

SELECT BOARD

Minutes of the Meeting of August 16, 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, Matt Fee, Dr. Malcolm MacNab and Brooke Mohr.

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. Chair Holdgate said the Town Manager's monthly update will be postponed.

III. ANNOUNCEMENTS

Town Manager C. Elizabeth Gibson reviewed the announcements:

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

2. The Town wants your Feedback on its DRAFT Long-Range Transportation Plan!

Visit www.nantucket-ma.gov/LRTP to Participate in the Review Phase and Comment on the DRAFT Document; Transportation Program Manager: Review of Draft Long-Range Transportation Plan.

Transportation Program Manager Mike Burns presented a brief summary of the draft Long-Range Transportation Plan and survey results to date (presentation and Plan contained in the Board's packet) that is out for public review until August 22, 2023. Mr. Fee commented on some of the components of the plan. He asked about traffic modelling with respect to project planning; and, if there is a "car count". Mr. Burns responded. Some discussion followed.

3. Nantucket and Madaket Harbors Action Plan Update Survey

Your Participation is Critical to Ensure the Community's Concerns about the Harbors are Addressed. Take the Survey by Visiting <https://nantucket-ma.civilspace.io/en/projects/39/engagements/22/sections/1>.

4. Harbor and Shellfish Advisory Board to Hold Educational Forum Regarding Water Run-off on Saturday,

September 9, 2023 at 9:30 AM at PSF Community Room, 4 Fairgrounds Road. Harbor and Shellfish

Advisory Board member David Fronzuto noted the upcoming forum and referenced an insert that went out in the most recently issued tax bills about this. He said the purpose of the forum is to raise awareness with property owners about run-off and its impact on the harbor.

5. No Select Board Meetings on Wednesday, August 23, 2023 at 5:30 PM and Wednesday, August 30, 2023 (Summer Schedule).; Next Meeting to be Held on Wednesday, September 6, 2023.

6. Town Offices will be Closed Monday, September 4, 2023 in Observance of Labor Day.

7. Select Board Announcements/Comments.

There were no comments.

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

There was no follow up.

V. PUBLIC COMMENT

Megan Perry reviewed a survey she said she conducted of the community which requests the cancellation of a Memorandum of Understanding between the Select Board and Nantucket Planning and Economic Development Commission. She asked the Board to put the matter on a Board agenda. Ms. Perry inquired about a Town policy regarding whether or not employees may sign petitions. She asked about some questions she sent in July to the Board. She inquired about an Affordable Housing Trust meeting.

Rick Atherton commented on the Memorandum of Understanding referenced by Ms. Perry.

Robert Bates asked about the warning siren system.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

Dr. MacNab moved approval of items VII 1 – 4; seconded by Mr. Dixon; all in favor, so voted.

1. Approval of Minutes of August 2, 2023 at 5:30 PM; August 7, 2023 at 4:00 PM; August 10, 2023 at 9:00 AM.

2. Approval of Payroll Warrants for August 6, 2023.

3. Approval of Treasury Warrants for August 9, 2023; August 16, 2023.

4. Approval of Pending Contracts for August 16, 2023 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference.

VIII. SELECT BOARD'S REPORTS/COMMENT

1. Continued Discussion of November 7, 2023 Special Town Meeting Warrant Articles; Adoption of November 7, 2023 Special Town Meeting Warrant. Chair Holdgate introduced the item and recused from the discussion about short-term rental articles by leaving the table. Vice Chair Mohr said the Board would start with a discussion about the short-term rental articles, with a document Town Counsel John Giorgio prepared which references various comments from Town officials and others on the articles. Mr. Giorgio proceeded to review the document as contained in the Board's packet. Jim Sulzer made a statement about the Short-term Rental (STR) Work Group's work and recommendations. He spoke about his own personal experience with a short-term rental. Ms. Mohr asked the Board how it would like to proceed with the review of revised articles. Dr. MacNab said he would like Town Counsel to review the articles. Mr. Fee said he would like to understand the purposes of the articles and associated impacts. He said he is concerned about harmful impacts and spoke on his concerns. He said he is torn on how to proceed but feels the Board is "close". Mr. Giorgio continued with his review of the articles and recommended removal of "Article 3" from the draft warrant document. He spoke on the legalities of the article that are uncertain, including potential legal challenges. Ms. Mohr asked about the original purpose of Article 3 and whether or not there is another way to protect the short-term renters the Article was originally intended to cover. Mr. Giorgio explained the protection is intended for "residents". Ms. Mohr asked how a "hardship" would be defined. Mr. Giorgio said it will be hard to define but that a board or group would be designated by the Select Board to hear "hardships". Some discussion followed. Mr. Fee said he would support the removal of draft Article 3. Dr.

MacNab said he supports Article 3 because it supports residents and not commercial renters. Mr. Giorgio said the Board could potentially include it on the warrant with the option of ultimately recommending against it as additional input is received. Some discussion followed as to whether or not there is sufficient case law on this type of local bylaw. Mr. Giorgio said he believes it is more likely than not; that if challenged, it would not be upheld. Dr. MacNab said if the Board were to vote on removal of Article 3, he would not object. Discussion followed. Mr. Fee moved to remove Article 3 from the draft warrant; seconded by Dr. MacNab; so voted 4-0. Mr. Fee asked about some of the provisions in Article 2 of the draft warrant, with respect to the number of short-term rentals allowed during July and August; and, what is/is not allowed after a change of ownership and/or if a property becomes a short-term rental following enactment of the bylaw. Mr. Dixon spoke on the STR Work Group's extensive discussions on these issues. Discussion followed on striking the last sentence in the draft article in section "123-3L" relating to STR limitations. Discussion followed on what existing data indicates with respect to potential impact on STRs with and without this sentence. Discussion followed about the limitations on current data due to the newness of STRs being regulated by the state only since 2019. Mr. Fee moved to remove the sentence from 123-3L; seconded by Mr. Dixon; so voted 4-0. The Board discussed the eligibility of properties that could be grandfathered and reviewed competing proposals, as shown in Mr. Giorgio's document as items "123-3M"; specifically, who would have the right to continue STRs at the July – August 9 STR contracts allowance. Dr. MacNab expressed concern about this provision stating that he believes it does not change anything from current circumstances. Discussion followed about the availability of data to determine how many STRs there are, how often they are rented and what impact this provision could have on STRs. Dawn Holdgate, speaking as a citizen, stated that the state registry is not a reliable source of accurate data, as many properties that are registered but are not active STRs. Matt Haffenreffer, of Process First, who conducted STR data analysis for the Work Group, spoke on the distinctions of properties classified as STRs. Penny Dey concurred with Ms. Holdgate, noting that registering an STR with the state is free but does not necessarily indicate that the property actually conducted STRs. Mr. Giorgio reviewed the complications of the "M" provisions. Mr. Fee commented on concerns as to unintended consequences. Ms. Holdgate questioned how these bylaws, if enacted, will impact the 2024 rental season. Peter Halle concurred with Ms. Holdgate. He suggested that until the local STR registry is established, any contract entered into be valid for the 2024 season. Discussion followed among the Board members. Discussion followed as to allowing the 9 STR contracts in July and August provision to continue for those who are registered with the state and can prove they have paid the rooms excise tax in at least one quarter at any time between January 1, 2019 and 2023. Mr. Sulzer spoke again on the STR Work Group's discussions about fairness to those who already have had STRs. Mr. Giorgio spoke as the wording needed to confirm this. Peter Kahn suggested that the criteria for payment of the rooms excise tax be specifically in a third quarter (not "any" quarter). Mr. Fee moved approval of language to be prepared by Town Counsel to reflect the provision as discussed so that the 9 STR contracts in July and August provision continue for those who are registered with the state and can prove they have paid the rooms excise tax in a third quarter in any year between 2019 and 2023; seconded by Mr. Dixon; so voted 3-1. Dr. MacNab voted no. Mr. Haffenreffer spoke on the potential impact on the numbers of STRs with the enactment of this provision. Discussion followed. Mr. Fee suggested that any grandfathering protection have a "sunset date". Discussion followed on this. Mr. Fee suggested a phasing out of the number of STRs allowed, over a period of time. Discussion followed. Mr. Iverson stated that he does not think this would be fair. Curtis Barnes agreed with Mr. Iverson. Ms. Mohr said she would be willing to phase out the 9 contracts in July and August, over a long period of time and to retain other grandfathering allowances. Mr. Giorgio suggested wording in "L" to indicate that the 9 contracts are in effect for a certain number of years, then reduced by a certain number per year until the number of contracts reaches 4. Vincent Devers asked for clarification as to the number of contracts. Ron Kokot said he thinks reducing the number of contracts from 9 to 4 over time contradicts the purpose and intent of the Work Group's intent to "do no harm". Mr. Fee

moved to allow the 9 contracts to be in effect for 20 years, with reductions to occur by 1 per year beginning in year 16 until they reach 4; seconded by Mr. Dixon for discussion. Ms. Mohr said she is inclined to wait to see the data because of the “do no harm” provision. Some discussion followed. Mr. Giorgio cautioned that this provision could be modified at any time by Town Meeting. He urged careful consideration of this provision. By roll call vote: Mr. Fee – Yes; Dr. MacNab – Yes; Mr. Dixon – No; Ms. Mohr – No. The motion did not pass. Mr. Giorgio reviewed a proposal to rearrange sections pertaining to grandfathering to the beginning of the bylaw. Peter Schaffer spoke on the proposal, stating that the intent is to make the bylaw as easy to understand as possible. Mr. Dixon moved approval of the proposal; seconded by Mr. Fee; so voted 4-0. Mr. Giorgio reviewed a proposal to remove the language shown in Article 2 of the draft warrant in section 123-1(6). Discussion followed. Mr. Dixon spoke against removal, as did John Kitchener. Peter Halle suggested using the word “may” in that section. The Board’s consensus was to leave that section as is in the draft warrant. Discussion followed as to other provisions of the draft articles.

Ms. Mohr suggested to the Board that, given the growing lateness of the meeting, the appointments in item IX-1 be postponed to the Board’s September 6 meeting. It was agreed that the uncontested appointments be taken up now. Chair Holdgate rejoined the meeting. She also said items XII. 1 and 3 will be tabled.

IX. CITIZEN/DEPARTMENTAL/COMMITTEE REQUESTS/REPORTS

1. Applicant Introduction/Review of Applications and Appointments to 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, Pursuant to Select Board Committee Appointment Policy. Mr. Fee moved to appoint all applicants to the non-contested seats, excluding the Town Council Study Committee which needs more review and definition; seconded by Dr. MacNab. All in favor, so voted. It was agreed that the Planning Board Alternate appointment would be tabled to the Board’s September 6 meeting.

It was agreed that the Public Hearings would be taken up now; and return to the Special Town Meeting discussion following the public hearings.

X. PUBLIC HEARINGS

1. Public Hearing to Consider Utility Petition from National Grid/Nantucket Electric Company, Plan #30776062 to Install Approximately 55’ of 2-3” Underground Conduit Across Nobadeer Avenue and Two New Handholes (HH 17-1 and HH 1-2) on Either Side of the Road; Conduit will be Run from HH 17-1 at Base of Pole 17 Across Nobadeer Avenue to HH 17-2 for New Service at 60 Nobadeer Avenue. Chair Holdgate opened the hearing.

There being no public comment, Ms. Mohr moved to close the hearing; seconded by Mr. Fee; all in favor; so voted.

Mr. Fee moved approval of the petition as presented with any departmental conditions as noted in the packet; seconded by Ms. Mohr; all in favor, so voted.

2. Public Hearing to Consider Utility Petition from National Grid/Nantucket Electric Company, Plan #30639943 to Install Approximately 5’ of Underground Conduit and New Handhole (HH 141-1); Conduit will be Run from HH 141-1 at Base of Pole 141 on Polpis Road to Property Located at 307 Polpis Road. Chair Holdgate opened the hearing.

There being no public comment, Mr. Fee moved to close the hearing; seconded by Dr. MacNab; all in favor; so voted.

Mr. Fee moved approval of the petition as presented with any departmental conditions as noted in the packet; seconded by Ms. Mohr; all in favor, so voted.

3. Public Hearing to Consider Utility Petition from Verizon New England Inc., Plan #MA2023-29 to Install Approximately 150' of 4" Conduit from Manhole MH2312 to Pole 2 at 2 Polpis Road. Chair Holdgate opened the hearing.

There being no public comment, Mr. Fee moved to close the hearing; seconded by Dr. MacNab; all in favor; so voted.

Mr. Mohr moved approval of the petition as presented with any departmental conditions as noted in the packet; seconded by Mr. Fee; all in favor, so voted.

4. Public Hearing to Consider Utility Petition from Verizon New England Inc., Plan #MA2023-28 to Install Underground 4" Conduit with Fiber Cable Along North Side of Milk Street from Pole 26 Easterly Approximately 180' to Existing Conduit Line. Chair Holdgate opened the hearing.

There being no public comment, Mr. Fee moved to close the hearing; seconded by Mr. Dixon; all in favor; so voted.

Mr. Fee moved approval of the petition as presented with any departmental conditions as noted in the packet; seconded by Ms. Mohr; all in favor, so voted.

Discussion on the Special Town Meeting warrant continued. Chair Holdgate left the table again.

VIII. SELECT BOARD'S REPORTS/COMMENT

1. Continued Discussion of November 7, 2023 Special Town Meeting Warrant Articles; Adoption of November 7, 2023 Special Town Meeting Warrant. Mr. Atherton suggested the Board continue discussion on the warrant articles to a later time, stating that he believes a disservice is being done to the voters.

Mr. Giorgio reviewed the discussions he has had with various parties, including the Attorney General's office, on draft warrant Article 1 over the last two weeks and is recommending that this Article be put forward as recommended by the STR Work Group as a zoning article. He reviewed the specifics of concerns expressed and discussions that have been occurring and reiterated the legalities of maintaining Article 1 as a zoning bylaw not a general bylaw. Judi Barrett, the Board's zoning consultant, concurred with Mr. Giorgio. Mr. Fee asked if the Use Chart could be amended in the future to restrict STRs to certain zones. Mr. Giorgio responded affirmatively and added that statutory grandfathering would occur in that instance. Discussion followed on zoning bylaw vs general bylaw votes and allowances. Mr. Iverson spoke against changing the Use Chart as proposed by Mr. Fee. Caleb Worsten spoke in favor of Mr. Fee's proposal. Mr. Fee said he does not believe Article 1 will pass at Town Meeting. Mr. Iverson spoke again in favor of Article 1 as written. Mr. Dixon asked about the corporate provisions. Discussion followed as to the potential for legal challenges. Discussion then turned to whether or not the article language could potentially be amended through a Planning Board and/or Finance Committee Motion. Ms. Mohr said she

supports the article as currently written. Discussion followed as to whether or not the Board is ready to vote on the warrant, subject to any further changes to be made by Town Counsel. Chair Holdgate returned to the table. Ms. Mohr moved to adopt the warrant, with the changes as discussed to be made by Town Counsel, sent to the Board members and the Board members to individually indicate through the Chair whether they wish to continue discussion at a meeting to be posted for August 23rd at 11:00 am and refine any of the language; seconded by Mr. Dixon; so voted, 4 – 1. Dr. MacNab was opposed. Discussion followed as to the potential for Select Board comments on the articles, in the warrant booklet with motions.

XI. TOWN MANAGER'S REPORT

1. Update Regarding Short-Term Rental Registration Program. Ms. Gibson introduced Finance Director Brian Turbitt to provide the update. Mr. Turbitt explained that the current recommendation is to terminate the contract with Granicus, the vendor engaged to launch the registration program due to delays. Mr. Turbitt recommended that a small work group of two realtors (Penny Dey and Lisa Wynne), Kathy Baird of the former STR Work Group, himself and Public Health Director Roberto Santamaria engage a new vendor after a vetting process. Mr. Fee spoke in favor and suggested Mr. Haffenreffer be involved. Ms. Mohr concurred. Dr. MacNab asked why the state registry is not sufficient for the Town's needs. Mr. Turbitt responded that the information required by the state is too minimal for the Town's STR regulatory requirements. Mr. Fee moved to cancel the contract with Granicus and form a work group as recommended; seconded by Ms. Mohr; all in favor, so voted.

2. Monthly Town Management Report. Item postponed.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Review of Upcoming Agenda Items/Discussion of Potential Future Agenda Items. Item tabled.

2. Ratification of Vote (August 7, 2023 at Joint Land Bank Commission – Select Board Meeting) to Designate Select Board Members to Washington Street Long-Term Planning Work Group. It was noted that during a joint meeting with the Land Bank Commission, held on August 7th, that the Select Board discussed appointing Ms. Mohr, as the Board's representative to the Capital Program Committee and Mr. Fee, as the Board's representative to the Coastal Resiliency Advisory Committee, to a newly formed Washington Street Long-Term Planning Work Group. Ms. Mohr moved to appoint herself and Mr. Fee as presented; seconded by Mr. Dixon; all in favor, so voted.

3. Committee Reports. None.

XIII. ADJOURNMENT

Mr. Fee moved adjournment at 8:47 PM; seconded by Ms. Mohr; all in favor, so voted.

Approved the 6th day of September 2023.

**SELECT BOARD
AUGUST 16, 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. Long-Range Transportation Plan – presentation; Draft Long-Range Transportation Plan
- III. 4. SHAB Forum flyer
- VII. 1. Draft minutes of 8/2/2023 at 5:30 PM; 8/7/2023 at 4:00 PM; 8/10/2023 at 9:00 AM
- VII. 4. Pending Contracts spreadsheet
- VIII. 1. DRAFT 11/7/2023 Special Town Meeting Warrant
- IX. 1. List of Committee Vacancy Applicants - Round 2; Committee Applications - Round 2
- X. 1. AIS re: NGrid petition - Nobadeer Ave; Departmental comments; Nobadeer Ave petition; Nobadeer Ave plan
- X. 2. AIS re: NGrid petition - 307 Polpis Rd; Departmental comments; 307 Polpis Rd petition; 307 Polpis Rd plan
- X. 3. AIS re: Verizon petition - 2 Polpis Rd; Departmental comments; 2 Polpis Rd petition; 2 Polpis Rd plan
- X. 4. AIS re: Verizon petition - Milk St; Departmental comments; Milk St petition; Milk St plan
- XI. 1. AIS re: Short-Term Rental registration program