

SELECT BOARD

Minutes of the Meeting of May 1, 2019. The meeting took place in the Public Safety Facility Community Room, 4 Fairgrounds Road, Nantucket, MA 02554. Members of the Board present were Jason Bridges, Matt Fee, Kristie Ferrantella, Rita Higgins and Dawn Hill Holdgate.

I. CALL TO ORDER

Chair Hill Holdgate called the meeting to order at 6:00 PM.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted as presented.

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 announced that the Department of Public Works (DPW) sidewalk work from Coffin Street to Salem Street schedule to start within the next two weeks. Roadway repaving continues for the Nantucket Harbor Shimmo/Plus Parcels sewer extension project, including Hummock Pond Road from Somerset Road to Milk Street, Tashama Lane, Maclean Lane, Green Meadows and potentially Hussey Farm/Meadow View Drive area; the force main cross-connection on Monomoy Road at the pump station. Work is continuing on existing low-pressure-to-gravity sewer reconnections on Pond Road, Pinkham Circle and Hussey Farm Road; manhole casting securement and monumentation work in the Shimmo area.
3. Ms. Gibson announced 2019 Committee/Board/Commission vacancy information is available on the Town of Nantucket website.
4. Ms. Gibson announced that a pond management forum will be held May 2, 2019, which is open to the public.

IV. PUBLIC COMMENT

1. Tobias Glidden questioned if the Select Board intends to schedule a public hearing to address its position on the Vineyard Wind project. Mr. Fee explained the Select Board needs additional information and expertise to make an informed decision with such long-term implications.
2. Brooke Mohr, vice chair of the Nantucket Affordable Housing Trust, encouraged participation in a housing survey that the Trust has engaged the Nantucket Data Platform to conduct regarding island-wide housing needs.
3. Carl Borchert suggested the Board hold a listening session to discuss future possibilities of wind energy before decisions are made with respect to Vineyard Wind. Ms. Higgins expressed the need for the Board to advocate for the island now as it sets a precedent for future potential off-shore wind projects.
4. Marina Jube of the Chamber of Commerce thanked the Public Safety Departments and the Department of Public Works for their assistance with the 45th annual Daffodil Festival.
5. Meghan Perry thanked the Select Board for its action to file an appeal of a Natural Heritage decision in connection with the proposed Surfside Crossing 40B housing development.

V. NEW BUSINESS

None.

VI. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of April 10, 2019 at 10:00 AM. Mr. Bridges moved to approve; Ms. Higgins seconded. All in favor, so voted.

2. Approval of Payroll Warrants for Week of April 28, 2019. Mr. Bridges moved to approve; Ms. Higgins seconded. All in favor, so voted.

3. Approval of Treasury Warrants for May 1, 2019. Mr. Bridges moved to approve; Ms. Higgins seconded. All in favor, so voted.

2. Approval of Pending Contracts for May 1, 2019 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Ms. Gibson explained that OpenGov is budgeting software that will be used in the development of the town budget and will also allow for the creation of greater transparency with the development process. She also noted a Human Resources contract with HR Alternatives, a firm that will conduct a review of the Town's collective bargaining and personnel policies, funded through a grant from the state's Compact Community Grant program. Ms. Higgins moved to approve pending contracts for May 1, 2019; Ms. Ferrantella seconded. All in favor, so voted.

VII. CONSENT ITEMS

1. Gift Acceptance: Our Island Home. Ms. Higgins moved to accept the gifts for Our Island Home for the designated purposes, with thanks to the donors; seconded by Ms. Ferrantella. All in favor, so voted.

VIII. CITIZEN/DEPARTMENTAL REQUESTS

1. Finance Department: Request for Approval of \$2,000,000 Community Septic Management Program Note and Bond for Issuance to Massachusetts Clean Water Trust as Authorized by Article 31 of 2018 Annual Town Meeting. Director of Municipal Finance Brian Turbitt reviewed the request. Mr. Bridges moved to approve the request; Ms. Higgins seconded. All in favor, so voted.

2. The Westmoor Club: Request for Waiver of Town Noise Bylaw for Temporary Refrigeration Trailer at 10 Westmoor Lane from June 29, 2019 to July 6, 2019. Christian Coulter of the Westmoor Club requested a noise bylaw waiver for a refrigeration truck in the parking lot for overflow refrigeration during their busiest week. It was noted that no letters of opposition were received. Mr. Fee moved to approve the noise bylaw waiver as requested; Ms. Ferrantella seconded. All in favor, so voted.

3. ACK Natural: Request for Approval/Execution of Host Community Agreement; Letter of Support or Non-Opposition for the Siting of a Co-Located Adult Use Marijuana Establishment and Medical Marijuana Treatment Center at 17-19 Spearhead Drive, Nantucket. Attorney Katherine Laughman from Town Counsel's office reviewed a final draft of the Host Community Agreement (HCA). Mike Sullivan of ACK Natural discuss the following items:

A. Section 2.A.1 - Annual Community Impact Fee - The applicant would like to reduce the fee of gross sales from 3% grown and produced there to 1.5% for the wholesale of marijuana items off-island. Currently, the law states they are not allowed to sell off-island. The applicant requests no fee on sales to other Nantucket establishments. Ms. Higgins questioned how much leeway the Select Board maintains in

changing its recommendations to make adjustments two or three years down the road and said she would like the newly formed Cannabis Advisory Committee to review the wholesale issue. Attorney Laughman explained any time a contract is entered into, when both parties agree, they can look at the items at any time. The issue of the 1% off-island transfer fee may need to be revisited if there is a change in law; off-island transport is not allowed at this time. The wholesale transfer of product when the two establishments are operational, would be subject to the 3% community impact fee. Attorney Laughman noted the Green Lady Agreement does not include this wording. Mr. Fee questioned the comparison of the documents for both of the license holders. Attorney Laughman explained both documents are very similar, with a couple of significant issues, this being one of them. Mr. Bridges said he likes the opportunity to revisit the HCA; he said he does not think ACK Natural should be "double-taxed" with the possibility of an off-island wholesale tax. Chair Hill Holdgate has no problem with the wholesale being zero because they will be charged 3% at the retail level. However, she indicated that she does have a problem promoting export of the product. Ms. Higgins wondered if other growers-only communities have Community Impact Fees which could be a lesser impact on the community but a wider range of agreements. Ms. Higgins moved to maintain the 3% Community Impact Fee with the opportunity to revisit after feedback from the Committee; seconded by Mr. Fee. So voted 3-2. Mr. Bridges and Ms. Ferrantella were opposed.

B. Section 5 - Housing for Employees – Mr. Sullivan said that ACK Natural is committed to hiring full-time residents of Nantucket as full-time employees to work at its facility; however, ACK Natural shall offer housing to full-time employees, as necessary, once a vesting period has lapsed. The Board questioned "what is the vesting period?" Mr. Sullivan responded that after a year or so, if the employee does not or did not work out, ACK Natural does not want to retain them in the housing. Mr. Fee asked if Green Lady has similar wording in its agreement; Attorney Laughman responded "no". Ms. Ferrantella moved to approve the text as written; seconded by Mr. Bridges. All in favor, so voted.

C. Section 6 - Local Taxes - The applicant added language that the company is not precluded from appealing tax assessments made on its property. Mr. Bridges asked Attorney Laughman for a recommendation; Attorney Laughman said she is fine with the added language. Mr. Bridges moved to accept the proposed language; seconded by Ms. Higgins. All in favor, so voted.

D. Section 7 - Security and Safety - The applicant added language in Paragraph 1 that "in no event will the Police Department's review override the requirements of the CCC" which Attorney Laughman has no problem with the wording. The applicant added language in Paragraph 3, last sentence which changed the word "suggested" to "reasonable" potentially allowing the applicant to challenge a provision. The applicant added language in the last paragraph that changed the "annual" requirement to "periodic" and also inserted "to ensure compliance with local bylaws, rules and regulations" to clarify that the Town was not seeking to override the CCC's inspectional jurisdiction. In the first change from "suggested" to "reasonable," Ms. Higgins asked Attorney Laughman if the burden of a diversion plan requirement would be brought back in front of the Select Board; Attorney Laughman said it would be possible. Mr. Bridges asked if Police Chief Pittman was supportive of the proposed changes; it was noted he has no objection. Ms. Higgins moved to approve the wording as proposed; Mr. Fee seconded. All in favor, so voted.

E. Section 8 - Community Impact Concerns - The applicant requested that the Town remove the requirement for "annual approval" by the Town of written policies for mitigation of neighborhood concerns and require an annual "review." The requirement that the mitigation plan be specifically incorporated into the HCA has also been stricken. Attorney Laughman explained the proposed language is a "lessening" in accountability; Green Lady has the original wording as proposed. Ms. Higgins moved to reject the changes and keep the original language; seconded by Mr. Fee. All in favor, so voted.

F. Section 10 - Energy and Environmental Requirements - The applicant requested insertion of language in the first paragraph, subsection (b) that added more flexibility in the timing requirement so that compliance with best management practices be complied with within 6 months "or such reasonable time as

the Company and Town may agree upon." Attorney Laughman indicated support for the proposed language, no discussion by the Board. Ms. Higgins moved to accept the proposed language; seconded by Ms. Ferrantella. All in favor, so voted.

G. Section 11 - The applicant requested the deletion of the words "hand watering" as they will not be using this technique. Section 12 - The applicant requested the removal of the words "hand watering" and changed "no wastewater discharged" to "minimum wastewater discharged." Mr. Fee stated that Green Lady is maintaining a no wastewater discharge policy efficiently, per a recently received letter. Ms. Higgins asked the applicant what is "no discharge." Mr. Sullivan explained the efficient closed watering process creates very minimal waste and water; rapidly changing industry standards for growing. "Clean Harbors" would be used in the case of waste discharge removal. Chair Hill Holdgate questioned "discharge" when it's contained in catch basins and disposed of by Clean Harbors and not into sewer. Sewer Director David Gray and Health and Human Services Director Roberto Santamaria did not have any reservations on the handling of discharge. Mr. Bridges moved to approve the requested wording from the applicant; seconded by Ms. Ferrantella. All in favor, so voted.

H. Section 13 - Applicant requested that the odor control closed air system only be a requirement at the Cultivation and Processing Facility; not in the retail area. Attorney Laughman said the request was not unreasonable. Ms. Higgins moved to approve the changes; seconded by Mr. Fee. All in favor, so voted.

I. Section 14 - The applicant has proposed limiting the vehicle appointments at the facility to 90 vehicles per day. Mr. Sullivan said that this is an appointment-based retail outlet not a high traffic, walk-in store. Chair Hill Holdgate asked the duration of an appointment and hours of operation. Mr. Sullivan replied on-line ordering, times are reduced with repeat purchases; each appointment is blocked in 15-minute increments, average 7-8 minutes. Medicinal patients will receive priority appointments. Mr. Sullivan explained the man trap type entryway for an appointment. Mr. Bridges moved to approve the 90 vehicle per day wording; seconded by Ms. Ferrantella. All in favor, so voted.

J. Section 20 – Successors Assigns - Original wording of the agreement precluded the transfer or sale of the license within the first five years of ownership and carried a liquidity damage of \$200,000. The applicant proposed changing to a two-year period and a penalty of \$300,000. Discussion followed with the Board considering the ability to return to the terms, additional value of the license with the limitation of two available, rewording for extenuating circumstances, sliding-scale of damages. Attorney Laughman confirmed the Green Lady does not have this type of language. Mr. Fee moved to accept a five-year commitment and a sliding scale with \$100,000 per year increment; if sold in year one, \$500,000 penalty; year two, \$400,000 penalty, etc.; Ms. Higgins seconded. All in favor, so voted.

Ms. Higgins moved to approve with Attorney Laughman's changes as voted on during tonight's meeting and the authorization of Town Administration to execute; seconded by Mr. Bridges. All in favor, so voted. Mr. Bridges moved to approve a Letter of Non-Opposition for the Medical License in accordance with the template provided; seconded by Ms. Higgins. All in favor, so voted. Mr. Sullivan thanked the Board for the approval and looks forward to a continued working relationship.

4. ACK Natural: Request for Select Board Authorization to Proceed to Planning Board Permitting Process for Co-Located Adult Use Marijuana Establishment and Medical Marijuana Treatment Center at 17-19 Spearhead Drive, Nantucket. As the Host Community Agreement was approved by the Board, above, no action is necessary on this matter.

Mr. Bridges left the meeting at 7:12 PM and returned at 7:15 PM.

IX. TOWN MANAGER'S REPORT

1. FY 2019 Third Quarter Budget Reports: Airport Enterprise Fund; Wannacommet Water Enterprise Fund; Siasconset Water Enterprise Fund; Sewer Enterprise Fund. Airport Manager Tom Rafter thanked Mr. Turbitt and his staff for the concise and self-explanatory report. He noted the Airport is ahead for the same period last year by \$2 million, expenses are up by \$1 million due to fuel-related costs. The Airport is also receiving funds for landing fees, rental income, land use and an incremental payment from the government for a baggage belt project.

Wannacommet Water Co. Director Mark Willett thanked the Finance Department for its help in preparation of his report. He noted that revenues come from rates, fees for water connections and that water sales are increasing. He noted that water service has been extended to Green Meadows due to elevated nitrogen levels found in that area. Sconset water sales are up and connection fees increasing from the Canterbury development. Mr. Willett answered questions from Board members.

Sewer Director David Gray reviewed the Sewer budget report and explained a decrease in revenue due to lump sum payments last year. Staff is able to provide in-house maintenance on equipment and it appears that sewer connection fees are increasing. There is a septic loan program that can be extended to sewer connections in some cases.

X. SELECT BOARD'S REPORTS/COMMENT

1. Committee Reports. Ms. Ferrantella suggested a shuttle service from 2 Fairgrounds to downtown to offset the valet service use of the Town lot. Mr. Fee discussed recycling issues other communities are experiencing and the need to address on-going hurdles locally and globally. He also encouraged people to service the smaller markets on the island that accommodated the community during the Shop & Shop strike earlier this spring. Mr. Bridges announced May is National Bike month, Bike Week is May 13th to 19th, May 8th is walk or bike to school and May 17th is bike to work. The recycling program in Sconset for Daffodil Festival was an awesome start to the 2019 season. Chair Hill Holdgate commented on a new commercial entity on Main Street that has been actively soliciting people on the sidewalk to make purchases. Chair Hill Holdgate announced the Community Preservation Committee (CPC), will hold its annual forum on May 21, 2019.

XI. ADJOURNMENT

The meeting was unanimously adjourned at 7:30 PM.

Approved the 7th day of August, 2019.

SELECT BOARD
MAY 1, 2019 – 6:00 PM
PUBLIC SAFETY FACILITY COMMUNITY ROOM
4 FAIRGROUNDS ROAD
NANTUCKET, MASSACHUSETTS

List of documents used at the meeting:

- III. 3. 2019 committee appointment timeline; committee openings information
- VI. 1. Draft minutes of 4/10/2019
- VI. 4. Pending contracts for 5/1/2019
- VII. 1. Gift acceptance recommendation of gifts for Our Island Home; letter from OIH Administrator
- VIII. 1. Email from Finance Director, re: bond approval; Article 31 of 2018 Annual Town Meeting
- VIII. 2. Westmoor Club noise bylaw waiver request; site plan
- VIII. 3. Cover sheet for ACK Natural; Email from Town Counsel, re: HCA; ACK Natural HCA Term Sheet; Draft HCA with ACK Natural
- IX. 1. FY19 3rd Quarter Budget Reports for Airport, Wannacommet Water, Sconset Water and Sewer