

SELECT BOARD

Minutes of the Meeting of May 3, 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 Jason Bridges, Dawn Holdgate, Matt Fee, Dr. Malcolm MacNab and Brooke Mohr.

I. CALL TO ORDER

Chair Bridges called the meeting to order at 5:51 PM following a meeting of the Nantucket Regional Transit Authority Advisory Board.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted as posted.

III. ANNOUNCEMENTS

Town Manager C. Elizabeth Gibson reviewed the Announcements, noting two additional announcements that arose following publication of the agenda:

- She thanked all of the Town employees who participated in an employee group trash clean-up of Milestone Road last Friday, before Daffodil Weekend. She thanked Town staff who organized the event, including Culture and Tourism Director Shantaw Bloise-Murphy and Katie Cabral, Office Manager for Town Administration. She added that the event was born out of ideas that are being generated by an employee morale group established earlier this year. She noted that unfortunately while the clean-up was very well-received, the amount of trash not able to be picked up is disturbing. She noted that there is no reason for this if people are responsible about securing their trash loads and making sure they just don't litter. She added "it's not that hard".
- She thanked the Steamship Authority for its assistance with securing a boat reservation for the sound vendor for this Saturday's annual town meeting.

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

2. 2023 Annual Town Meeting is Saturday, May 6, 2023 at 8:30 AM at Nantucket High School, Mary P. Walker Auditorium, 10 Surfside Road.

3. Annual Town Election Scheduled for Tuesday, May 23, 2023 from 7:00 AM to 8:00 PM at Nantucket High School, 10 Surfside Road.

4. 2023 Committee/Board/Commission Vacancies. Operations Administrator Erika Mooney noted a vacancy has become open on the Harbor and Shellfish Advisory Board due to a recent resignation.

5. Select Board Announcements/Comments.

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

1. Follow-up on Public Comments from April 26, 2023 Select Board Meeting. Chair Bridges noted that follow-up on public comment is not intended to be an extended discussion item. Housing Director Tucker Holland addressed the comments from April 26, 2023 as follows:

How did the Select Board vote to withdraw the appeal to the state Housing Appeals Committee (HAC) of the Surfside Crossing 40B project when health, safety and environmental concerns still exist?

Mr. Holland said that the Zoning Board of Appeals (ZBA) continues to have jurisdiction over enforcement of conditions concerning health, safety and the environment, as modified by the Housing Appeals Committee.

What was the hurry to withdraw the HAC appeal?

Mr. Holland said the decision to withdraw the appeal was made after over a year of off and on discussion by the Board in executive session. He explained that the timing of the withdrawal was relevant to the developers' ability to proceed at risk. He said the need for affordable and year-round housing has become acute and the decision was made to try to include this property as part of the Town's efforts. He noted that no matter when the appeal was withdrawn, there would most likely be parties unhappy with that decision.

Who drafted the joint statement issued by the Town and Surfside Crossing?

Mr. Holland said the statement was a joint effort between the principals of Surfside Crossing, the Planning Director, the Chair of the Affordable Housing Trust, the Housing Director and it was reviewed and modified by the Select Board. He noted that Meghan Perry noted this during last week's public comment.

The Select Board's February 14, 2018 letter to MassHousing in which the Board voted 5-0 to "strongly urge" MassHousing to deny a Project Eligibility Letter (PEL) for Surfside Crossing (SSX) because of fire safety issues, the cultural importance of the property, the location being an "extremely" environmentally sensitive area, the parcel being too small for so much density with special concern over traffic generation, high sewer flow from the project which would require a new one-mile long sewer main to the wastewater treatment facility as existing sewer mains cannot handle additional flow, and the Town having insufficient water capacity to serve the project – what changed?

He said some of the items that were initial concerns have been addressed through the course of the process, and that it has been determined that Nantucket has an adequate water supply and also sewer capacity for the project. He said the ZBA still retains authority over a number of permit conditions particularly relative to safety.

What is the definition of "year-round housing"?

Mr. Holland said the definition of "year-round" can vary depending on what context or rule, regulation, bylaw or law might reference it and the associated deed restriction. Generally, it would be considered someone who lives on Nantucket 11 months of the year with reasonable time off the island for vacations and appointments. It might or might not also include retirees who may live elsewhere for all or part of the winter.

Why do we have signed agreements for Town employees but no signed agreement with SSX?

Mr. Holland said agreements with Town employees and the joint statement with SSX are "different animals". Mr. Holland added that contrary to a statement made by Megan Perry last week, he himself does not have an employment contract with the Town, noting that he is an at-will employee.

Why wasn't the Zoning Board of Appeals (ZBA) consulted about withdrawing the appeal?

Mr. Holland stated that it was in fact intended that the ZBA would be consulted in advance of the statement being released however, the intended executive session where this would have happened was unintentionally incorrectly posted and the meeting occurred in open session; at that point, it was decided it was best to proceed in open session to be able to advise the public as soon as possible about the decision.

What would the proposed \$6.5M housing override on the 2023 Annual Town Meeting warrant and election be for?

Mr. Holland said the funding would be used for affordable and attainable housing efforts and achieving housing goals and initiatives as identified principally in the Select Board's Strategic Plan and Nantucket's 2021 Housing Production Plan.

In response to a rhetorical question as to *why people would want to serve on boards when the Select Board "usurps control from them like with the Conservation Commission (ConCom) and ZBA"*, Mr. Holland commented that there are any number of reasons people may not be willing to serve on boards including the time commitment. He added that it is often a "thankless job".

What is the best way to get answers and information to boards like the ZBA?

Mr. Holland said those items are best obtained through the administrative staff to those boards, noting that sometimes those staff people are not able to respond immediately.

Has there been any return of investment analysis on the Surfside Crossing project?

Mr. Holland said the Town has not conducted this, and that a 40B has certain profit limitations governed by law.

Because the Fire Chief is on record that the development is unsafe, how will the Select Board ensure the safety issues of the Fire Department are considered and addressed?

Mr. Holland said this is not consistent with the former Fire Chief's testimony in the HAC proceedings, but again, the ZBA continues to have jurisdiction over local safety conditions as modified by the HAC decision.

Why did the Select Board undermine the ZBA?

Mr. Holland said there was no intent to undermine the ZBA and that ultimately, the Select Board is the executive authority responsible for litigation decisions.

Why was Town Counsel not involved in negotiations with the Surfside Crossing developer as revealed in the April 19, 2023 ZBA meeting?

Mr. Holland said neither party had counsel present during their discussions.

Why did three members of the Select Board vote to move forward with withdrawing the appeal with no guarantee of any benefit to the Town or community?

Mr. Holland stated that there is a misconception that there was significant leverage associated with the appeal. He said that based on the history of municipal appeals of 40B decisions by HAC, it was believed that any potential benefit from continuing the appeal was outweighed by the potential benefit from having a seat at the table as the developers determine how to achieve their stated goal of 75% deed-restricted year-round occupancy. He said that the filing of plans at the ZBA to proceed "at risk", one could argue, basically marked the end of any real leverage. He said Ms. Perry's reading into the record last week of his memo to the Select Board on April 7th illustrated this understanding.

Mr. Fee said he feels the Town's housing efforts have been negatively impacted by the Board's decision and that he wishes Mr. Holland was not the "face" of this issue.

V. PUBLIC COMMENT

Jeff Morash expressed concern over an "erosion problem" at Pocomo parking lot. He said he has spoken to Natural Resources Director Jeff Carlson who is "on it" and thanked the Town for its attention to this matter.

Chair Bridges reminded everyone that pursuant to the Board's revised Public Comment policy, there is a 3-minute limit.

Burton Balkind thanked Chair Bridges for his tenure on the Board, especially with Public Comment feedback. He asked for a "shark policy" public meeting.

He added a concern about the Town's policy for initiating use of the warning siren system and said he thinks there should be a public meeting about that.

He said he also thought there should be a public meeting about the Surfside Crossing appeal.

Megan Perry commented on the timing of the Surfside Crossing appeal withdrawal with respect to public documents posted on the Town website.

Tucker Holland announced that a Request for Proposals for the development of Affordable Housing Trust-owned lots on Orange Street has been issued and may be found on the Town's website.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Ms. Holdgate moved approval of items VII 1 – 3; seconded by Ms. Mohr; all in favor, so voted.

1. Approval of Minutes of April 26, 2023 at 5:30 PM.

2. Approval of Payroll Warrants for April 30, 2023.

3. Approval of Treasury Warrants for May 3, 2023.

VIII. TOWN MANAGER'S REPORT

1. Per- and Polyfluoroalkyl Substances (PFAS) Update.

Ms. Gibson introduced Assistant Town Manager Gregg Tivnan to provide a presentation on this matter. Mr. Tivnan said this is the fifth presentation given to the Board on this topic, noting that while there is no state requirement for the Town to do anything about PFAS, the Town is working hard to get ahead of the matter and plan for potential state and/or federal regulations that are most likely pending. Mr. Tivnan introduced Andy Miller of the Town's consultant CDM-Smith, who reviewed the presentation in the Board's agenda packet.

Ms. Mohr left the meeting at 6:19 PM; she returned at 6:21 PM.

Mr. Tivnan noted other public information sessions the Town has held regarding PFAS and other contaminants, including at least one directed to high school students. Mr. Fee commented that PFAS is "everywhere" and that untested chemicals are turned to as a result. He said it is going to get harder and harder to determine specific

sources of PFAS. He asked if there will be a “control group” for PFAS testing, on-island. Town special projects manager Chuck Larson responded and said the Town isn’t at the level of a control group at this point but that the whole situation with PFAS is likely to be around for decades. Ayesha Khan said that in response to Mr. Fee’s comment, there are “chemical signatures” that can be tested for in wells to identify specific PFAS sources. She suggested the Fire Department could be included in future PFAS summits. Bruce Mandel spoke on PFAS findings in groundwater in Madaket which he says could be related to the landfill. He said he would like Madaket to be granted “stakeholder status” in any PFAS evaluations. Megan Perry asked if PFAS is being looked at “as a class of chemicals”. Mr. Miller responded and said that the science is in its “infancy” as to exactly what PFAS compounds are. Mr. Miller also noted that with respect to Mr. Mandel’s comment, groundwater and surface water has not even been tested by the Town yet. He said that the Department of Environmental Protection has done some limited well testing. Ms. Khan asked about communication between the Town’s Health Department and other agencies, such as the Hospital, as to outreach involving harmful impacts of PFAS. Mr. Tivnan said that there has been little outreach so far because of the other workload issues with this project, but that the recent establishment of a new position within the Health Department is intended to address this.

2. Solid Waste:

a. Long-Term Solid Waste Planning Update. Ms. Gibson introduced the Town’s solid waste consultant George Aronson to review the presentation for item a. Ms. Gibson noted that Town Administration has been meeting with a work group for over two years, which includes one Select Board member and one Finance Committee member, along with several Town staff members. She added that there is an article on the 2023 annual town meeting warrant (Article 92) that seeks to authorize the Select Board to enter into a long-term agreement, once the current Waste Services Agreement expires in 2025. Mr. Aronson reviewed the presentation as contained in the Board’s agenda packet. Town Counsel John Giorgio said that it is important in order for a Request for Proposals in connection with a new Waste Services Agreement to be issued, to have secured the authorization for a long-term contract. Ms. Mohr said that she has been part of the work group referenced by Ms. Gibson, there have been numerous meetings and that the group has come a long way in reviewing the variables for the contract. She said she has learned a great deal about the Town’s solid waste processing costs, operations and challenges. She added that compliance with waste stream separations is also challenging. She reiterated what Mr. Giorgio said about the need to authorize the Board to enter into a long-term agreement. Mr. Fee asked if the Town knows how it wants to handle its waste for the next 5-10 years. Ms. Mohr noted there are emerging technologies. Mr. Aronson said the work group is currently focusing on such issues as ways to collect food waste separately and other initiatives to produce clean compost and examine emerging technologies and also continued shipping off-island of certain streams at least in the near term. Mr. Giorgio commented that the work group’s recommendation is to look at a different model for contract operations at the site to eliminate issues which have been problematic for the Town and the contractor in the existing contract, such as capital improvements. He said the recommendation is that the Town own all of the fixed assets at the site and undertake capital improvements. He said this provides the Town more control over these items. He said while the authorization for a long-term agreement is being sought, ultimately a shorter-term agreement may be recommended because of issues such as emerging technology. Mr. Fee said what Mr. Giorgio indicated “sounds great” and spoke on the benefits of this. He said he is pleased to learn that some of the plastics materials are being tested with emerging technology. He noted the landfill is in a “storm tide pathway”. Mr. Fee asked Mr. Aronson about an item in the presentation about the construction and demolition (C&D) transfer station with respect to a lease. Mr. Aronson explained, noting this would not entail moving the transfer station to another site. Mr. Fee asked if there are any plans to move the entire solid waste facility elsewhere due to the storm tide pathway projections. Mr. Aronson said that would be the reason for the agreement to be structured as recommended. Mr. Fee said acreage needs to be set aside for a future solid waste facility. Bruce Mandel complimented the presentation. He said he was pleased to hear Mr. Giorgio’s recommended model for a new agreement. Mr. Mandel asked about the schedule for developing the new agreement, commenting there is a lot to be done with “a lot of moving parts”. He expressed concern about the Town “owning all of the risk” and

should be well thought out. Mr. Aronson agreed there are a lot of moving parts and consideration of risk. He noted that rolling stock and employees are not currently part of what the Town would provide, the contractor would be contracted to provide those. Ms. Mohr commented that the work group rejected the idea of the Town operating the entire operation due to the risk issues noted by Mr. Mandel. Mary Longacre commented that reducing the amount of waste produced is also crucial. She agreed the Town should own the facility. Mr. Fee said operationally, things are “getting different”.

b. Overview of Compost Product Quality Improvements. Ms. Gibson introduced J.P. Caron of Waste Options to review the presentation in the Board’s agenda packet for this item. Mr. Caron reviewed the presentation.

c. Waste Options Nantucket: Request for Use of Town Seal on Compost Product Packaging. Mr. Caron reviewed the request. Ms. Mohr spoke in favor of the request and elaborated on the benefits of the higher quality compost now being produced. Ms. Mooney asked about the presence of Japanese knotweed in the compost. Mr. Caron said the presence is “zero”. Some discussion followed as to the quality of the compost. Dr. MacNab congratulated Mr. Caron on the improved product. Mr. Fee concurred and said the improvements are “amazing”. Ms. Mohr moved approval of the request; seconded by Dr. MacNab; all in favor, so voted. Mr. Caron thanked the Board for its approval.

IX. SELECT BOARD’S REPORTS/COMMENT

1. Committee Reports.

Ms. Mohr reported on a Housing Summit that took place last Friday, with a large group of diverse participants in housing, including herself, Ms. Gibson and Mr. Holland. She said it was sponsored by Housing Nantucket and was an excellent discussion about collaborative solutions.

Mr. Fee reported out on a Coastal Resilience Advisory Committee meeting, coming up and noted a field trip to Sconset bluff is planned.

X. ADJOURNMENT

Ms. Holdgate moved adjournment at 7:57 PM; seconded by Mr. Fee; all in favor, so voted.

Approved the 10th day of May 2023.

**SELECT BOARD
MAY 3, 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:

- III. 4. Annual Committee Openings
- VII. 1. Draft minutes of 4/26/2023
- VIII. 1. AIS re: PFAS update; CDM Smith presentation
- VIII. 2a. Long-term Solid Waste presentation
- VIII. 2b. Nantucket Gold Compost presentation
- VIII. 2c. Email from Waste Options re: Town Seal