

SELECT BOARD

Minutes of Meeting of February 3, 2021. The meeting took place via remote participation via Zoom Webinar pursuant to Governor Baker's March 12, 2020 Order regarding the Open Meeting Law (attached). Members of the Board present were Dawn Hill Holdgate, Jason Bridges, Matt Fee, Kristie Ferrantella and Melissa Murphy.

I. CALL TO ORDER

Chair Holdgate called the meeting to order at 5:00 PM. She read a prepared statement as to how the meeting would be conducted via remote participation and the ground rules for any discussion and called roll for those present.

II. SELECT BOARD ACCEPTANCE OF AGENDA

Chair Holdgate noted that the Arcadis contract is being tabled to the February 10, 2021 meeting. The agenda was accepted with that change.

III. ANNOUNCEMENTS

1. Chair Holdgate noted the meeting is being audio/video recorded.
2. Assistant Town Manager Rachel K. Day introduced the Town's new Diversity Equity and Inclusion Director, Kimal McCarthy. Mr. McCarthy thanked members of the community who have supported him over the years and gave some background information on himself. Members of the Board welcomed Mr. McCarthy to his new position.
3. An additional announcement was made by Housing Director Tucker Holland regarding a housing survey underway in connection with the process to update the Town's Housing Production Plan. He said the survey is on the Town's website in multiple languages and will remain open for the next couple of weeks. The announcement was also made in Portuguese by Vanessa Randeiro and Spanish by Florencia Rullo.

IV. COVID-19 WEEKLY UPDATE

1. Public Comment. No public comments.
2. Report(s) from Public Health Director and/or Nantucket Cottage Hospital President:
 - COVID-19 Case Metrics, Including Massachusetts COVID-19 Community-Level Data Map. Public Health Director Roberto Santamaria reviewed current tests, cases, and hospitalizations, from today and to date. He reviewed trends, and other metrics state-wide and nation-wide. He noted that the Island's case positivity rate over the last seven days has dropped significantly and the curve has slowed although not levelled off. He reviewed the weekly sewer testing and spoke as to the status of contact tracing efforts.
 - Vaccine Distribution Plan Update. Mr. Santamaria reviewed the status of the active Phases of vaccine distribution – Phases I and II - and reviewed updates to those Phases from the state. He explained how eligible people can sign up. He also explained how home-bound community members will get tested. Ms. Murphy asked that the community "stay the course" and continue to take precautions. She reminded community members that regarding this weekend's Super Bowl, that gathering restrictions are still in place. Mr. Santamaria expressed sincere thanks to the VFW for allowing use of its premises for vaccinations. Ms. Murphy asked if there is a timeline for Nantucket to get more in line with the state regarding restrictions. Mr. Santamaria noted that the only difference is the amount of people who can gather, per local Board of Health Order. Mr. Bridges asked questions on Biobot sewer testing and Mr. Santamaria explained how that

testing is done. Ms. Ferrantella encouraged community members to remain vigilant and to stay home and stay safe instead of travelling for February school vacation. She asked if the "Stop the Spread" testing and vaccines are both occurring at the VFW. Mr. Santamaria answered affirmatively. Regarding winter vacations, Mr. Santamaria asked people not to travel, especially with the COVID variant(s) making its way around the world. Human Services Director Jerico Mele noted the state currently has a quarantine order with criteria for those travelling to Massachusetts with a \$500 per day fine for violations and that travelling during a time when COVID variants are becoming active is "flat-out irresponsible". Ms. Ferrantella asked what qualifying people who missed Phase I of the vaccine can do. Mr. Santamaria said they should sign up for Phase II. He noted that Governor Baker reiterated today that if a community willingly gives a vaccine to someone not in the current Phase, the state could cancel the vaccine site. He said that the state is very strict about the Phases and the associated groups within the Phases. Ms. Ferrantella asked if it is possible to track the number of vaccines given on Nantucket. Mr. Santamaria said yes but that it would probably be done cumulatively, on a weekly basis. Mr. Mele said that Nantucket Cottage Hospital's plan is to release vaccine numbers once a week starting next week.

- COVID-19 Testing. No updates.

- COVID-19 Task Force: Weekly Report. Mr. Mele provided an update on the Task Force's activity over the past week. He reviewed numbers of and nature of, inspections, enforcement actions, requests for information and reporting procedures, daily patrols, efforts to maintain and encourage compliance. He noted that they are going to be dealing with a different set of enforcement issues as the landscaping season starts; he said they will be moving on to more area-based patrols vs. job site specific inspections. Mr. Mele said he will be working with the Economic Task Force regarding safety guidelines. Mr. Mele speculated on use cases for olfactory screening in a home screening or retail facing purposes, noting he expects to see deployment after the spring. He noted that Covid vaccination forms are reached through the Town's website. He noted scammers circumventing in other towns and that the Town is never going to ask people to download anything regarding vaccinations so to be watchful for that.

- Economic Task Force: Update. Ms. Murphy said she is looking forward to coordinating with Mr. Mele, noting the Economic Task Force has started "scenario planning" and will be reaching out to businesses regarding best practices for planning the 2021 summer season. She said they will begin outreach next week to businesses for feedback. Ms. Murphy said an email has been established, acktaskforce@nantucketchamber.org that can be used to email comments/questions. She said hopefully by next week they will have new business resources including possible use of re-allocated fireworks funding. By the end of February, they plan to use a partnership with NCTV to produce informative small business updates and they will be updating the "Back to Business" toolkit on the Town website. Mr. Fee asked how far they have gotten with outside dining and closing streets for the 2021 season. Licensing Administrator Amy Baxter said they have worked through the application internally, noting the Board is still allowed to do local approvals for this. Ms. Baxter said the application is going out tomorrow so that the Task Force can get plans from the restaurants. She said she plans to give an update to the Board at its February 17, 2021 meeting, and do approvals and hearings in March. Ms. Murphy added that they are hearing that outdoor dining is successful and feedback has indicated that dining establishments would like to see a policy decision be made by the Select Board and Planning Board to change this to a more permanent opportunity. Ms. Murphy said they will look at impacts and other considerations such as parking, transportation, etc. She noted retail is also a focus of the Task Force and they have ideas how to help retailers going forward especially in the shoulder season.

- Board of Health Orders. No updates.

- Select Board Comments/Questions. Nothing further from the Board.

V. PUBLIC COMMENT FOR ITEMS NOT RELATED TO COVID-19 OR OTHER AGENDA ITEMS.

Tobias Glidden said he met recently with Pete Kaizer, Jeff Carlson and Pat Johnson from Senator Cyr's office about moving forward with a 3-mile limit for commercial draggers around Nantucket, adding they feel it would be helpful to resubmit a prior "Sense of the Meeting" vote. Mr. Glidden also thanked the Board for its comments at last week's appeal of an Historic District Commission (HDC) decision to deny solar panels on a home at 9 Dennis Drive. He said he heard a lot of positive feedback from the Board that more reasonable solar regulations are needed in Nantucket. Mr. Glidden encouraged the Board to put forward a warrant article to make that happen, in conjunction with the HDC.

VI. NEW BUSINESS.

There was no new business.

VII. APPROVAL OF MINUTES AND WARRANTS

1. Approval of Minutes of January 27, 2021 at 5:00 PM. Mr. Fee moved approval; seconded by Ms. Murphy. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Murphy – Yes.

2. Approval of Treasury Warrants for February 3, 2021. Mr. Fee moved approval; seconded by Ms. Murphy. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Murphy – Yes.

3. Approval of Pending Contracts for February 3, 2021 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Mr. Fee moved approval on all contracts except Arcadis, which was moved to next week's agenda; seconded by Ms. Murphy. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Murphy – Yes.

VIII. PRESENTATIONS

1. Per- and Polyfluoroalkyl Substances (PFAS) Special Counsel Presentation/ Recommendation. Attorney John Giorgio of Town Counsel's office introduced this matter, noting a few months ago the Board held a meeting about various aspects of PFAS issues on island. He said the Town is still awaiting a final report from its consultant, CDM, but that there had been some additional discussion as to the Board entering into a retainer agreement with special counsel to initiate legal action against manufacturers of PFAS. Attorney Giorgio said that the Airport recently negotiated a retainer agreement with Napoli Sckolnik PLLC. Hank Naughton of Napoli Sckolnik PLLC noted that they are lead counsel in a multi-district litigation that has been consolidated in Charleston, SC against the makers of PFAS with 500 plaintiffs. He reviewed his firm's background in environmental law, noting their bench is "deep and wide" with legal expertise. Walter Hang, executive director of Toxic Targeting, Inc., a consultant working with Napoli Sckolnik PLLC to review data, spoke on his firm's capabilities, noting they will help quantify the numbers. Mr. Naughton discussed numerous types of cancer from PFAS contamination and stated the purpose of the lawsuit is cost recovery. They are trying to get makers of PFAS to the table prior to trial to come to a settlement and that funding from a settlement would be put in a trust fund and used for remediation by plaintiffs. Mr. Bridges asked if there are any impacts or a downside to the Town for signing on to the litigation. Attorney Giorgio said there is no financial cost to Town for pursuing this; however, 25% of any settlement is kept by special counsel for

its work. He said there are no up-front costs to the Town and that any expenses would be deducted from a settlement. Attorney Giorgio asked what the next steps are in terms of joining litigation. Mr. Naughton explained that his firm would draft a complaint specific to Nantucket and make a decision whether to file in Federal District Court in Massachusetts and then move to remove it to the multi-district litigation in Charleston, or they could apply directly to Charleston to add Nantucket as a plaintiff. Attorney Giorgio said he feels Town Counsel will have to assist special counsel in preparing the case which will be a cost to the Town. Ms. Ferrantella asked if the Airport would drop off the lawsuit if the Town signs on. Attorney Giorgio stated that the Airport lawsuit is independent and that both would move forward separately.

Bruce Mandel thanked Mr. Hang and Mr. Naughton for their clear presentations. He spoke about public drinking water contamination and noted he is a cancer victim and said there are cancer clusters in Madaket which he said is downgradient from the landfill. Mr. Mandel said he has had his own well tested with a certified in-state lab and two PFAS elements were detected. He said he contacted the state Department of Environmental Protection (DEP) but was told that Nantucket is not on a list of counties that could get assistance from DEP. Mr. Mandel asked if the scope of work being proposed could include the Madaket landfill and potential contamination of wells surrounding it. He noted private testing is expensive. Mr. Naughton said that in 2020 DEP adopted an advisory status for certain contaminants and advised towns to start testing public water supplies. He said that on October 2, 2021 such testing will become mandatory. He said regarding potential landfill contamination, that would be part of the research Mr. Hang's firm would do and work with Town personnel to determine testing there. Mr. Hang explained that his firm has been doing a great deal of work on "ancient" landfills, noting they are typically not constructed to hold their contents securely and that PFAS can leach out. Mr. Mandel said as the Board moves forward reviewing budgets, the Solid Waste Enterprise Fund budget contains no funding for expanding ground water/surface water testing to include testing for PFAS; he encouraged the Board to modify the budget so funding for PFAS testing can be earmarked, especially considering upcoming testing requirements. Mr. Mandel thanked the Board for "not sweeping PFAS under the rug" and trying to address the issues. Mr. Bridges moved to authorize the chair to execute the retainer agreement with Napoli Sckolnik PLLC; Ms. Ferrantella seconded. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Murphy – Yes.

IX. CONSENT ITEMS

1. Gift Acceptance: Human Services (Saltmarsh Senior Center); Our Island Home. Ms. Ferrantella moved approval; Ms. Murphy seconded. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Murphy – Yes.

X. PUBLIC HEARINGS I

1. Public Hearing to Consider Application for Transfer of Seasonal Wine and Malt Beverages Restaurant License from Nantucket Rotary, LLC d/b/a Lola Burger, Clovett Miller, Manager to Lola Burger Restaurant Nantucket, LLC d/b/a Lola Burger, Heather Weyandt, Manager, for Premises Located at 1 Sparks Avenue. Chair Holdgate opened the public hearing. Ms. Baxter reviewed the application for a transfer of the liquor license for Lola Burger, noting it is not a complete transfer to new entity, that new LLC members are being added. There was no public comment. Chair Holdgate closed the public hearing. Mr. Fee moved approval; Ms. Ferrantella seconded. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Murphy – Yes.

2. Public Hearing to Consider Application for Transfer of Annual All Alcoholic Beverages Restaurant License from Lola 41 Restaurant, LLC d/b/a Lola 41, Joseph Burgess, Manager to Lola 41 Restaurant

Nantucket, LLC d/b/a Lola 41, Joseph Burgess, Manager, for Premises Located at 15 South Beach Street. Chair Holdgate opened the public hearing. Ms. Baxter answered questions from Board members. There was no public comment. Chair Holdgate closed the public hearing. Ms. Ferrantella move approval; Mr. Bridges seconded. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Murphy – Yes.

XI. TOWN MANAGER'S REPORT

1. Review of Proposed FY 2022 General Fund Budget Amendment; Potential 2021 Annual Town Meeting Warrant Article(s) for Affordable Housing Trust Funding. Housing Director Tucker Holland explained that following a recent Select Board directive to Town Administration to determine a way to provide funding for the Affordable Housing Trust (AHT) for FY 2022, a workgroup was established by the Town Manager which included: the Town Manager, Select Board member Kristie Ferrantella, the Finance Director, the chair of the Finance Committee, the Real Estate Specialist, himself and Town Counsel. After exploring various approaches for funding the AHT, the workgroup is recommending funding the Trust as follows: \$475,000 in the general fund budget for operations and a \$7.5 million override for Safe Harbor maintenance (serving incomes between 30% and 200% AMI (area median income)). Mr. Holland said as the Board is aware, the AHT is in the midst of deploying the capital appropriated at the 2019 Annual Town Meeting (ATM) to assist in addressing the significant shortage of suitable, stable, affordable year-round housing and in furtherance of the Town's Subsidized Housing Inventory (SHI) state-requirements alongside the Select Board's strategic goal of remaining in Safe Harbor. He said at this time, the recommendation is for funding the FY 2022 operational requirements in addition to what potentially may be required in local subsidy support for the development of approximately 24 units at 135-137 Orange Street, which is part of the plan for Safe Harbor continuity. The Trust will be seeking additional funding after the 2021 Annual Town Meeting (ATM) to meet the outer years' requirements, including from the Community Preservation Committee and other sources. Mr. Holland said the AHT needs to know that the subsidy is there on the front end. Finance Director Brian Turbitt stated the \$7.5 million would be a debt exclusion not an override. Mr. Fee said he is concerned about political issues at town meeting with multiple housing articles on the warrant. Mr. Fee added he would like to see a way to do this without a debt exclusion, noting he supports Arthur Reade's affordable housing article. He said he is supportive but concerned about how housing funds can be made available. Ms. Murphy agreed with Mr. Fee and said she likes having good options to debate at ATM but is also concerned that the goal will be lost in the politics of debate. She said she supports the AHT but is politically concerned about the competitiveness of the articles. Mr. Fee said he hopes the Board shows leadership and picks the path most likely to result in success as he feels this is too important for this to "go sideways". Mr. Bridges said he is looking at this differently; that he feels people will like having a "menu" of options to discuss at ATM. He added that he feels both citizen articles (Mohr and Reade) and the AHT proposal are three good paths. Chair Holdgate said the Board will need data from Mr. Turbitt regarding the anticipated debt. Ms. Ferrantella said she was part of the workgroup and is in favor of the \$475,000 for operating costs and likes the idea of committing to it for several years. She added that it might be good to have all funding articles go to ATM to see how voters feel. Broke Mohr said her inspiration for filing her article was a persistent issue with a commitment from the community on an on-going basis for funding an effort that is critical to the community's future and she is looking forward to having a discussion and debate on ATM floor about funding affordable housing. She said she feels Nantucket has turned a corner from *should* we fund affordable housing to *how* to fund affordable housing. She added that no funding method is perfect and that the choices are relative. Ms. Mohr said she is happy that affordable housing is rising as a higher priority. She thanked the Board for its commitment to bring this alternative to the table. Rick Atherton said he was closely involved in the \$20 million article for affordable housing that was approved two years ago to protect the island from 40Bs. He went on to say that when the Town reaches 10% affordability and

meets state guidelines, the Board needs to be upfront and clear with voters on what the intention is to use public dollars to continue funding affordable housing. He said public dollars might not be considered in the future when the 10% affordability threshold is met. Discussion followed among Board members on hitting the 10% affordability goal and needing a buffer because of the as-yet-unknown 2020 census count. Mr. Fee said 10% of year-round housing is not nearly enough to have a year-round community, and that many towns aim for 30%. Ms. Murphy said that housing has been an issue on Nantucket for decades and that the Town needs to find solutions and long-term commitments, not short-term fixes. Mr. Atherton stated there is lots of affordable housing on island (employee housing) that doesn't count to SHI numbers. The consensus of the Board was to put the two articles for the AHT on the warrant. Mr. Fee said before ATM, he feels the Board should determine its preference on the affordable housing funding options and make it known early and often to the public. Chair Holdgate asked Mr. Giorgio if a stabilization fund for affordable housing is approved, can the money be transferred every year to the AHT. Attorney Giorgio answered affirmatively but said it will require a 2/3 vote to appropriate the funds from the stabilization fund to AHT at ATM; and, when dedication is voted on it can't be changed for three years so it is important to get it right the first time.

2. 2021 Annual Town Meeting: Warrant Development Update. Planning Director Andrew Vorce noted that the Planning Board is holding a public hearing on Planning Board-sponsored zoning warrant articles on Thursday, February 4 at 4:00 PM. He reviewed the Planning Board-sponsored zoning articles. Planning Board Chair Judith Wegner also spoke. Chair Holdgate reviewed proposed Town-sponsored general bylaw articles. Regarding a potential increase to dog fines, Attorney Giorgio said this is a rare example of how a local bylaw can have a fine of up to \$500. Some discussion followed on possible tiering of dog fines. Chair Holdgate noted that the Airport has provided a "White Paper" regarding its request for an article to amend the rental car bylaw. Airport Manager Tom Rafter noted the issue has nothing to do with adding revenue to the Airport but rather to establish "an open and competitive market process". He added that the proposal is in draft form and is still being formulated to address concerns of the Airport and the Town. He reviewed the Airport's issues with the existing bylaw, noting the Board should have more control over the car rental businesses. Ms. Baxter stated that it should be about actively managing the process. Mr. Bridges asked if the article gives the Board the ability to change the number of medallions issued, annually. Mr. Rafter said the intent is to give the Board that ability based upon market demand or how the Board sees fit. Mr. Fee asked if the current rental car companies have asked for input. Mr. Rafter said they have not spoken with the companies but that they can. Mr. Fee said if this is not about revenue, then we should wait and "do it right". Ms. Wegner voiced her disappointment that the Planning Board and Nantucket Planning and Economic Development Commission (NPEDC) have not been consulted in any regard about this matter and asked if the Airport has held a public hearing to discuss the matter. Mr. Rafter responded that the Airport Commission hasn't met to review the proposed article but is meeting next week and will do so then. Tobias Glidden encouraged the Board and the community to seriously consider the article and to possibly allow street-legal golf carts on island and other healthy, sustainable transportation alternatives. Chair Holdgate said she feels the Board consensus is that the proposed rental car article needs more review. Mr. Bridges said he feels the current bylaw needs to be revamped and adapted. Ms. Ferrantella encouraged the Board to take the time to define the problem and gather data. More discussion followed. Mr. Rafter noted that the Airport has extended its rental space agreements for rental car agencies for one year and that they need to be able to offer a fair and competitive process when they are re-bid. Chair Holdgate suggested separating the issue of medallion increases from other issues.

Bruce Mandel noted his citizen warrant article regarding the single-use plastics bylaw that he submitted for the 2020 ATM was carried over to the 2021 ATM. He said since then, he has revised the article and he

hopes the Board will put forth the amended article as a Board-sponsored article. Chair Holdgate said the matter will be discussed next week.

Mr. Turbitt reviewed proposed ballot questions and noted the Children's Beach storm water pump station cost has increased by \$1 million. He said the AHT \$7.5 million debt exclusion needs to be added. Mr. Atherton said regarding the proposed Our Island Home override that the expenses for Our Island Home are not increasing by \$5 million and he feels the money will go to the General Fund and that the Board and Administration needs to be open and transparent. Mr. Fee spoke in favor of prioritizing the ballot questions.

Ms. Ferrantella asked for a specific agenda item for next week to discuss the housing articles.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Committee Reports. Ms. Ferrantella said she enjoyed having today's announcement in multiple languages and she hopes it can occur more often.

XIII. ADJOURNMENT

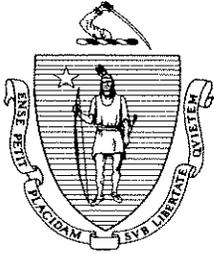
Mr. Fee moved to adjourn at 7:41 PM; seconded by Mr. Bridges. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Ferrantella – Yes; Ms. Murphy – Yes.

Approved the 10th day of February 2021.

**SELECT BOARD
FEBRUARY 3, 2021 – 5:00 PM
REMOTE PARTICIPATION VIA ZOOM
PURSUANT TO GOVERNOR BAKER'S MARCH 12, 2020
ORDER REGARDING OPEN MEETING LAW
NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

- IV. 2. Covid-19 Update
- VII. 1. Draft minutes 1/27/2021
- VII. 3. Pending contracts spreadsheet
- VIII. 1. PFAS presentation; revised (by Town Counsel) proposed Retainer Agreement re: PFAS
- IX. 1. Summary of gifts/ recommended motion; Saltmarsh gift; Our Island Home gift
- X. 1. AIS re: Transfer of Liquor License - Lola Burger; Liquor License Public Hearing Process; Lola Burger ABCC application
- X. 2. AIS re: Transfer of Liquor License - Lola 41; Liquor License Public Hearing Process; Lola 41 ABCC application
- XI. 1. AIS re: Affordable Housing Trust FY22 Funding; AHT Funding – Current; AHT Funding - Forward
- XI. 2. Outline # 6 for 6/5/2021 ATM; Airport White Paper re: car rentals; Town Counsel comments re: proposed Airport article; draft 2021 Annual Town Meeting Warrant as of 2/1/2021



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CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus (“COVID-19”); and

WHEREAS, many important functions of State and Local Government are executed by “public bodies,” as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention (“CDC”) and the Massachusetts Department of Public Health (“DPH”) have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

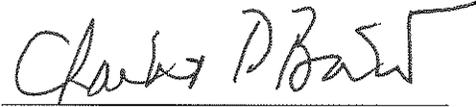
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 6:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in cursive script, reading "Charles D. Baker". The signature is written in dark ink and is positioned above a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts