

SELECT BOARD

Minutes of Meeting of June 1, 2022. 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, Matt Fee, Brooke Mohr and Dawn Holdgate. Melissa Murphy joined remotely.

I. CALL TO ORDER

Chair Bridges read a prepared statement as to how the meeting will be conducted and the ground rules for discussion and called roll for those present. Chair Bridges called the Select Board meeting to order at 5:31 PM.

II. SELECT BOARD ACCEPTANCE OF AGENDA

The agenda was accepted as presented.

II. ANNOUNCEMENTS

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

2. Announce Applications Received for Historic District Commission Associate, Nantucket Affordable Housing Trust, Nantucket Historical Commission, Planning Board Alternate, Real Estate Assessment Committee, Roads and Right-of-Way Committee, Scholarship Committee, Tree Advisory Committee, Zoning Board of Appeals, Zoning Board of Appeals Alternate. Applicant names were announced as follows:

Historic District Commission Associate – no applicants.

Nantucket Affordable Housing Trust: Shantaw Bloise/incumbent; Brian Sullivan/incumbent; Arlene O'Reilly; Jennifer Porter; Meg Browsers; Reema Sherry/incumbent; Peter Hoey.

Nantucket Historical Commission: Linda Williams; Abby De Molina; Clement Durkes/incumbent; Ethan McMorrow; Hillary Rayport/incumbent.

Planning Board Alternate: Abby De Molina; Elisabeth O'Rourke; Campbell Sutton/incumbent.

Real Estate Assessment Committee: Lee Saperstein/incumbent.

Roads and Right-of-Way Committee: Bill Grieder/incumbent; Allen Reinhard/incumbent; Rick Atherton/incumbent; Kerry McKenna

Scholarship Committee: Jeanne Miller/incumbent; Rebecca Woodley-Oliver/incumbent.

Tree Advisory Committee: no applicants.

Zoning Board of Appeals: Susan McCarthy/incumbent.

Zoning Board of Appeals Alternate: no applicants.

3. Announce Applications Received for Planning Board Vacancy. Applicant names were announced as follows:

Joseph Topham
Emily Kilvert
Jeremy Bloomer
Campbell Sutton

4. Select Board Announcements/Comments. There were no comments.

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

No follow-up comments.

V. PUBLIC COMMENT

No public comment.

VI. NEW BUSINESS

No new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

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

1. Approval of Minutes of May 25, 2022 at 5:30 PM.

2. Approval of Payroll Warrants for May 29, 2022.

3. Approval of Treasury Warrants for June 1, 2022.

4. Approval of Pending Contracts for June 1, 2022 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Ms. Holdgate moved approval of the pending contracts as presented; seconded by Ms. Mohr; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes; Ms. Mohr – Yes; Ms. Murphy – Yes.

VIII. CONSENT ITEMS

1. Gift Acceptance: Human Services (Saltmarsh Senior Center). Ms. Mohr moved to accept the gifts of \$85.00 from the Stop & Shop and \$193.59 from Elder Services, with thanks; seconded by Ms. Holdgate; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes; Ms. Mohr – Yes; Ms. Murphy – Yes.

IX. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS

1. Applicant Introduction/Review of Applications for Agricultural Commission, Airport Commission, Board of Health, Cannabis Advisory Committee, Capital Program Committee, Cemetery Commission, Coastal Resiliency Advisory Committee, Conservation Commission, Contract Review Committee (Human Services), Council for Human Services, Council on Aging, Cultural Council, Finance Committee. Chair Bridges read the list of applicants and the following applicants spoke on their applications:

Agricultural Commission: no applicants.

Airport Commission: Jeanette Topham/incumbent; Walter Flaherty. Ms. Topham spoke on her application.

Board of Health: Ann Smith, Kerry McKenna, Allyson Bold, Richard Ray. Each applicant spoke on their application.

Capital Program Committee: Stephen Welch/incumbent.

Cemetery Commission: Barbara White/incumbent.

Coastal Resiliency Advisory Committee: Mary Longacre/incumbent; Sarah Bois/incumbent; Joanna Roche/incumbent; Steven Leinbach. Each applicant spoke on their applications.

Conservation Commission: Marcia Browne, MD; Maureen Phillips/incumbent; Seth Engelbourg/incumbent; Michael Misurelli; Joseph Plandowski; Burton Balkind; Tim Braine; Jennifer Porter. Mr. Engelbourg, Dr. Browne, Mr. Plandowski, Mr. Balkind, and Mr. Braine spoke on their applications.

Contract Review Committee (Human Services): No applicants.

Council for Human Services: Tara Restieri/incumbent; Jennifer Porter; Amanda Wright.

Council on Aging: Kendra Lockley/incumbent; Arlene O'Reilly; Robert Kucharavy; Alison Forsgren/incumbent; Laura Holden. Mr. Kucharavy and Ms. Holden spoke on their applications.

Cultural Council: Justin Cerne/incumbent; Jordana Fleischut/incumbent; Sarah Ellis/incumbent. Ms. Ellis spoke on her application.

Finance Committee: Christopher Glowacki/incumbent; Jill Vieth/incumbent.

2. Tree Removal Denial "Appeal" to Board of Public Works: 10 York Street. Ms. Gibson introduced Tree Warden David Champoux to provide an overview of the matter. Operations Administrator Erika Mooney reviewed the information that is in the agenda packet. Mr. Fee asked what recourse there is if the property owner is not happy with the decision the Board makes. Attorney Brian Riley of Town Counsel's office responded and said that existing legislation does not specifically address that; however, in general governmental decisions typically can be appealed to Superior Court. Mr. Champoux provided an overview of the pending matter, noting that his understanding is that the trees in question are in fact, "Town trees". He said that one of the trees was pruned and then cut down. He said the property owner was informed that Town permission should have been obtained before the tree was cut down. Some discussion followed as to the documentation of the trees being "Town". Mr. Champoux said that documentation does exist. Chair Bridges asked what makes a tree a "Town tree". Mr. Champoux explained and acknowledged that it is unclear whether these trees were originally planted by the Town. He said there is at least one tree on the property that was definitively planted by the Town, although that tree is not at issue. Real Estate Specialist Ken Beaugrand spoke on information previously provided by Town Counsel as to what constitutes a Town tree, including tree roots growing into Town property. Mr. Fee commented on trees around the Island having been planted by the Town over time. Mr. Champoux provided some history on this. Attorney Arthur Reade, representing the property owner, reviewed the property owner's understanding of the trees on the property, indicating that a Department of Public Works staff person had provided information in 2020 that

the trees were not owned by the Town and the one tree was subsequently cut down, as a result of that information. He said that following that tree being cut down, the Tree Advisory Committee became involved and ultimately voted not to allow the second tree to be cut down and now, after some time has passed, the matter is before the Board. Mr. Reade spoke to the lack of records indicating which trees were planted by the Town. He continued to elaborate further on his interpretations of what constitutes a Town tree. He noted that the prior owner of the property “strenuously” objected to assertions that the trees have been maintained by the Town. He continued on about the lack of any public documents or register of Town trees. Jeffrey Kaschuluk, property owner, spoke on the lack of clarity as to what constitutes a Town tree. Mr. Riley spoke on this situation being somewhat analogous to a Historic District Commission (HDC) appeal, with respect to the standard of determining the strength of the facts, including whether or not a decision is arbitrary. Mr. Beaugrand noted that there was a hearing before the Tree Advisory Committee (TAC) and that the DPW information was never confirmed in writing, nor was there a name of the DPW staff person put forward. Mr. Champoux reviewed notes he took during the TAC hearing, supporting the trees being Town. Chair Bridges commented on the lack of a structured system to determine what is a Town tree, yet the Board should determine if the TAC made a flawed or arbitrary decision. Ms. Holdgate suggested restitution for the downed tree be explored. Mr. Fee spoke on some prior cases when Town trees were removed without the permission of the Town. He said he does not think the TAC did anything wrong, although he agreed the system could be better. Ms. Mohr clarified that what is before the Board is whether or not the remaining tree can be removed. She said the question of whether or not the first tree should have been removed is a different issue. Ms. Murphy agreed it is unfortunate that the process is not and was not clear. She agreed with Ms. Holdgate as to the restitution suggestion. She said that with regard to whether or not the TAC decision was arbitrary, she does not think it was. Chair Bridges noted that the recommendation of the TAC is to keep the remaining tree. Mary Longacre concurred about the flawed process, and advocated for supporting the TAC decision, saying that trees are extremely important and beneficial to the community. Ms. Murphy asked about the sequence of next steps. Mr. Riley said that similar to the HDC process, there is a decision that the Board should determine whether or not to uphold. Discussion followed as to various options for the Board’s decision and policy implications. Ms. Murphy moved to affirm the TAC/Tree Warden decision; seconded by Ms. Holdgate. Mr. Fee asked what the consequences are if the tree is cut down anyway. Mr. Riley reviewed the fine allowed by the Town bylaw, noting there is a cap; and, that the Town would most likely have to seek additional legal action for further damages. Ms. Mohr spoke on the need for a better process. By roll call vote all in favor: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes; Ms. Murphy – Yes; Ms. Mohr – Yes.

3. Tree Removal Denial “Appeal” to Board of Public Works: 117 Orange Street. Mr. Champoux provided additional history about Town trees around the island, specifically honey locust trees, in the area of this particular tree. He said there is not a question that this tree is a Town tree, and that the property owner just wants it removed. Mr. Champoux spoke on the importance of this tree, in this area. He said it is a perfectly healthy tree. Mr. Beaugrand concurred and reviewed a report from the Town Arborist as to the health of the tree (excellent). Isaiah Truymen, property owner, disagreed with the comments as to the tree. He stated that the process is extremely unclear and as a result, is very stressful. He said he would like to plant new, less hazardous trees more appropriately located on the property. He spoke in favor of removing the tree and expressed frustration as to why he cannot remove the tree and said he does not understand why he cannot. He referenced a lack of documentation. Some discussion followed as to liability if a Town tree falls down and damages private property. Mr. Riley clarified the statutory “shade tree” law and said that depending on the circumstances the Town may bear some liability. Ms. Murphy said she does not see this issue as much different than the prior issue. She moved to uphold the TAC/Tree Warden decision not to take the tree down; seconded by Ms. Mohr. By roll call vote: Chair Bridges – No; Mr. Fee – Yes; Ms.

Holdgate – Yes; Ms. Murphy – Yes; Ms. Mohr – Yes. So voted. Mr. Fee said he would like to see a “blueprint” as to how this process will be improved and clarified. Mr. Champoux spoke on the need for better coordination between departments as to tree protection.

X. TOWN MANAGER’S REPORT

1. Request for Public Hearing to Make Macy Road (Madaket) One-way Eastbound (from Parking Area to Baltimore Street). Town Manager C. Elizabeth Gibson explained that as a result of erosion at the Madaket Beach parking lot, parking has been relocated to Macy Road, within the Town of right-of-way. She said that in order to reduce the impact of vehicle use in the fragile former parking area it was determined that directing outgoing and incoming traffic one-way down Macy Road, eastbound, would be less impactful on the fragile area. She said that one-way road designations typically are considered during a public hearing and if the Board is so inclined, staff will schedule a hearing.

Ms. Holdgate moved to schedule a hearing; seconded by Mr. Fee; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes; Ms. Mohr – Yes; Ms. Murphy – Yes.

2. Traffic Safety Work Group Recommendations:

a) Installation of New Accessible Parking Space at 17 Washington Street.

b) Installation of New Accessible Parking Space on Sunset Hill Lane by Rear Entrance of 35 West Chester Street.

Ms. Holdgate moved approval of both recommendations; seconded by Ms. Mohr. Art Gasbarro of the Traffic Safety Work Group spoke on the specific location of the Washington Street spot. So voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes; Ms. Mohr – Yes; Ms. Murphy – Yes. Ms. Mooney spoke on a request from an abutter as to a limited time frame for the spot at West Chester Street.

3. Memorial Day Weekend Update. Ms. Gibson said that the Police Department reported a quiet weekend, with six or so noise complaints; no issues with establishments, other than long lines at some; and one unrelated to the weekend arrest. Culture and Tourism Director Janet Schulte spoke on activity levels with the Visitor Services department, she noted levels are not back at the pre-pandemic levels. Fire Chief Stephen Murphy spoke on Fire Department activity, noting calls were “busy” but manageable. Mr. Fee commented on his observations as to activity levels.

4. Monthly Town Management Report. Ms. Gibson reviewed the report as contained in the Board’s agenda packet.

XI. SELECT BOARD’S REPORTS/COMMENT

Items XI 1 and 2 were changed in order of discussion.

2. Committee Reports. Ms. Mohr announced that numerous gay pride activities are scheduled for this weekend. Mr. Fee reviewed a grant application for a Coastal Resiliency Plan project, being sponsored by the Coastal Resilience Advisory Committee and asked for a letter of support from the Board to accompany the grant application. Ms. Holdgate moved to approve the letter; seconded by Ms. Murphy; so voted by roll call vote: Chair Bridges – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; Ms. Murphy – Yes; Ms. Holdgate – Yes.

Ms. Holdgate and Ms. Murphy recused themselves from the remaining agenda item and left the meeting at 7:49 PM.

1. Short-Term Rentals Pre-Work Group Framework Update. Chair Bridges reviewed a pre-work group meeting held last week and reviewed a revised framework as developed/discussed. Ms. Mohr said that there are many perspectives in the community as to this issue and a work group will not contain every single perspective. She said it is important to have a proactive community engagement process. Some discussion followed. Mr. Fee suggested a representative is needed for historic preservation. Mr. Fee commented on the membership of the committee and the issue of conflicts, referencing an email from Ms. Gibson this afternoon. Discussion followed as to the need for a clear understanding in a committee application, as to applicants' involvement with short-term rentals. Ms. Gibson noted that Town Counsel John Giorgio will be on the meeting next week to provide further clarification. Mr. Fee spoke on the need for a broad consensus with this issue. Ms. Gibson noted that she has been tasked with seeking a facilitator for the group. Mr. Fee said he is hopeful that the committee will be established in a way that promotes consensus-focused discussion. Some discussion followed on the need for information to establish what the problem is, to be solved.

XII. ADJOURNMENT

At 8:08 PM, Ms. Mohr moved adjournment; seconded by Mr. Fee; so voted 3-0.

Approved the 8th day of June 2022.

SELECT BOARD
JUNE 1, 2022 – 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. 2. List of committee memberships/applicants - HDC Assoc to ZBA Alt; Committee applications
- III. 3. Planning Board membership/applicant list; Planning Board applications
- VII. 1. Draft minutes of 5/25/2022
- VII. 4. Pending Contracts spreadsheet
- VIII. 1. Gift summary/ recommended motion; Saltmarsh gift
- IX. 1. List of committee memberships/applicants - Agricultural to FinCom; Committee applications
- IX. 2 & 3. Town Counsel outline/opinion re: tree "appeals"
- IX. 2. AIS re: 10 York St tree; S. 132-2. Town tree designation; 3/18/2022 letter from Jeff Kaschuluk; File from Tree Warden/ Tree Advisory Committee re: 10 York St
- IX. 3. AIS re: 117 Orange St tree; S. 132-2. Town tree designation; Email thread with Isaiah Truymen; File from Tree Warden/ Tree Advisory Committee re: 117 Orange St
- X. 1. AIS re: Changing Macy Rd to one-way; Survey plan; Photos; Traffic Safety Work Group recommendation; Select Board vote
- X. 2. Traffic Safety recommendations; 2a - Washington St accessible parking space; 2b - Sunset Hill Ln accessible parking space
- X. 4. Town Management Report
- XI. 1. Email from Town Manager with draft short-term rental working group framework as of 6/1/2022