

## SELECT BOARD

Minutes of the Meeting of April 10, 2019. The meeting took place in the Public Safety Facility Community Room, 4 Fairgrounds Road, Nantucket, MA 02554. Members of the Board present were Mr. Bridges, Mr. Fee, Ms. Ferrantella, Ms. Higgins and Dawn Hill Holdgate.

### I. CALL TO ORDER

Chair Hill Holdgate called the meeting to order at 6:00 PM. Chair Hill Holdgate congratulated new member Ms. Ferrantella, incumbent Mr. Fee and thanked those who ran for offices for the April 9, 2019 Annual Town Election.

### II. SELECT BOARD ACCEPTANCE OF AGENDA

Not on the agenda, Nantucket Regional Transit Authority Administrator Paula Leary awarded prizes to local citizens and students for the NRTA's year-round ridership promotion contest and thanked local businesses for donations and ReMain for their year-round marketing strategy.

### III. ANNOUNCEMENTS

1. Town Manager C. Elizabeth Gibson announced that the Select Board meeting is being video/audio recorded in accordance with the Open Meeting Law.
2. Ms. Gibson reviewed the 2019 committee/board/commission vacancies, along with the application submittal and appointment timeline.
3. Ms. Gibson announced that there will be a public meeting to review the NHS/Plus Parcels Sewer Connection Process on Thursday, April 11, 2019 at 6:00 PM at the PSF Community Room, 4 Fairgrounds Road.
4. Ms. Gibson announced that Town offices will be closed on Monday, April 15, 2019 in observance of Patriots' Day.

### IV. PUBLIC COMMENT

None.

### V. NEW BUSINESS

None.

### VI. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of March 13, 2019 at 6:00 PM. Mr. Bridges moved to approve the minutes of March 13, 2019 at 6:00 PM; Ms. Higgins seconded. All in favor, so voted.
2. Approval of Payroll Warrants for Weeks of March 31, 2019; April 7, 2019. Mr. Bridges moved to approve payroll warrants for the weeks of March 31, 2019 and April 7, 2019; Ms. Higgins seconded. All in favor, so voted.
3. Approval of Treasury Warrants for April 3, 2019; April 10, 2019. Mr. Bridges moved to approve treasury warrants for April 3, 2019 and April 10, 2019; Ms. Higgins seconded. All in favor, so voted.

4. Approval of Pending Contracts for April 10, 2019 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Ms. Gibson reviewed the contracts related to police academy training and noted the Town requires a three-year employment commitment to the Town following completion of the training; and, if an officer leaves before the three-year period, they must reimburse the Town for the cost of training. Ms. Higgins moved to approve pending contracts for April 10, 2019; Ms. Ferrantella seconded. All in favor, so voted.

## VII. CONSENT ITEMS

1. Resignation: Finance Committee. Mr. Bridges moved to accept the resignation of Finance Committee member Henry Sanford with a letter of thanks to Mr. Sanford for his service; Ms. Higgins seconded. All in favor, so voted.

2. Gift Acceptances: Our Island Home; Human Services (Saltmarsh Senior Center). Mr. Bridges moved to approve the gifts as presented with letters of thanks; Ms. Higgins seconded. All in favor, so voted.

## VIII. CITIZEN/DEPARTMENTAL REQUESTS

1. Darren and Rebecca Bramen: Request for Town Acceptance of Seven Trees Planted in Coffin Park Adjacent to 4 Piccadilly Road Valued at \$2,605. Ms. Gibson explained the trees were found to be encroachments on Town-owned property; and through discussion with the property owner have been gifted to the Town instead of being removed because they actually enhance the area. Ms. Higgins moved to accept; Mr. Bridges seconded. All in favor, so voted.

## IX. TOWN MANAGER'S REPORT

1. Update Regarding Development of Coastal Resiliency Advisory Committee. Ms. Gibson explained the ongoing formulation of the committee's charge, membership and goals. Ms. Gibson and Ms. Higgins worked on this together and explained that they modeled the committee after similar towns with established programs. Andy Lowell suggested a member of the Harbor & Shellfish Advisory Board be included. Maureen Phillips, on behalf of the Madaket Residents Association, thanked the Select Board for establishing the Coastal Resiliency Advisory Committee and suggested a member from one of the Madaket groups be included. D. Anne Atherton of the Nantucket Coastal Conservancy thanked the Select Board for establishing the committee and applauded the timing to coincide with annual appointments. She added that the Conservancy plans to submit a letter with suggestions as to the committee's mission statement.

2. Update Regarding Development of Cannabis Advisory Committee. Ms. Gibson that she and Ms. Higgins also worked together on the mission for this committee and that they incorporated elements of recent public comments. Robert Cole stated that he has a number of issues with the charge including zoning, licenses, and suggested broadening the scope. Ms. Higgins said she recognizes the need for the Select Board to seek knowledgeable input from established specialized growers and retailers, and an appropriate timeline to solidify realistic goals; would like to see micro businesses and small craft growers given the chance to prosper.

### 3. 2019 Annual Town Meeting/Annual Town Election Follow-up.

Ms. Gibson noted that Article 11 (Newtown Road and Old South Road Improvements), was adopted by the 2019 Annual Town Meeting but not at the Town Election and as a result will not move forward at this time. Mr. Fee commented that he would like to reduce the scope of the proposal for a future town meeting and retain improvements to Newtown Road and sidewalks in the area. Discussion followed as to the Ballot Questions that did and did not pass at the April 9, 2019 Annual Town Election. 2019 Annual Town Meeting

Ms. Gibson explained that while Article 34 (a citizen initiative for an appropriation to install stop signs at Surfside and Bartlett Roads), was adopted, the Board rather than Town Meeting is the body that can determine if the stop signs will actually be installed. The Select Board discussed installing the stop signs temporarily for a 30-45 day trial period with an evaluation at a later date. Mr. Bridges said that while he is skeptical that the stop signs will be effective as intended, he would like to try them with respect to school crossing safety. Mr. Fee encouraged plenty of signage to alert drivers of the installation, especially for returning seasonal drivers. Mr. Fee moved to install the stop signs and to schedule a public hearing on June 5, 2019 to determine their success and/or whether to keep them installed; seconded by Ms. Higgins. All in favor, so voted. Mr. Bridges questioned if the removal could be expedited if they are not successful prior to the evaluation date. The Board generally agreed to this.

Article 37 (citizen-sponsored article for an appropriation of \$20,000,000 for affordable housing) which passed at Town Meeting and the Ballot was discussed. It was noted that in the coming weeks, meetings will be held as to formulating the groundwork to administer these funds with Housing Specialist Tucker Holland, the Nantucket Affordable Housing Trust and other pertinent parties. Ms. Higgins spoke on behalf of Affordable Housing Trust and thanked the voters for recognizing the need to develop a program like this for affordable housing.

The Board discussed Article 75 (citizen article seeking the development of regulations for residential rental compliance). It was noted that the Finance Committee Motion was to take no action, with a Comment that the Select Board engage in professional consultation. Chair Hill Holdgate noted that pursuant to recently enacted state legislation, on July 1, 2019 Short-Term Rental Registration requirements go into effect. She suggested waiting until that program is up and running may provide a better understanding of the criteria to look for with respect to rental housing.

Ms. Gibson noted that a joint meeting of the Finance Committee and Select Board to discuss the 2019 Annual Town Meeting and Election will be scheduled shortly.

Prior to the discussion of Select Board Reports, Historic District Commission Chair, Raymond Pohl, called a meeting of the HDC to order at 6:39 PM; and a meeting was also called to order for the Sign Advisory Committee by Chair Brook Meerbergen at 6:40 PM.

## X. SELECT BOARD'S REPORTS/COMMENT

1. Request to Designate Community Preservation Committee as Special Municipal Employees. Ms. Gibson explained a current member of the Community Preservation Committee, Ken Beaugrand, has been hired as a full-time employee by the town (Real Estate Specialist) and plans to continue serving on the CPC; and as a result, the Committee as a whole must be designed as Special Municipal Employees. Ms. Higgins motioned to approve the request; seconded by Mr. Fee. All in favor, so voted.

2. Discussion as to Historic District Commission Oversight of Town Sidewalk Improvements in Old Historic District. Chair Hill Holdgate reminded the attendees this is not a Public Hearing but would allow brief comments. Ms. Gibson gave an overview of current downtown sidewalk projects which generated public concern as to whether or not the work was done with historic preservation in mind. She reviewed a recommendation for a work group comprised of a member from the Historic District Commission, Planning Board, Select Board, Tree Advisory Committee, Commission on Disability, Nantucket Historical Association and Nantucket Preservation Trust, to prepare recommended guidelines and criteria for repair or restoration of downtown sidewalks. Ms. Gibson cautioned treating the sidewalks outside of the Historic District, the

same as it may not be feasible due to usage, conditions or factors and require different treatments. Mr. Bridges reviewed the formulation of the Bike and Pedestrian Advisory Committee to establish bike safety ADA compliance of sidewalks. He added that he believes we can have safe sidewalks and maintain historic preservation. Kevin Kuester stated that he believes the HDC has jurisdiction over all sidewalks and that application should be made to the HDC for sidewalk repair projects. HDC Chairman Pohl explained the normal process for approval through the HDC. He said he believes oversight throughout the process is currently missing. Ms. Higgins recommended a historic preservationist be available throughout a project to answer questions as need arises; and agreed the HDC plays a role but this should be codified in the preservation of the historic landscape. Mary Bergman of the Nantucket Preservation Trust highlighted Nantucket's designation as a National Historical Landmark by the federal Department of the Interior which has guidelines when repairs are made in harmony with old and new, not to alter the way it looks, use of distinctive historical materials, craftsmanship and techniques at the location. She would like to see the area treated as one not carved out in specialized locales. Tom Montgomery stressed the importance of using professional craftsmen for repairs especially when replacing cobblestones. Ginger Andrews would like the Select Board to set a goal of historic preservation. She submitted a letter to the Board (attached). Hillary Hedges Rayport thanked the Select Board for the opportunity to discuss the future reconstruction and restoration of Town sidewalks and stressed the importance of HDC involvement. Ms. Hedges Rayport cited the City of Baltimore as an example of a good and comprehensive policy for historic sidewalk maintenance and repair. Sandy Kendall said he is concerned that the DPW is making changes to historic structures without applying to the HDC. Arthur Reade, representing the owners at 86 and 88 Main Street, both properties involved with the proposed sidewalk reconstruction, believes the HDC has jurisdiction and the Town must apply for a Certificate of Appropriateness (COA) for projects related to sidewalk repairs. Attorney George Pucci of Town Counsel's office commented that if there is not a significant change to the exterior appearance of sidewalks, approval through the HDC process would not be required. Counselor Pucci discussed the Superior Court decision in the Martin's Lane case and stated that the HDC has jurisdiction over exterior features viewable from the public way not but not over the public way itself. Mr. Fee said he feels the Select Board should be a leader in preservation and go to HDC for documentation. Chair Hill Holdgate said she is worried that the HDC doesn't fully capture or grasp the historic preservation of materials and the process of restoration. Ms. Higgins said she agrees the Select Board should be leaders but questions if the HDC is the first stop, adding that a commitment to using professionals and professional expertise is needed. Chairman Pohl recognized the HDC needs to be involved but not as the only overseer. HDC Associate member Stephen Welch thanked the Select Board for thoroughly reviewing the process of a work group with input from HDC and professional preservationists. Andy Lowell commented on the use of "razor sharp" edged granite curbing. Holly Backus, a town Land Use Specialist and preservationist by degree, suggested looking at other historic communities in Massachusetts and across the country, to formulate this work group. Pen Austin requested clarity of the Commonwealth's "complete streets" initiative which precludes the reuse of materials. The Select Board requested that an update be brought back to the Board in about one month.

Ms. Gibson noted that the American Legion has requested extension of a current sidewalk repair project from Coffin Street to Salem Street along Washington Street, to assist with a handicap accessibility issue into their building. Department of Public Works Director Rob McNeil reiterated the need for ADA compliance at the request of the Legion; the repair would remove existing precast concrete and be replaced with chisel top granite curbing within the existing width of the sidewalk. Michelle Elzay, board member from Nantucket Preservation Trust, noted the American Legion building is a historic structure and to establish due process before change is made to another historic building. Chair Hill Holdgate acknowledged the need for a process in place before moving forward; and suggested this could potentially

be used as a test case. Ms. Higgins noted lack of funding and need for professional expertise, fixing for safety still needs a process. Hillary Hedges Rayport suggested developing a historic material survey inventory so we know what is available to use on future repairs. Chair Hill Holdgate asked the pleasure of the board. Ms. Higgins moved to proceed once a process is in place; seconded by Mr. Fee. Chair Hill Holdgate is comfortable proceeding with the repairs discussed along Washington Street and having the HDC review it in the current absence of a process. The motion was unanimously opposed.

Ms. Higgins moved to proceed with the additional requested work on Washington Street from Coffin Street to Salem Street after review and recommendations from the HDC as a test model for some future processes; seconded by Mr. Bridges. All in favor, so voted. Ginger Andrews thanked the Select Board for the incredibly helpful discussion.

Break at 8:16 PM; resumed at 8:21 PM.

## XI. PUBLIC HEARINGS

1. Public Hearing to Consider Appeal of Joseph and Sharon Squicciarino of Historic District Commission (HDC) Approval of Certificate of Appropriateness (COA) No. 71644 Regarding Property Located at 25 Westerwyck Way, Map 82, Parcel 120. Chair Hill Holdgate opened the Public Hearing to consider an appeal by Joseph and Sharon Squicciarino of Historic District Commission (HDC) approval of Certificate of Appropriateness (COA) No. 71644 regarding property located at 25 Westerwyck Way, Map 82, Parcel 120. Mr. Squicciarino, an abutter to the property at 25 Westerwyck Way, thanked the Chair and Select Board for hearing his appeal and gave background pertaining to the appeal. In his letter to the HDC and Cisco neighbors, he highlighted the effects of permanent alteration of the landscape, permanent displacement of the groundwater and impact of the pool to abutters and those in the community as his foundation for the appeal. Mr. Squicciarino feels the HDC was biased and showed a conflict of interest by allowing HDC Commissioner Jesse Dutra, owner of Nantucket Pools, to sit while this proceeded, specifically as it pertains to this project in processes and governance. Mr. Squicciarino expressed his opinion that it was inappropriate for Mr. Dutra, as a member of the HDC and a business owner directly affected by pool projects to sit on the application. Mr. Squicciarino expressed concern that on two separate occasions, the general contractor for the project stated the pool location was not appropriate, without any discussion by the HDC members as to why the location was not appropriate.

Ray Pohl, Chairman of the HDC, expressed sympathy for neighbors to pools on next door property, especially those with an upside house. He said that the HDC is empowered to vote on architectural features that are visible from a publicly travelled way, not private views. Mr. Pohl denied the HDC acted in an arbitrary and capricious manner having spent a similar amount or more, time in review of this process. He said that between fencing and vegetated screening, the HDC was confident the pool would be invisible from the public way at the time of inspection in perpetuity. John Hedden, town Land Use Specialist, clarified the approved dimensions were less than the dimensions submitted on the Certificate of Appropriateness; the stamped and signed plans were a smaller footprint.

Public comment opened with Jay Maroney from Cohen & Cohen representing the owners of 25 Westerwyck, who stated that Mr. Dutra was not a voting member on this application and has a right to speak during the public comment at the HDC meeting. Mr. Maroney addressed the claim of arbitrary and capricious and said that the HDC had a thorough process over the course of five reviews. Joe Gagliano of 10 Westerwyck Way, expressed supported for the appeal and feels that pools are not part of the Cisco vista and integration and that This particular pool is an invasion of privacy from every room from the

Squicciarino Residence. Stephen Welch, HDC associate, addressed the conflict of interest topic. Mr. Welch stated if Mr. Dutra had a financial interest or an inability to be impartial, he would recuse himself from a discussion. Mr. Welch does not believe it is a conflict of interest when acting on matters that affect the island as a whole community.

Ray Pohl answered questions from the Select Board about the process of recusal and conflict of interest.

Chairman Holdgate closed the public hearing. Attorney Pucci explained the difference between a non-voting member and a recused voting member, commenting on a project. He explained the actual determination of review under the burden of proof of applicable standards, legally untenable ground or as unreasonable, whimsical capricious or arbitrary standards; noting that the Select Board cannot substitute its judgement for that of the HDC. Discussion followed with Select Board members as to various scenarios of the application that had been before the HDC. Mr. Bridges moved to find that there was not a conflict of interest, that the HDC's approval was not arbitrary or whimsical or capricious and that the HDC acted within its jurisdiction; and, to uphold the HDC decision; seconded by Ms. Ferrantella. Motion passed 3-2 with Ms. Higgins and Mr. Fee opposed. Chair Hill Holdgate is concerned about best practices of HDC applications for changes/ revisions and more clarity differentiating between recusing and abstaining.

### 3. Committee Reports.

None.

### XII. ADJOURNMENT

The meeting was unanimously adjourned at 9:44 PM.

Approved the 19<sup>th</sup> day of June, 2019.

**SELECT BOARD**  
**APRIL 10, 2019 – 6:00 PM**  
**PUBLIC SAFETY FACILITY COMMUNITY ROOM**  
**4 FAIRGROUNDS ROAD**  
**NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- III. 2. Committee appointments 2019 timeline; committee openings information
- III. 3. NHS/PLUS Sewer Project public information meeting
- VI. 1. Draft minutes of March 13, 2019 at 6:00 PM
- VI. 4. Pending contracts for April 10, 2019
- VII. 1. Finance Committee membership; Sanford resignation
- VII. 2. Gift acceptance summary with recommendation; Our Island Home gift letter; Saltmarsh Senior Center gift letter
- VIII. 1. Coffin Park cover sheet; Coffin Park GIS map; Cohen letter, re: tree gift
- IX. 1. Final draft charge of Coastal Resiliency Advisory Committee
- IX. 2. Final draft charge of Cannabis Advisory Committee
- IX. 3. 2019 ATM/ATE follow-up
- X. 1. List of Special Municipal Employees
- X. 2. Cover sheet for Sidewalk Improvements/HDC Oversight; 3/29/17 cover sheet; 3/7/19 Town Manager email; Historic District Map with Sidewalk Projects; letter from Ginger Andrews
- XI. 1. HDC appeal of 25 Westerwyck Way; HDC file; HDC memo/appeal rebuttal

To the Select Board,

Congratulations to you all, members old and new, and thank you for considering the importance of our historic streetscapes.

I hope you will give some long-term consideration to the needs of Historic Preservation for our town. This is a highly specialized task. It requires not only skilled workers with the exact, appropriate, specific preservation skills for whichever task is contemplated. It also requires careful planning and monitoring specifically for preservation. This might seem hopelessly arcane, but believe me it is not. As we found at the Pacific Club, you just have to look for it. Once you set a goal of preservation, there is a whole world of expertise to choose from.

Some of you may remember the old days when a street was never opened without selectman Jack Gardner standing by. His service to the town was extraordinary. But now we need more.

It would seem that the Historic District Commission would be the appropriate board to have general oversight of the streetscape, particularly with changes of enormous magnitude. Perhaps additional staff, or a board, or committee whose responsibility is to deal with the grimy everyday details of preservation and fitting the pieces of modern life into an 18<sup>th</sup> century town. I leave it to you to determine how best to structure such a function within the complexities of town government. But it must have real power to make and implement decisions. If not, we might as well wave goodbye to everything great about our town and resign ourselves to emulating a certain plastic rodent from Florida.

I hope the Select Board will embrace historic preservation as a policy.

Sincerely,

A handwritten signature in black ink, appearing to read 'V. Andrews', with a long horizontal flourish extending to the right.

Virginia F. Andrews