some of the realities of the housing struggles of the Islands. She said it seems that there is “more energy” around the pending housing transfer fee legislation and it was an overall positive day.

Dr. MacNab suggested that if the start of Passover occurs on a Wednesday in the future (as it does today) that the Board not meet on that day.

Mr. Fee suggested that the Board consider a policy that all boards hold hybrid meetings, as allowed by current state legislation, to allow for increased public participation. He said he has been contacted by citizens concerned that their voices “aren’t being heard”.

IV. FOLLOW-UP ON COMMENTS FROM PRIOR SELECT BOARD MEETINGS

There were no follow-up comments.

V. PUBLIC COMMENT

Megan Perry spoke on a state permit for Surfside Crossing that she felt was not properly acted upon by various Town staff, noting that she has spoken on this issue in several prior meetings. She spoke on her dissatisfaction with how this matter was handled. She asked the Board to file a legal action with this matter. She also commented on a question she has asked of a public board that she said has not been answered.

Caroline Baltzer commented on an agenda item regarding short-term rentals. Ms. Holdgate noted that since the item is on the agenda comments may be made then.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Mr. Fee moved approval of items VII 1 – 3; seconded by Dr. MacNab; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

1. Approval of Minutes of March 15, 2023 at 5:30 PM; March 20, 2023 at 4:00 PM; March 21, 2023 at 5:00 PM; March 22, 2023 at 5:30 PM.

2. Approval of Payroll Warrants for April 2, 2023.

3. Approval of Treasury Warrants for March 29, 2023; April 5, 2023.

4. Approval of Pending Contracts for April 5, 2023 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Mr. Fee moved approval of Pending Contracts as presented – excluding a surplus sale item for the Fire Department; seconded by Ms. Mohr; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

VIII. REPORTS

1. Short-Term Rental Registration Program Update. Alex Wenglein of Granicus reviewed a presentation as contained in the Board's packet as to the status of implementation of the short-term rental regulation program that was authorized through a bylaw adopted at the 2022 Annual Town Meeting and subsequent regulations adopted jointly by the Board of Health and Select Board. Mr. Fee asked where Nantucket information can be found on the Granicus website. Ms. Wenglein said Granicus does not have information specific to Nantucket on its website but rather it is assisting with public outreach for this program. Ms. Mohr clarified that this program is unrelated to the work that the Short-term Rental Work Group is undertaking relating to proposing short-term rental bylaws. Ms. Holdgate questioned some of the data contained in the presentation as to where most Nantucket short-term rentals are shown as being available, saying that it is misleading. Ms. Wenglein said she would look into that. Mr. Fee said he believes this data is now being gathered through a separate effort, specific to data collection and analysis. Ms. Mohr asked if there are plans to connect with Nantucket realtors who are handling short-term rentals without the use of outside digital platforms. Some discussion followed on where most Nantucket short-term rentals are actually booked. Ms. Wenglein said she would look into this. Kathy Baird asked about the specifics of the registration program itself with respect to how property owners will be contacted and how the actual registration will be undertaken. Ms. Wenglein explained. Some discussion followed as to how short-term rentals are typically regulated. Discussion continued as to the "roll out" of the Nantucket registration program. Bob Vidoni reiterated the importance of confirming the accuracy of data gathered from digital websites. He also expressed concern about a comment made by Ms. Wenglein as to protecting "the integrity of the town". Ms. Mohr reiterated that the scope of the Granicus assignment is merely to establish the online registration program. Public Health Director Roberto Santamaria spoke on this and noted there was a change in the Granicus project manager very recently, so there may have been some less clear information as the new project manager gets up to speed. David Iverson asked why the registration program is delayed. He noted that the data that will be collected as a result of the registration program is important to the work of the Short-term Rental Work Group. Mr. Santamaria said the current hope is that the program will be rolled out in June, 2023. Some discussion followed on this. Caroline Baltzer expressed concerns about assumptions she believes Granicus has made that are negatively biased. Ms. Wenglein clarified that her comments were not specific to Nantucket but rather were general as to how short-term rentals are handled in other places. Mr. Santamaria emphasized that there is no bias associated with the rental registration process. Dr. MacNab agreed with something Ms. Mohr indicated earlier that this is

merely an update as to the registration program, not about the quality of any data. Rebek Duhaim commented on the program and suggested that the system be tested before going live, noting that she believes people willing to help with this could be easily found (such as herself). She commented that June will be a difficult time to roll out the program because many short-term rentals are already booked by then. Diane Brickley shared the concerns expressed by other speakers as to the comment about “protecting the integrity of the town”. Henry Sanford asked if there would be a way for a third-party(s) to assist with the registrations on behalf of the owners. Mr. Santamaria said “yes”.

IX. CONSENT ITEMS

1. Gift Acceptances: Department of Public Works. Ms. Mohr moved to accept the gift for the DPW for the designated purpose, with thanks to the donor; seconded by Mr. Fee; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

X. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS

1. Robert B. Our Co., Inc.: Request to Amend Waiver of Town Noise Bylaw Approved March 8, 2023 for Third Sewer Force Main Project on Surfside Road to Start Night Work April 3, 2023 (Instead of April 24, 2023) through June 2, 2023, 4:00 PM to 3:00 AM, Monday through Thursday Nights. Sewer Director David Gray explained the purpose of the request, noting that some unexpected issues have arisen which need to be resolved promptly.

Ms. Mohr moved approval as presented; seconded by Dr. MacNab; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

2. Licensing: Review Request for Pedicab License Hearing for “NanTukTuk”. Licensing Administrator Amy Baxter reviewed the Board’s pedicab regulations and the history of why those were adopted in 2011. Mr. Fee asked if there was a staff recommendation. Ms. Baxter said if anything perhaps feedback could be received from the Transportation Program Manager or the Traffic Safety Work Group. Ms. Baxter expressed her opinion that some sort of review should occur; however, she also emphasized that taking on new services and programs like this is extremely challenging, especially with the challenges already faced with existing services and programs. She encouraged caution. Some discussion followed about the “pedicab service area”, a map of which was projected on the video screen. Michael Gormley, proposer of this request, spoke on his experience operating a pedicab business in Charleston. He suggested the possibility of a “pilot program” before formal license consideration. He spoke on the benefits he believes would be realized with pedicabs and explained how some of the operational issues would be handled with respect to parking, the area within which he would propose to operate and the clients he would intend to serve. Ms. Mohr commented that potentially the regulations would have to be amended and she does not think this program is ready for this season. She suggested more feedback from Town staff and acknowledged there are other issues to be focused on. Robert DeCosta said he was on the Board when the regulations were adopted. He said he was concerned at the time of adoption and was opposed to the issuance of licenses. He noted he was recently in Charleston, saw pedicabs in operation and does not think they will work here. Dr. MacNab said the proposal is intriguing and he would like to explore the idea of a pilot program. Mr. Gormley spoke again in favor of a pilot program and said he would ensure his vehicles are not a “public burden”. Ms. Holdgate expressed “mixed feelings” about the proposal and said she might consider a pilot program. She agreed with a review by the Traffic Safety Work Group. Ms. Baxter suggested a pilot program if the Board is favorable to try this out, with specific parameters. Mr. Gormley agreed with a review by Traffic Safety and said he does not think much would need to change, if anything, with the existing regulations, for a pilot program. Mr. Fee suggested further review by Traffic Safety, the

Bicycle Pedestrian Advisory Committee (BPAC) and the Transportation Program Manager before a public hearing. Ms. Mohr said this is not a high priority, especially given the staffing challenges in the Town. Some discussion followed. Ms. Holdgate suggested the next step be review by Traffic Safety at its next meeting, with a report back to the Board after that. After some continued discussion, Mr. Fee moved to refer the proposal to Traffic Safety, BPAC and the Transportation Program Manager, when they can take it up and to allow the Select Board Chair and Vice Chair to schedule a public hearing if deemed ready; seconded by Dr. MacNab; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – No; so voted. Mr. Fee asked Ms. Mohr about her vote. Ms. Mohr reiterated her concern as to Town staffing challenges and other priorities. Ms. Holdgate said the reality is that this is more likely for next season than this summer.

3. Nantucket Property Owner LLC: Request for Waiver of Sewer Connection Permit Fees and Sewer Capacity Fees for Eight (8) Units of 80% AMI (Area Median Income) Restricted Units and One (1) Unit of 175% AMI within Sandpiper Place II off Old South Road:

- 5 Beach Grass Road – 80%
- 2 Indigo Drive – 80%
- 16 Honeysuckle Drive – 80%
- 21 Honeysuckle Drive – 80%
- 6 Beach Grass Drive – Duplex 80%
- 13 Beach Grass Road – Duplex 80%
- 15 Honeysuckle Drive – 175%

Housing Director Tucker Holland introduced the item, noting that Nantucket Property Owner LLC (“NPO LLC”) is the successor/assign to a portion of the Sandpiper I and II homeownership development and therefore, it is subject to certain aspects of the Memorandum of Agreements between Richmond and the Town, and is eligible to avail itself the Select Board’s current Sewer Fee Waiver Policy adopted in November of 2022. He noted pursuant to the Sewer Fee Waiver Policy, NPO is eligible for waivers of the sewer permit connection fees and Sewer Capacity Fees for the eight units at 80% AMI and a waiver of the sewer permit connection fee only for the one unit at 175% AMI. Mr. Holland explained the recommendation as contained in the Board’s agenda packet, including conditions that sufficient documentation (e.g., Regulatory Agreements, deed restrictions, Planning Board approvals, etc.) regarding Town Counsel’s and DHCD’s satisfaction as to 1) all income-restricted unit types are acceptable, 2) all income-restricted units are deed restricted at the respective income levels in perpetuity, and 3) all income-restricted units are in approved locations as a number of these lots had to move or be swapped from the original lots designated due to size constraint, accommodating a pool/amenity center and increasing restricted unit count. Linda Williams, representing the applicant, commented that the conditions are “unnecessary” and cited a document she received from the Planning Office, today, confirming that. Mr. Holland said he would prefer to confirm the representation by Ms. Williams, with the state directly. Mr. Fee asked about the calculation of the waivers. Mr. Holland explained. Ms. Mohr moved approval as presented and subject to confirmation by the state of the recommended conditions to Mr. Holland; seconded by Mr. Fee; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted. Dr. MacNab said he does not appreciate getting information at the meeting, such as what Ms. Williams provided.

4. The Richmond Company, Inc.: Request for Waiver of Sewer Connection Permit Fees and Sewer Capacity Fees for Eight (8) Units of 80% AMI (Area Median Income) Restricted Units and Two (2) Units of 175% AMI within Sandpiper Place II off Old South Road:

- 1 Aster Court Drive – 80%

- 29 Beach Grass Road – 80%
- 3 Lilac Court – 80%
- 7 Sandplain Drive – 80%
- 24 Evergreen Way – 80%
- 8 Bluet Court – 80%
- 9 Bluet Court – 80%
- 21 Beach Grass Road – 80%
- 37 Beach Grass Road – 175%
- 26 Honeysuckle Drive – 175%

Mr. Holland introduced the item noting that it is very similar to the prior item and that Richmond is eligible for waivers of the sewer permit connection fees and Sewer Capacity Fees for the eight units at 80% AMI and waivers of the sewer permit connection fees for two units at 175% AMI. Ms. Mohr moved approval as presented in the Board's agenda packet; seconded by Mr. Fee; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

XI. SELECT BOARD'S REPORTS/COMMENT

1. Update: Proposed Independent Review of Historic District Commission Operations (Tabled from February 15, 2023; March 15, 2023). Ms. Gibson introduced the item and explained that last summer an issue arose about whether or not HDC advisory committees were properly established. It was determined that they were not, and they stopped meeting, except for the Sign Advisory Committee which was re-established through appointment by the Select Board. Thereafter, issues arose about HDC staffing, with a citizen warrant article filed for the 2023 Annual Town Meeting. She said that at a Board meeting on November 16, 2022, she recommended consideration of an independent review of the HDC processes, meeting structure, staffing requirements, application types and associated issues. Since then a draft scope for such a review was developed, reviewed by staff and most recently reviewed by the HDC, comments from which are contained in the Board's agenda packet materials. HDC Chair Ray Pohl said that a tremendous amount of time and work has been spent by HDC commissioners and staff as to how the independent review would take place. HDC Vice Chair Stephen Welch spoke in favor of the independent review, with the scope as adopted by the HDC (contained in the Board's agenda packet). Preservation Planner Holly Backus concurred with Mr. Welch and reviewed some of the other documents in the Board's packet. The proposed scope was projected on the screen. Dr. MacNab asked if the HDC itself wants this to happen. Mr. Welch answered affirmatively. Dr. MacNab asked about the group identified to undertake the review as described in the packet. Ms. Backus reviewed the group's background and the methodology by which the work could be done. She indicated support for the review. Dr. MacNab asked if the HDC's enabling legislation necessarily needs review; he said he has concerns about that. Ms. Backus responded and said she shares concerns but that an overall review could be helpful. Dr. MacNab commented on the scope of services. Dr. MacNab commented on the legality of the advisory committees and competing legal opinions. Mr. Welch said the legal opinions are not contained in the review and that review of the Act has actually been removed from the scope. Some discussion followed on the suitability of the organization potentially to be selected to undertake the review. Virginia Andrews encouraged support of the HDC's proposed scope for the review. Rick Atherton expressed support for keeping the HDC independent and that oversight of the review by shared. Mr. Welch noted that is addressed in the HDC's recommended scope. Joe Topham noted that the COVID pandemic had an impact on the HDC's operations and that recent changes to the HDC's review process have been very helpful and an independent review will also be helpful. Ms. Mohr spoke in support of an independent review. Mr. Fee said he supports the review also. He said when the advisory committees stopped meeting, concerns arose. He asked about part of the scope

which specifies who will be interviewed as part of the review. He said he would like to add a review of any “bias” by the commissioners. Mr. Fee commented on the competing legal opinions mentioned by Dr. MacNab and hopes it will added to the review. Angus MacLeod of the Nantucket Historical Commission said he supports an independent review. He said he hopes other parties will be added to the scope, to be interviewed. He added support for the return of the advisory boards. Mr. Fee suggested adding other parties to be interviewed. Ms. Mohr asked HDC representatives to comment on that. Mr. Welch said it was considered and perhaps members of the prior and current advisory groups could be added. Ms. Mohr suggested “other stakeholders as determined by the reviewer”. Some discussion followed and there was a general consensus to include that in the scope. Dr. MacNab asked if any other organization was considered for this work. Ms. Backus said the organization preferred is “the” group that would do this work and there is no other proper organization. Dr. MacNab said this review is more about organization rather than preservation and he could probably find someone locally to do this for one dollar. Mr. Topham commented that the professional group that is preferred and recommended is appropriate and said the HDC is a “different animal” from other Town boards. Ms. Holdgate said that she is comfortable with the group recommended. Ms. Mohr moved to approve the independent review as presented with the additional scope as mentioned with additional stakeholders; seconded by Mr. Fee; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

2. Committee Reports. No committee reports.

XII. ADJOURNMENT

Ms. Mohr moved adjournment at 7:56 PM; seconded by Mr. Fee; by roll call vote: Ms. Holdgate - Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Approved the 12th day of April 2023.

SELECT BOARD
APRIL 5, 2023 – 5:30 PM
PSF COMMUNITY ROOM, 4 FAIRGROUNDS ROAD
AND REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS

List of documents used at the meeting:

- VII. 1. Draft minutes of 3/15/2023; 3/20/2023; 3/21/2023; 3/22/2023
- VII. 4. Pending Contracts spreadsheet
- VIII. 1. Short-Term Rental Update
- IX. 1. Gift summary & recommended motion; DPW gift letter
- X. 1. AIS re: RBO Noise Bylaw Waiver amendment request; 3/8/2023 noise bylaw waiver for RBO
- X. 2. AIS re: Pedicabs; Ch. 316, Pedicabs; Pedicab Service Area map; NanTukTuk Business Overview; Portion of SB minutes 6/15/2011; Town Counsel opinions from 2011 re: pedicabs
- X. 3. AIS re: Nantucket Property Owner LLC Sewer Fee Waiver Request; Sewer Fee Waiver Policy adopted November 2022; Background e-mail chain to the request
- X. 4. AIS re: Richmond Sewer Fee Waiver Request; Sewer Fee Waiver Policy adopted November 2022; Richmond request letter – August 2022; Plan showing lot locations within Sandpiper I and II; Income restricted units spreadsheet noting addresses & map/ parcel information
- XI. 1. AIS re: HDC proposed independent review; advisory committees; AIS from 3/15/2023 SB meeting; AIS from 2/15/2023 SB meeting; Select Board minutes 9/7/22; Select Board minutes 11/16/22; Agenda from 2/3/2023 Staff/Chairs meeting; DRAFT Proposed Scope for Independent Review of HDC Ops; 2/3/23 Email from S Welch re 2/2/23 HDC Special Meeting; 8/17/2022 Town Counsel legal opinion re HDC adv committees; 9/1/22 Town Counsel legal opinion re HDC adv committees; 1/10/23 Alternative legal opinion re HDC adv committees; 11/2/22 HDC memo to SB re requesting reinstating adv committees; 1/3/2023 HDC minutes; 2/9/2023 email from Town Counsel re: alternative legal opinion; 11/28/2022 email from Preservation Planner re: HDC review; DRAFT Proposed Scope for Independent Review of HDC Ops with edits from PLUS; 2020 National Alliance of Preservation Commissions CAMP report; 11/17/2022 HDC adoption of best practices; 2/13/2023 letter from Nantucket Historical Commission; 2/13/2023 letter from Mickey Rowland (former chair of HSAB); 2/13/2023 letter from Nantucket Preservation Trust and Sconset Trust; 2/13/2023 email from Mick Rowland with HSAB Policies & Procedures; 2/15/2023 email from Christine Sanford; 2/15/2023 email from Cathy Ward; 2/15/2023 email from Anthony Vale; 3/10/2023 email from Stephen Welch with HDC adoption of Scope of Services for HDC Ops Review; 3/13/2023 email from Preservation Planner with draft s. 124-14; 3/13/2023 letter from Hillary Rayport; 3/14/2023 email from Preservation Planner with NAPC Draft Outline of Services; 3/14/2023 email from Topham Design; 3/15/2023 email from Hillary Rayport; 3/15/2023 email from Abby Camp