

## **SELECT BOARD**

Minutes of the Meeting of July 12, 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 Dawn Holdgate, Thomas Dixon, Dr. Malcolm MacNab and Brooke Mohr. Matt Fee joined remotely.

### I. CALL TO ORDER

Chair Holdgate 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.

### III. ANNOUNCEMENTS

Town Manager C. Elizabeth Gibson reviewed the announcements:

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

2. 2023 Committee Vacancies – Round 2: Agricultural Commission, Cemetery Commission, Council for Human Services, Council on Aging, Cultural Council, Finance Committee, Harbor and Shellfish Advisory Board, Planning Board Alternate, Real Estate Assessment Committee, Town Council Study Committee, Tree Advisory Committee.

3. Community Preservation Committee Annual Public Forum to be Held Tuesday, July 18, 2023 at 10:00 AM at Meeting Trailer at 131 Pleasant Street.

#### 4. Select Board Announcements/Comments.

There were no Board comments.

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

There was no follow up.

### V. PUBLIC COMMENT

Burton Balkind questioned the lack of attendance of a Conservation Commission member at a Conservation Commission meeting last week.

Megan Perry thanked the Board for its participation in the Nantucket Civic League annual summer forum, which took place yesterday. She questioned a building permit in connection with Surfside Crossing.

Meredith Lepore commented on social media with respect to the anniversary of the July 9, 2022 Veranda House fire. Ms. Lepore asked why the Fire Department does not have a fire boat.

### VI. NEW BUSINESS

There was no new business.

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

Dr. MacNab asked about a number of contracts where funding is noted as "N/A". Ms. Gibson explained. Mr. Fee questioned a contract for tree trimming at the Our Island Home property. Ms. Gibson explained. Ms.

Mohr moved approval of items VII 1 - 4; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

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

2. Approval of Payroll Warrants for July 9, 2023.

3. Approval of Treasury Warrants for July 12, 2023.

4. Approval of Pending Contracts for July 12, 2023 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

### VIII. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS

1. Short-Term Rental Work Group Update Including November 7, 2023 Special Town Meeting Draft Proposed Warrant Articles. Chair Holdgate recused herself from the discussion of this matter as a Board member and took a seat in the audience. Vice Chair Mohr introduced the work group's facilitator, Stacie Smith of the Consensus Building Institute (CBI), to review the item. Ms. Smith reviewed the presentation as contained in the Board's packet and reviewed the task of the work group. She reviewed how the work group's meetings were held and spoke on other items pertinent to the work group's work process. She reviewed the purposes of the proposed bylaw(s) and reviewed each of the proposed bylaws. Ms. Smith indicated the additional steps that are needed, including outstanding need for policy direction on the proposed bylaws, data collection needs, enforcement, outreach on the articles and status of work group going forward. Mr. Giorgio reviewed each of the five proposed warrant articles as follows:

1 – Zoning Bylaw Amendment regulating short-term rental use. This relates to definitions and amendment to the Use Chart.

2 – General Bylaw Amendment. This is an amendment to the existing Town Code Chapter 123 which regulates short-term rentals. Mr. Giorgio explained the five "purpose clauses" which would be added; additional definitions; additional sections which limit the number of short-term rentals (STRs) that any one individual may operate, regulation of ownership of short-term rental units; a prohibition on STRs in any deed-restricted unit; a provision that STRs are only allowed in detached single-family dwellings, with apartments in a town house style building allowed to be rented with a per year rental limitation of 4 weeks; occupancy change restrictions in July and August; a "grandfathering provision" for properties registered for a certain period of time prior to enactment of the STR bylaw amendments; a hardship waiver provision and a severability clause.

3 – General Bylaw Amendment, contingent upon passage of the Zoning Bylaw Amendment. Mr. Giorgio explained this relates to the residency of a STR owner, at the subject property.

4 – Adoption of Community Impact Fee on Professionally-Managed STRs. Mr. Giorgio explained the revenue generated from this 3% fee would be required to be deposited into a special stabilization fund designated for affordable housing.

5 – Adoption of Community Impact Fee on Owner-occupied rentals. Mr. Giorgio explained, this would also be a 3% fee on rentals in two or three family dwellings.

6 – Special Purpose Stabilization Fund for Affordable Housing. Mr. Giorgio stated that this proposal is not actually recommended by the work group but was put forward for the Board’s consideration.

Dr. MacNab questioned the “grandfathering” provision as contemplated in Article 2. Ms. Smith clarified that the work group’s intent was that if someone is operating more than one STR that has been registered, they would be allowed to continue their STR operation for a certain period of time so that the activity is not directly stopped but is “shifted”. Ms. Mohr reminded the work group members present not to deliberate in the audience, as there is not a posted meeting for the group. James Sulzer, work group member, spoke on the work group’s concern about stopping rentals outright for legal, fairness and other reasons. Mr. Fee spoke on the different interpretations he has heard from work group members and others as to the purpose of the “grandfathering”. Dr. MacNab suggested eliminating the 60-day allowance. Ms. Smith spoke on this and noted that this situation might be different if the STR registration program was up and running but it is not. Some discussion followed on the potential consequences. Dr. MacNab said he found the data collected “quite useful”, noting that it indicates that a significant number of STRs are not owner-occupied. He expressed concern that nothing in the proposals prevent additional STRs from occurring. Mr. Sulzer spoke on the work group’s discussions about the rental limitations, noting it will need to be revisited once it has been implemented. Dr. MacNab said he found input recently received from the Advisory Committee of Non-Voting Taxpayers very helpful. He questioned enforcement and the availability of resources. Mr. Dixon spoke on the work group’s discussions about STR limitations as connected to year-round housing. Dr. MacNab spoke on the capacity of available resources and added that he does not see significant change coming from the proposed articles. Some discussion followed on this. Mr. Fee expressed support for the work that has been done, however, he shares Dr. MacNab’s concerns about resources and impact. Mr. Fee asked if the Board of Health is 100% in support of the articles. Ms. Smith addressed this and said she spoke with the Health Director who indicated the proposals were acceptable. Mr. Fee spoke against the zoning bylaw proposal, with respect to the Use Chart. Mr. Fee asked if data has been collected which shows the impact of these proposals on STRs over time. Ms. Mohr said that is not really possible because people’s behavior is difficult to predict, but that on-going monitoring would be occurring. Ms. Smith acknowledged that this topic is extremely controversial on the Island and the work group has recognized that the issues will not be “solved” with these proposals, that it will take time. Judi Barrett, another consultant engaged by the Town to assist the work group, spoke on the zoning bylaw and the extensive discussions the group had around these definitions. Matt Haffenraffer, a consultant engaged by the Town for the collection of data, spoke on the data he has collected to date. Some discussion followed on the potential impact, based on the data collected so far. Mr. Fee commented that rather than “sun setting” STRs the proposals are “sun rising”. Ms. Mohr reviewed the list of outstanding items requiring direction from the Board to the work group, including:

- data collection needs – can those be a Board policy rather than in the bylaw? Mr. Giorgio said “yes”.
- clarity on the definition of “July and August” as to the number of stays. Mr. Giorgio said “turnover dates” are the “stays”.
- Ms. Smith acknowledged there will most likely be the need for some “tweaking” of these proposals.

Some discussion followed about remaining time to complete these articles in time for the Board’s adoption of the warrant on August 16. Mr. Dixon asked about extending the contract with CBI. Discussion followed on this. Ms. Mohr suggested that at this point, the articles are in the hands of the Select Board. Some discussion followed. Ms. Mohr suggested retaining the work group through the special town meeting, subject to determining what additional work would be asked of them. Peter Schaeffer, work group member, spoke on the extensive work the group has done, it was very political, there were many points of view and

ultimately the group was not unanimous. He said they would need a facilitator to keep meeting. Some discussion followed on this. Ms. Mohr said the article discussion will be on the Board's meeting agenda next week and asked the Select Board members to let her know if they need additional information. Penny Dey asked when the public will be able to ask questions. Ms. Mohr said, "next week". Ms. Mohr thanked and expressed gratitude to the work group for its time and effort.

2. Resignation Acceptances: Finance Committee; Planning Board Alternate. Ms. Mohr moved acceptance of the resignations of Peter McEachern from the Finance Committee and Carl Borchert from the Planning Board (Alternate seat) with thanks for their service; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

3. Finance Department: Request for Approval of FY 2023 Year End Budget Transfers. Director of Municipal Finance Brian Turbitt reviewed the item, noting this is an annual action. Mr. Fee moved approval as presented; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

#### IX. PUBLIC HEARINGS

1. Public Hearing to Consider a Utility Petition from National Grid/Nantucket Electric Company, Plan #30600547 to Install Approximately 170' +/- of 1-3" of Conduit from Pole 39 on Old South Road to Property Located at 84 Old South Road. Chair Holdgate opened the hearing. Tim Lyford of National Grid introduced the item and explained the petition.

There being no public comment, Ms. Mohr moved to close the hearing; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Ms. Mohr moved approval of the petition as presented and recommended; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

2. Public Hearing to Consider a Utility Petition from National Grid/Nantucket Electric Company, Plan #30690787 to Install Approximately 40' +/- of 2-3" of Conduit from Pole 41 on Old South Road to Property Located at 88 Old South Road. Chair Holdgate opened the hearing. Tim Lyford of National Grid introduced the item and explained the petition.

There being no public comment, Mr. Dixon moved to close the hearing; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Mr. Fee moved approval of the petition as presented and recommended; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

3. Public Hearing to Consider Application for Transfer of Common Victualler with Seasonal All-Alcoholic Beverages Restaurant License from Larry B. Whelden d/b/a Nantucket Lobster Trap, Larry B. Whelden, Manager, to The Nantucket Lobster Trap, Inc. d/b/a Nantucket Lobster Trap, Drew Whelden, Manager, for

Premises Located at 23 Washington Street. Chair Holdgate opened the hearing. Licensing Administrator Amy Baxter reviewed the application.

There being no public comment, Ms. Mohr moved to close the hearing; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Mr. Dixon moved approval of the application as presented; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

4. Public Hearing to Consider Application for Transfer of Live Entertainment License from Larry B. Whelden d/b/a Nantucket Lobster Trap, Larry B. Whelden, Manager, to The Nantucket Lobster Trap, Inc. d/b/a Nantucket Lobster Trap, Drew Whelden, Manager, for Premises Located at 23 Washington Street. Chair Holdgate opened the hearing. Licensing Administrator Amy Baxter reviewed the application.

There being no public comment, Mr. Dixon moved to close the hearing; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Ms. Mohr moved approval of the application as presented; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

#### X. TOWN MANAGER'S REPORT

1. Continued Review of Potential Warrant Articles for November 7, 2023 Special Town Meeting. Ms. Gibson noted that no new information has been brought forward for warrant articles and that next week, the Board should begin determining the warrant articles so that they may be prepared. She added that a list of potential articles was reviewed with the Board at its June 28<sup>th</sup> meeting.

Ms. Gibson said that while she does not have a further report this evening, she noted that she attended the Siasconset Civic Association Annual Meeting on Monday, July 10<sup>th</sup>, the guest speaker was Natural Resources Director Jeff Carlson, who she said did a great job. She said topics of concern discussed at the meeting included a significant increase in activity along the Bluff Walk, and a November 7, 2023 special town meeting citizen warrant article seeking to extend sewer to Codfish Park. She said the highlight of the meeting was a special Spirit of Sconset award was presented to Nelson “Snooky” Eldridge and that July 12<sup>th</sup> was designated “Snooky Eldridge Day” in Sconset. She thanked Mr. Eldridge for his long-time service to the Town, adding that he can very often be found helping with one thing or another without seeking recognition and that his volunteerism is greatly appreciated.

#### XI. SELECT BOARD'S REPORTS/COMMENT

1. Finalize Dates of 2024 Annual Town Meeting and Annual Town Election; Review/Endorse Timeline. Ms. Gibson said that while a timeline has not yet been prepared, she has confirmed the previously discussed dates with the School for the Town Meeting and Election as Tuesday, May 7<sup>th</sup> and Tuesday, May 21<sup>st</sup> respectively. Ms. Mohr moved to schedule the 2024 Annual Town Meeting on Tuesday, May 7 and the Annual Town Election on Tuesday, May 21, 2024; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

2. Review Findings from Joint Select Board/Conservation Commission Meetings (March 21, 2023; April 11, 2023) Regarding Sconset Bluff Erosion Control Measures and Options with Arcadis. Ms. Gibson introduced the item and then introduced Kate Edwards of Arcadis. Ms. Edwards reviewed the presentation contained in the Board's packet.

3. Overview of Potential for a Coastal Resilience District. Attorney Vicki Marsh of Town Counsel's office introduced the item and reviewed what it would take to establish a Coastal Resilience District (CRD), as also contained in the Board's packet.

Ms. Gibson suggested that the concept of a Coastal Resilience District (CRD) be referred to the Coastal Resilience Advisory Committee (CRAC) for review and feedback to be provided back to the Board by September 1 or thereabouts. Mr. Fee expressed support for the CRD and said the Town should be looking at the option of betterments, as that statutory allowance stands now because the state could take some time to approve a CRD home rule petition, if approved by town meeting. Some discussion followed about precedent for a home rule petition of this nature. Ms. Marsh said she does not know of any petition that has been passed so far. Ms. Mohr concurred with Mr. Fee. Sustainability Program Manager Vince Murphy spoke on the status of the Baxter Road alternative access project status, noting no funding has yet been approved or even put forward yet to voters. It was the Board consensus to refer the concept of a CRD to the CRAC as recommended.

4. Committee Reports. Ms. Mohr spoke on a "Health of the Harbor" forum held at the Great Harbor Yacht Club earlier this week, noting it was very interesting and well attended. Chair Holdgate said Great Harbor Yacht Club has been very successful funding various municipal water quality projects.

## XII. HDC APPEAL

1. Public Hearing to Consider the Appeal of Ara Charder, Trustee, Salty 3 Massachusetts Real Estate Trust, of Historic District Commission Approval of Certificate of Appropriateness Nos. HDC2023-03-8125 and HDC2023-03-8126 to Demolish a Dwelling and Barn/Garage at 121 Orange St, Map 55, Parcel 389. Chair Holdgate opened the hearing and reviewed the appeal procedure. Appellant Ara Charder spoke in favor of the appeal and asked that the matter be sent back to the HDC. Esmeralda Martinez, staff to the Historic District Commission (HDC), reviewed the timeline and materials the HDC used in its decision and asked the Board to uphold the decision of the HDC. HDC Vice Chair Stephen Welch reviewed the HDC's decision, noting that there was no latitude due to the condition of the structure in question, which was a demolition by neglect and demolition occurred following extensive court action. Ms. Charder disputed the findings of the HDC. Mr. Welch noted the HDC vote was unanimous and based on compelling evidence that the structure was in dangerous condition as well as under a court order. Chair Holdgate asked what the remedy would be if the Board were to approve the appeal. Attorney George Pucci from Town Counsel's office said that would require substantial evidence that the HDC acted arbitrarily and capriciously, and that the appeal is essentially "moot" because the structures are no longer there, following demolition. Mr. Fee cited a similar situation with a structure at 106 Main Street many years ago, but it turned out in that instance the house was not actually structurally unsound. He added that he does not think the opinions of engineers and lawyers should be taken as "gospel". He said he would be prepared to uphold the HDC but requests that a "deep dive" be taken by the HDC so as to prevent this situation from happening again. Ms. Charder commented that the information the HDC was given was inaccurate. Chair Holdgate re-reviewed the legal parameters of what the Board can act on or not act on. Mr. Welch said that 106 Main Street was a completely different situation. Some further discussion followed. Mr. Fee questioned the materials the HDC was given with respect. Mr. Welch reiterated the court action that had already occurred when this issue to

brought before the HDC. Mr. Welch said that the HDC is already reviewing the demolition by neglect bylaw. Ms. Charder disputed the information provided to the HDC and stated that the demolition occurred before this appeal was heard by the Select Board. Mr. Welch reviewed the specific language in the court order that the HDC used in its decision making.

There being no further public comment, Ms. Mohr moved to close the hearing; seconded by Dr. MacNab; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Some discussion followed on the HDC decision. Dr. MacNab moved uphold the decision of the HDC and to deny the appeal, finding no basis that the HDC acted arbitrarily or capriciously; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

### XIII. ADJOURNMENT

Ms. Mohr moved adjournment at 8:36 PM; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Dr. MacNab – Yes; Ms. Mohr – Yes; so voted.

Approved the 19<sup>th</sup> day of July 2023.

**SELECT BOARD**  
**JULY 12, 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. 2. 2023 Committee Vacancies Timeline - Round 2
- III. 3. Community Preservation Committee Annual Forum flyer
- VII. 1. Draft minutes of 7/5/2023
- VII. 4. Pending Contracts spreadsheet
- VIII. 1. Short-term Rental Work Group Final Report presentation; STRWG update to the public; Email from Town Counsel re: STRWG Draft Articles; UPDATED STR Draft Warrant Articles; Minority Report from ACNVT; Attachment 1 to ACNVT Minority Report; Attachment 2 to ACNVT Minority Report; Minority Report from ACK Now
- VIII. 2. FinCom resignation; PB Alt resignation; Membership lists for FinCom, PB Alt, CRAC
- VIII. 3. FY 2023 Year end Budget Transfers
- IX. 1. AIS re: NGrid petition for 84 Old South Rd; Departmental comments; 84 Old South Rd petition; NGrid plan
- IX. 2. AIS re: NGrid petition for 88 Old South Rd; Departmental comments; 88 Old South Rd petition; NGrid plan
- IX. 3 & 4. AIS re: Transfer of Lobster Trap licenses; ABCC application for liquor license transfer; Floor plan; Proposed liquor license; Proposed entertainment license; Abutter notice
- X. 1. Outline for 11/7/2023 STM Warrant
- XI. 2 & 3. AIS re: Sconset Bluff and potential Coastal Resilience District; UPDATED Baxter Rd & Sconset Bluff Recap & Action Plan presentation
- XI. 3. Memo from Town Counsel re: establishment of Coastal Resiliency District; Coastal Protection Districts Draft Fact Sheet
- XII. 1. HDC appeal of 121 Orange St; HDC Appeals Procedure; Charder appeal; 121 Orange St - HDC file; HDC memo