



Town of Nantucket Finance Committee

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Committee Members: Denice Kronau (Chair), Stephen Maury (Vice-chair), Joseph T. Grause Jr., Peter McEachern, Joanna Roche, Peter Schaeffer, Chris Glowacki, Jill Vieth, George Harrington

MINUTES

Tuesday, March 9, 2021

*This meeting was held via remote participation using ZOOM and YouTube,
Pursuant to Governor Baker's March 12, 2020 Order Regarding Open Meeting Law*

Called to order at 4:00 pm by Ms. Kronau

Staff in attendance: Libby Gibson, Town Manager; Rachel Day, Assistant Town Manager; Brian Turbitt, Director of Finance; Rick Sears, Deputy Director of Finance; Terry Norton, Town Minutes Taker; Tom Rafter, Airport manager; Leslie Snell, NP&EDC; Charles Gibson, Deputy Police Chief

Attending Members: Kronau, Maury, Grause, McEachern, Roche, Schaeffer, Glowacki, Vieth, Harrington

Late Arrivals: Roche, 4:10 p.m.

Town Counsel: Gregg Corbo, K&P Law, P.C.

Other Speakers: Raymond Conlon, Nantucket Windmill Auto Rental; Tim Mahoney, Affordable Rentals Nantucket at Cook Cycles; Harvey Young, Young's Bicycle & 4X4 Car Rentals; Lynn Filipski, Sconset Civic Association (SCA) President; Gary Beller, Advisory of Non-voting Taxpayers Chair; Peter Halle

Documents used: Warrant Articles for 2020 Annual Town Meeting.

Adoption of Agenda.

Motion **Motion to Approve the Agenda.** (made by: Grause) (seconded)

Roll-call Vote Carried unanimously//McEachern, Schaeffer, Glowacki, Grause, Harrington, Vieth, Maury, and Kronau-aye

I. ANNOUNCEMENTS

II. PUBLIC COMMENT

1. None

III. COMMITTEE REPORTS

1. None

IV. REVIEW AND DISCUSSION WARRANT ARTICLES FOR 2020 ANNUAL TOWN MEETING (ATM)

1. Article 74 (Bylaw Amendment: Car Rental Agencies, Registration of)

Discussion **Rafter** – Our counsel and commission made recommendations which haven't been adopted. The Airport wants a fair and equal playing field when we put the proposal for rental operators out. This was not generated based upon any revenue, revenue need, or revenue projections. We are not looking for a fourth operator. The agreements with the current operators expired at the end of last year; currently the operators have an agreement to the end of this year while we prepare Requests for Proposals (RFP).

Corbo – It was his understanding this was an Airport initiated article. The Select Board would have been happy not to change the bylaw. There are a maximum number of medallions, 700 with one medallion equal to one car, and all are accounted for and they don't expire. He and Amy Baxter worked on this; it is a complicated topic and not as simple as raising the cap or setting an expiration date on the medallions. The original proposal from the Town was to table it for next year. The compromise we reached is the Article you see now; it allows the Select

Board to enact regulations to determine how rental vehicles are distributed on the Island. We proposed adding two new sections to the Article, B1 and B2; explained the sections. The Select Board has the option to enact regulations, which would replace provisions in the bylaw.

Grause – Asked what problem this is trying to solve. Based upon what was said and the letters he’s seen, he doesn’t understand the reason behind making this change.

Rafter – When we were developing the RFP, we had two additional companies express interest in operating out of the Airport; however, they would have to purchase a medallion in order to operate on the Island. Right now, if someone came in with a better proposal but no medallion, we couldn’t grant them a contract.

Corbo – The bylaw doesn’t address what would happen if a current holder were to move operations out of the Airport and not turn in their medallions; that is the problem we are seeking to address. Once you have a medallion, it’s yours forever.

Grause – If he’s one of the rental operators and has excess medallions, it seems it would be better to use those medallions.

Rafter – We have received 2 additional companies who have expressed interest in the process. We have to rank them according to the selection process, but if they don’t have a medallion, we can’t grant them the contract.

Grause – These medallions appear to be perpetual, but a bylaw amendment at Town meeting can eliminate them.

Corbo – That is correct. ATM established this and ATM has the authority to change it. This is written so that it would give the Select Board the authority to put a termination date on the medallions, forcing them to go back up for auction.

Schaeffer – He understands that a medallion is for life and different from a license. Asked if there is displeasure with the current service providers.

Rafter – No, but we are legally required to go through the RFP process when the contracts expire.

Kronau – Medallions are issued by the Town; there is a licensing authority for doing that. The RFP is for running an agency out of the Airport with desk space in the Airport.

Vieth – Why is Hertz able to have a presence on Nantucket when they are a national chain. Asked if AVIS or Enterprise can also apply along with local business.

Rafter – He doesn’t know the answer to that.

Glowacki – The chain law applies to the core district only.

Roche – Asked how many medallions go to each service provider.

Rafter – There is accounting through Ms. Baxter’s office as to how many are used.

Corbo – Each existing agency has a certain number of medallions (50) available to them; that is the number of cars they can license per year and each car has to be registered per year. If a company licenses only 40 cars, that means they have 10 medallions sitting on the shelf.

Roche – We should be able to access this information; it’s pertinent to our discussion.

Kronau – That information is available.

Opened to public comment at 4:32 p.m.

Conlon – In the late 1990s, the medallions were issued based upon the number used in the preceding year. It’s only the large national company that doesn’t use all their medallions; they also do not pay all the excise tax to the Town. All other companies are local and use all their medallions and do pay all their excise tax to the Town. This article will cripple the local operators.

Conlon – His family has owned his company for 51 years. In November, Mr. Rafter told us he appreciated us being here year-round; then we see this article has been proposed. Getting bank credit will become nearly impossible and devastate the small businessman with no impact on the national company. A company’s net worth is based upon assets; we count the medallions as an asset.

Kronau – Asked Tim Mahoney to summarize a letter he sent.

Mahoney – He isn't prepared for that. This Article would also impact car rental companies downtown.

Young – His question is Section B1 giving Select Board authorization to change the bylaw; asked who has that authority now.

Corbo – Right now all requirements for obtaining a rental license or medallion is set in the bylaw with applications processed by the Licensing Office. What would change is that definitions, license/medallion process, number issued currently in the bylaw would be moved to a regulation thus putting it in the hands of the Select Board.

Young – He fears the regulations could be changed fairly quickly; right now, any change would get vetted through ATM; he feels that works well.

Grause – He's hearing the plan is to make it more flexible to change the conditions and strip someone of their medallions.

Corbo – The understanding conveyed to him was that if this weren't done at this ATM, it would have to wait for the next ATM and be delayed 2 years; the Airport has a need to do it soon.

Grause – Under the current arrangement with kiosks at the Airport, he assumes all agreements, aside from assigning medallions, are up to the Airport.

Rafter – We have good arrangements with them. We aren't looking to change any business terms.

Kronau – She believes the Select Board would try to do the right thing for the Island; saying that, she has personal concerns about changing someone's personal assets thus putting their business at risk. If this were to pass, you'd have to disclose to your bank that you are losing your medallions. Also, a medallion is a for-life thing assigned to you and you should be compensated if it were to go away. Coupling the two things together, she believes there wasn't a lot of time for review and preparation of this Article before it went to the Select Board. She agrees with Select Board member Matt Fee's comment that the Select Board can work on the issue without this Article.

Corbo – He agrees it came to the Select Board in a hurry; that was the primary reason we weren't ready to bring a more robust proposal to ATM this year. This does have significant ramifications and could require further study. We tried to come up with a compromise between the Select Board wanting more time versus the Airport's desire not to wait another 2 years for a solution.

Kronau – You can work on this without changing the existing bylaw and put a better article in for next year's ATM.

Corbo – Explained that he says 2 years because of the 90-day State Attorney General's review period.

Grause – He agrees with Ms. Kronau; it needs more time.

Kronau – Closed public comment at 4:52

Motion **Motion Not to Adopt.** (made by: Vieth) (seconded)

Roll-call Vote Carried unanimously//McEachern, Schaeffer, Maury, Vieth, Grause, Glowacki, Harrington, Roche, and Kronau-aye

2. Article 70 (Bylaw Amendment: Noise)

Discussion **Snell** – Summarized what led to this proposed amendment and reviewed the changes covered by the Article.

Vieth – Asked if the landscape community knows about getting rid of gas-powered tools. Last year we had a lot of people come out against a citizen warrant banning gas-powered leaf blowers. Asked if there is a buy-back program. There was testimony that electric/battery powered tools weren't strong enough for some landscaping work.

Snell – The change that was approved applies only to the core districts of Town and 'Sconset. The phase out for July 1, 2025 in this Article is Island wide; we had a Landscape industry representative on the group. There is no buy-back program.

Grause – On HVAC and penalties, asked if there is any grandfathering.

C.Gibson – Current standard for new equipment is far below the proposed decibel numbers; if the equipment is working properly, it will be below the decibel level. There is a big difference between 45 and 50 decibels.

Schaeffer – Gas-powered engines, it's rather underhanded to stick that in here using a single sentence after we turned a full article down last year. Asked who will measure the sound.

Snell – Right now noise is enforced by the police and it will continue.

C.Gibson – We don't do lawn tools, but we handle complaints for pool pumps and compressors and we mediate disputes. He doesn't think this will change the number of complaints the NPD receives.

Grause – Asked if the leaf blower article from last year was carried over to this year. Asked if a chainsaw falls under that definition (yes).

Snell – The non-voting taxpayers asked to include districts zoned up to ½ acre which is about 25% of the Island area; the area ultimately included in the Article is about 2% of the Island.

Maury – In terms of dwellings, the area looked at is densely populated. Asked how many properties were involved.

Snell – She'd have to look that up and get back to FinCom at a later date.

Maury – Asked about the spread of complaints and if complaints have increased.

C.Gibson – Complaints come from all over. There are more home rentals now than before, and renters don't want to hear noise; he believes that led to the increase of complaints.

Kronau – Opened public comments at 5:11 p.m.

Filipski – This has been a huge discussion of the SCA for years. Now that she's president, she gets a lot of calls complaining about noise. SCA did a village-wide questionnaire and support this Article. This would be a huge improvement in quality of life in 'Sconset village. Noted they also support going to electric landscaping tools, especially in the old historic districts. The rise of generators is becoming an increasing issue in the villages; suggested a set time when those can be recharged.

Zimicki – Under 101-2, subparagraph A prohibited noises, suggested some language changes.

C.Gibson – Mr. Zimicki's proposed change doesn't have much effect on how the Police react to a complaint.

Zimicki – About the 55 decibels, one problem is when people look at the table on the existing law; the day is 55 and night 45. With harmonics, it should be 50 per day and 40 at night. 55 decibels seem high in an urban environment. Suggested going back to 50 and 40.

Beller – Article 70 is a major disappointment, especially in face of our request for changes to the noise bylaw. This version makes minor modifications to construction noises in July and August and applies only to the old historic districts; it pays no attention to other populated areas. It also makes no change to unreasonable day-time noise. The bulk of our recommendations were ignored. Asked FinCom give this a negative motion in its current form.

Halle – He was on the committee with Ms. Snell. He agrees with Mr. Zimicki that the decibel levels are on the high side. The whole Island is getting denser; the zoning classifications set side-yard setbacks between zero and 10 feet. In section 101-4 of the existing bylaw, it sets noise limits for various districts; it does not set a daytime level at all. Regarding enforcement, suggested training summer police in noise enforcement.

Kronau – Asked if he agrees with the bylaw as it is proposed.

Halle – There is some improvement. Cited two points that were not improved.

Filipski – She feels this is a good start to see how construction and landscapers adapt. In the future, we would support widening the scope to all neighborhoods on the Island.

Kronau – Closed public comment at 5:33 p.m.

Glowacki – He thinks eliminating a class of commonly used equipment in one sentence is not good; we should discuss that. He feels 5:00 p.m. is an early end to the workday.

Harrington – He agrees with Mr. Glowacki.

Vieth – Agrees about the gas-powered equipment; she feels we'd be contradicting our motion from last year.

Kronau – Part of the challenge last year was the equipment issue regarding battery-operated equipment being used on larger properties. Second was the urgency with which it was going in; it didn't allow smaller landscaping companies time to plan for the capital expenditure.

Discussion on the motion not to adopt:

Maury – He'd like to see some proposed changes that would result in a positive motion.

Vieth – Agrees.

Grause – We should reject the Article at this time in this form; he thinks it will take a lot of turns and twists to address the issues brought up.

Roche – Agrees there is too much stuff packed into the Article.

Glowacki – He's concerned that if FinCom offers a negative motion, they will offer an amendment on the floor at ATM that would get it adopted.

Kronau – Agrees with Mr. Maury. This is an improvement and a start; they could come back with a more stringent article next year incorporating concerns brought up today. We could strike the line including leaf blowers.

Vieth – Asked if we'd want to include Mr. Zimicki's changes.

Kronau – That wording change wouldn't create a negative impact and could be included as part of our motion.

Motion **Motion not to Adopt in its current state.** (made by: Schaeffer.) (seconded)

Roll-call Vote Carried 5-4//Grause, Harrington, Schaeffer, Roche, and McEachern-aye; Maury, Glowacki, Vieth, and Kronau-nay

3. Article 71 (Bylaw Amendment: Noise) Jacques Zimicki

Discussion **Zimicki** – If FinCom had adopted Article 70, he would have withdrawn Article 71. He will let it stand as is and if Article 70 passes at ATM, he will withdraw Article 71 at that time. This proposes air handler noise be regulated at no more than 55 decibels at day and 45 at night as measured from the property line.

Grause – Recused himself from this discussion and vote.

Kronau – Asked if two different standards would be an enforcement issue.

C.Gibson – You have to be careful about unintended consequences. He looked at Sherburne Commons and the background noise was over 45 decibels during the day.

Glowacki – The notion that this would cause existing equipment to be replaced before its normal lifespan is an issue.

C.Gibson – If HVAC is working correctly, it's quiet. Anything over 15 years old is an anomaly due to new refrigerant regulations.

Discussion on the motion to adopt:

Maury – If his motion passes, it should include that if Article 70 passes, Article 71 will be withdrawn. Article 70 should also have a comment.

Glowacki – He won't support Mr. Maury's motion. It should all come back as one Article next year. He's concerned about the issues outlined by Mr. Gibson.

Vieth – She supports the motion because she thinks Article 70 will fail due to the leaf blowers. Doesn't think the workgroup was even looking at condensers.

Roche – She doesn't think it's consistent to say you can have leaf blowers but not other things. She supports the concept behind them; she'd like to see something retooled that includes both Article 70 & 71.

Kronau – We can discuss a comment to Article 70 at a future meeting.

Discussion on Motion to Take no Action:

Roche – This would allow us to have a comment about the articles, as a combination, don't meet the intentions behind them.

Kronau – Suggested putting off further motions for a later meeting.

Glowacki – We have a motion with a second.

- Motion Motion to Adopt. (made by: Maury) (seconded) Not carried.
Motion to Take no Action. (made by: Roche) (seconded) withdrawn by Ms. Roche
Tabled at this time.
- Roll-call Vote N/A
4. Article 72 (Bylaw Amendment: Council for Human Services)
Discussion **L.Gibson** – The bylaw that establishes the membership was amended to reduce the number of people due to their inability to get a quorum. Now they can get a quorum and want to go back to 9 members.
Day – They have had a large number of applicants that would create diversity.
Motion **Motion to Approve.** (made by: Grause) (seconded)
Roll-call Vote Carried unanimously//Schaeffer, Glowacki, Vieth, Maury, McEachern, Harrington, Roche, Grause, and Kronau-aye
5. Article 73 (Bylaw Amendment: Animals)
Discussion None at this time.
Motion Held for a future meeting.
Roll-call Vote N/A
6. Article 82 (Bylaw Amendment: Chapter 127 - Streets and Sidewalks: Road Construction) Kevin Kuester
Discussion None at this time.
Motion Held for a future meeting.
Roll-call Vote N/A
7. Article 96 (Charter Change: Sec. 2.c. Mailing of Town Meeting Warrant) Thomas Barada
Discussion None at this time.
Motion Held for a future meeting.
Roll-call Vote N/A
8. Article 1(Receipt of Reports)
Discussion None at this time.
Motion Held for a future meeting.
Roll-call Vote Carried

V. NEXT MEETING DATE/ADJOURNMENT

Date: Thursday, March 11, 2021; 4:00 p.m.

VI. OTHER BUSINESS

None

Adjournment:

- Motion **Motion to Adjourn at 6:06 p.m.** (made by: Maury) (seconded)
Roll-call Vote Carried 7-0//Schaeffer, Maury, Grause, McEachern, Glowacki, Vieth, and Kronau-aye

Submitted by:

Terry L. Norton