

SELECT BOARD

Minutes of Meeting of April 7, 2021. The meeting took place via remote participation using 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 and Melissa Murphy. Kristie Ferrantella was absent.

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 there will be an additional announcement and that Nantucket Cottage Hospital (NCH) President and CEO Gary Shaw will be joining the Covid discussion. The agenda was accepted with those changes.

III. ANNOUNCEMENTS

1. The Select Board meeting is being audio/video recorded.

2. Diversity, Equity and Inclusion Director:

- Solidarity with Asian American Pacific Islanders Statement
- DEI Office Mission Statement
- DEI Webpage Update

DEI Director Kimal McCarthy read the Solidarity Statement, the DEI Office Mission Statement and the DEI webpage was reviewed on a "screen share".

3. Surfside Road Sewer Improvements Project on Surfside Road between Miacomet Avenue and Vesper Lane Commencing Sunday, April 11, 2021 through Friday, June 25, 2021 – Road Blockings and Detours:

- 4:00 PM to 2:00 AM, Sundays through Thursdays
- 9:00 AM to 2:00 PM, Fridays

First Phase is Surfside Road between Miacomet Avenue and Windy Way. <https://www.nantucket-ma.gov/2106/Surfside-Road-Sewer>

Sewer Director David Gray reviewed the announcement, noting there was a slight delay in the start of the project due to cancelled boats last week.

Town Manager C. Elizabeth Gibson noted that there will be a household hazardous waste day this Saturday, April 10 from 9:00 AM to 1:00 PM at the landfill.

IV. COVID-19 WEEKLY UPDATE

1. Public Comment. There was no public comment.

2. Report from Health Director. Public Health Director Roberto Santamaria provided an update as to testing to date, and the 7-day positivity rate. He noted that there is a surge occurring over the last three weeks and that the sewage testing report is showing a high incidence of cases per day. He said that the surge is most

likely linked to the COVID virus variants which have appeared world-wide. He reviewed the nature of the variants. He reviewed the status of the State vaccine plan; the number of vaccine doses issued to date on the Island, noting that Nantucket's vaccine "pace" is one of the three highest rates in the State.

Mr. Shaw spoke on the nature of cases NCH is seeing; he noted a death as of yesterday, most likely linked to COVID. He said COVID is entirely avoidable and reiterated an on-going caution for people to continue maintaining safety precautions to slow transmission while continuing with the vaccinations. Mr. Shaw said that where the cases are coming from is not as important as the need to quarantine and test, especially when people have been traveling and that employers need to take responsibility for these issues as well. Mr. Shaw spoke on the current hours and days of testing and explained the different tests (Symptomatic and Asymptomatic). Mr. Fee said that the Town's census number as related to the percentage of island residents vaccinated sounds high but isn't really because the population is actually higher than the current census number. Mr. Fee expressed concern about the COVID variants and the impact of positive cases on the Island's summer economy. He commented that there is an attitude among some that "this is over" when it is not. Mr. Santamaria spoke on national political overtones about vaccinations being unnecessary, having a negative impact on people getting vaccinated. Mr. Shaw agreed and reminded everyone that the variants are dangerous, and people need to be mindful of those who are responsible for caring for the sick so that they do not become overwhelmed. Ms. Murphy asked if there is a concern about not having enough vaccine as the summer population starts to arrive. Mr. Shaw explained how the vaccine allotment has been occurring. He noted that more and more vaccine doses will be coming, nation-wide but at this point, it is unknown how those will be allocated to cities and towns. Some discussion followed as to what "herd immunity" could be. Ms. Murphy asked about alternative sites for vaccination distribution. Mr. Santamaria said that would be subject to State approval. Some discussion followed on this. Mr. Shaw noted that staffing is an issue. Ms. Murphy asked about the need for volunteers and outreach for that. Mr. Santamaria responded that the "call" for volunteers is out on Town social media and "shared the screen" to display the website information. Ms. Murphy commented on Town communication efforts to "spread" the message about how to bring employees and visitors safety to the island. Ms. Murphy asked if the Board of Health has any plans to issue any further restrictions. Mr. Santamaria said he would not be recommending further restrictions at this point but that is ultimately up to the Board of Health. Mr. Santamaria said that a "re-education" process may be in order especially with those coming from other places who seem to believe that if they are vaccinated they do not need masks. Mr. Shaw commented again on the importance of complying with and messaging about safety protocols and measures both in public, at home and at work. Discussion followed as to the NCH and Town capacity to issue vaccines, which is reliant on the availability of doses, as well as the sign-up procedure. Mr. Bridges asked if people from Nantucket are travelling off-island to get vaccinated. Mr. Shaw said "yes" and it seems those trips are typically combined with other off-island activities. Some discussion followed on this. Some discussion occurred as to what is happening with "left over" doses at the end of the day. Mr. Shaw explained. Some discussion followed.

3. Report from Economic Task Force. Culture and Tourism Director Janet Schulte provided an update, noting that next week grant awards are expected to be made for business assistance, in large part with Town funds. She noted a "family experience" effort underway for downtown restaurants and businesses. She said there was a Task Force meeting today and one of the topics was to remind businesses that Nantucket's restrictions are the same as the State's, currently.

4. Other Reports/Comments/Updates. Ms. Murphy asked if the Town should send a letter to the State making it clear that Nantucket will need more vaccine when the population increases. Mr. Santamaria said that he spoke with Senator Cyr last week, he is aware of this and is working on it but that it is more of a supply issue. There was general consensus to send a letter requesting additional vaccine to the island because of its "economic importance" and "uniqueness of turnover" as the Town does not have a "static" population.

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

Ms. Jeannine Randolph said that she has been in conversations with "significant donors" who want to "make a difference" on the island by building a mental health center at the property where the Nantucket Hunting Association has a lease for a shooting range. She asked to read a letter about this. Chair Holdgate said a "mental health center" is not on the agenda tonight, so no action will be taken. She said that Ms. Randolph can read the letter when the Hunting Association agenda item is reached.

VI. NEW BUSINESS

There was no new business.

VII. APPROVAL OF MINUTES, WARRANTS AND PENDING CONTRACTS

1. Approval of Minutes of June 24, 2020 at 5:00 PM; March 24, 2021 at 5:00 PM. Mr. Fee asked for a slight amendment to the minutes of March 24th. Mr. Bridges so moved approval; seconded by Mr. Fee. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

2. Approval of Payroll Warrants for April 4, 2021. Mr. Bridges moved approval; seconded by Mr. Fee. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

3. Approval of Treasury Warrants for April 7, 2021. Mr. Bridges moved approval; seconded by Mr. Fee. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

4. Approval of Pending Contracts for April 7, 2021 - as Set Forth on the Spreadsheet Identified as Exhibit 1, Which Exhibit is Incorporated Herein by Reference. Mr. Bridges recused from this matter. Ms. Murphy moved approval; seconded by Mr. Fee. So voted by roll call vote. Chair Holdgate – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

VIII. CONSENT ITEMS

1. Gift Acceptances: Human Services (Saltmarsh Senior Center); Fire Department. Ms. Murphy moved to accept the gifts, with letters of thanks to be sent to the donors; Mr. Fee seconded. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

IX. CITIZEN/DEPARTMENTAL REQUESTS

1. Bartlett Tree Experts: Request for Waiver of Town Noise Bylaw from 4:00 AM to 8:00 AM from April 7 to October 1, 2021 for Multiple Locations for Spraying. Mr. Bridges noted that no complaints have been received in prior years; and moved approval. Seconded by Mr. Fee. Ms. Mary Ferguson of the Brant Point area questioned this item and asked the Board not to approve it, expressing concern about noise. Mr. Bridges rescinded his motion, with concurrence of the Board. Mr. James Cook from Bartlett Tree spoke on the request noting that they use the quietest equipment possible and do their best to perform the work at

quietly as possible. He said that the request is actually for 5:00 AM not 4:00 AM as listed on the agenda. Some discussion followed as to the nature of the noise. Ms. Ferguson commented on noise from gas delivery trucks and garbage trucks. Chair Holdgate said this is only for the tree spraying, not those other activities. Mr. Fee asked Mr. Cook about the frequency of the tree spraying work. Mr. Cook explained. Discussion followed as to alternatives to a noise bylaw waiver. Ms. Murphy noted that if this is a significant neighborhood problem, the neighborhood association should send the Board a letter for its consideration next year. Ms. Murphy added that the tree work is requested by the property owners in the area. Ms. Murphy moved to approve the request and encouraged the neighbors to work with Bartlett Tree directly if need be; seconded by Mr. Bridges. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – No; Ms. Murphy – Yes. Ms. Ferguson said that Town noise bylaws are in place to protect citizens.

2. Winthrop Nantucket LP/Harbor Fuel Oil Corp.: Request for Extension of Bulk Fuel License at 9 Salem Street (fka 8 New Whale Street) to December 31, 2021. Fire Chief Stephen Murphy provided an overview of the extension request and explained the timing of this license with respect to plans to remove the bulk fuel storage tanks at the subject property. He noted that this is for the current tanks, not any new tanks. Mr. Fee moved approval; seconded by Ms. Murphy. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

X. PUBLIC HEARING

1. Public Hearing to Consider Applications for 2021 Outdoor Dining Expansion/ Alteration of Premises. Ms. Murphy recused from this matter. Chair Holdgate opened the hearing. Licensing Administrator Amy Baxter provided an overview of what is being requested and explained the three categories of outdoor dining with the individual requests in each category. She reviewed the specifics of the State's order as to outdoor dining for establishments with liquor licenses. Chair Holdgate asked for any public comment, for each of the categories. Ms. Baxter reviewed the recommended conditions that would be applicable to each approval, as well as the particular closures for each impacted street. She said that if dining tables will be set up outside of abutting properties, their permissions will have to be secured. She also noted the situations which would be similar or the same as what was in place last year. Mr. Stephen Bowler, of Nautilus restaurant, spoke on the options presented for Cambridge Street and emphasized the importance of outdoor dining. Mr. Kenneth Gullicksen representing an abutting property owner, stated that his client is willing to accept the proposal provided that the conditions are clear and that there are dining tables in front of Nautilus restaurant only. Ms. Baxter said that last year, Nautilus did have more seating than it normally would; however, because there is a bar in the restaurant, that will be difficult to replicate, outdoors. Police Chief William Pittman spoke on the need to keep a portion of Cambridge Street open, from a public safety perspective with respect to traffic backups that occurred last year as a result of the closure of Cambridge Street. Mr. Bowler spoke in favor of closing Cambridge Street for his restaurant. Mr. Bridges concurred with Chief Pittman that complete closure is a public safety issue, also noting that he realizes the difficulty for the restaurant. Mr. Fee said he wished there was a way to keep the street partially open but add more tables; however, without the approval of the abutting property owners, that will be difficult. Mr. Fee disclosed that some of the restaurants impacted are customers of his business. Chair Holdgate agreed this is a difficult situation but believes if the additional tables cannot be accommodated, the street should be closed. Mr. Ryan Williams spoke in favor of closing the street for Nautilus. Mr. Bowler said he is open to exploring ways to keep the street open during the day and closed at night. Some discussion followed. Mr. Bridges said he would support a way to keep it open as described by Mr. Bowler if he pays for any costs related to that sort of arrangement. Ms. Courtney Mackey, owner of PPX spoke in favor of complete closure of Cambridge Street. Chief Pittman suggested that vehicles could be used as barriers, which could be readily moved every day. Mr. Fee asked about numbers of seats in each location pre-COVID and with the arrangement(s)

in place last summer. Ms. Baxter explained and displayed a sketch. Mr. Bowler spoke on this as well. Ms. Baxter continued reviewing the categories of requests. Mr. Fee suggested removing some parking spaces on Main Street for tables for some businesses. Ms. Baxter said there are safety concerns with that and that decking would be needed. Ms. Darya Gault, of Lemon Press asked for two parking spaces, with the decking as mentioned by Ms. Baxter. Ms. Baxter again expressed concern about spaces on Main Street being utilized for dining. Chief Murphy spoke on safety concerns as well and said there would be a need for "substantial" protection of diners there. Mr. Fee said he would prefer the tables to be on the sidewalk but if that doesn't work out, he would like other alternatives to be explored. He commented that this is an issue of fairness. Ms. Gault advocated for use of the parking spaces with the necessary protections. Some discussion followed. Mr. Bridges concurred with Mr. Fee and agreed it needs to be safe. Chair Holdgate agreed. Ms. Sarah Ellis commented that while she understands the impact COVID has had on businesses, tables on Main Street are very difficult for people to walk around. She asked, "what does enforcement look like". Ms. Baxter responded. Ms. Ellis said she does not understand "who is going to be managing the takeout crowd". Ms. Baxter reviewed measures she expects restaurants to be taking this summer to manage this better. Ms. Gault spoke on her plans to "clean up" the area of where her tables will be. Discussion continued about other areas. Mr. Fee asked about arrangements for the Juice Bar. Some discussion followed. Ms. Baxter reviewed the need for a Board decision(s) as to closure of outdoor spaces for dining and entertainment. Chair Holdgate said she supports dining closure at 11:00 AM and entertainment at 10:00 PM. Mr. Bridges said he supports dining closing at 11:30 PM and entertainment closing down at 10:00 PM. Mr. Fee said he would prefer the 11:00 PM dining closure time and if it seems to be working, to consider something later. Ms. Callie Keever asked for clarification about the allowance for live music entertainment. Ms. Baxter explained the State requirements for live entertainment and noted this hearing tonight, is for outdoor activities only. Mr. John Keane of Queequeg's stated that 10:00 PM closure is too early and that his customers expect a later closure. Ms. Baxter noted that, again, these closure times are for the "new" (post-COVID) outdoor spaces, only. There being no further public comment, Chair Holdgate closed the hearing. Mr. Bridges moved to approve the single season alteration of premises on private property to include temporary outdoor space for service of food and alcohol per COVID-10 Emergency Order 50 issued September 10, 2020 by Governor Baker; this approval is valid until December 31, 2021 or until sixty (60) days after end of state of emergency (whichever comes first) or as further amended by Governor Baker and/or the ABCC or Select Board; and upon expiration, the Licenses will revert back to their original approved premises; seconded by Mr. Fee. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes. Mr. Bridges moved to approve the single season alteration of premises on public streets and sidewalks to include temporary outdoor space for service of food and alcohol per COVID-10 Emergency Order 50 issued September 10, 2020 by Governor Baker; this approval is valid until December 31, 2021 or until sixty (60) days after end of state of emergency (whichever comes first) or as further amended by Governor Baker and/or the ABCC or Select Board; and upon expiration, the Licenses will revert back to original approved premises, with Cambridge Street and Lemon Press on Main Street to be voted separately; seconded by Mr. Fee. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes. Mr. Bridges moved to close Cambridge Street entirely unless an arrangement can be found to keep the road open during the day and closed at night; seconded by Mr. Fee. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes. Mr. Fee moved to approve outdoor service for Lemon Press on Main Street on the sidewalk as presented and conditioned and potentially into Main Street with two parking spaces, if the sidewalk service does not work out without abutter approval; seconded by Mr. Bridges. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes. Mr. Bridges moved that 7 days a week, dining closure of all newly acquired outdoor spaces will be at 11:00 PM, with areas to be vacated by 11:30 PM; seconded by Mr. Fee. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes. Mr. Fee moved to allow light

background, recorded music for all newly acquired outdoor spaces until 10:00 PM; seconded by Mr. Bridges. Mr. Bridges commented this may need to be revisited. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes.

Chair Holdgate noted that due to the time, items XI. 1 and XII. 2 will be tabled to the Board's April 14, 2021 meeting.

XI. TOWN MANAGER'S REPORT

1. Revisit of Request for Proposals and Term Sheet for Five-year Lease Agreement (2022 – 2026) for Jetties Beach Concession, Retail Shop, Bathhouse and Beach Event Area Regarding Awning. Tabled to the Board's April 14, 2021 meeting.

XII. SELECT BOARD'S REPORTS/COMMENT

1. Nantucket Hunting Association: Request for New Lease for Property at 1 Shadbush Road (Assessor's Map 78, Parcel 5). Hunting Association representative Steven Holdgate requested renewal of the lease. He explained delays that have occurred with permitting and a lawsuit. He spoke on the benefits of the proposed shooting facility. Town Counsel John Giorgio provided an overview of how the lease was initiated in the first place, beginning with a Town Meeting vote in 2004 which did not authorize a specific term. He noted that the Request for Proposals at the time, and subsequent lease, only allowed a term of up to 2021. He noted that without a Town Meeting vote, a new lease may only be authorized for up to five years. He noted that a procurement process will also have to occur. He said that the procurement will likely take several weeks; and, that at a future Town Meeting the Board could put an article on the warrant for a longer-term lease. Mr. Bridges said whether the Board votes to issue a license for two years or five years, he feels the lease should include language to bring the issue back for the 2022 Annual Town Meeting. He noted that leasing the property to the Hunting Association was well supported at the 2004 Annual Town Meeting and his position is to continue down that road. Ms. Jeannine Randolph spoke in favor of a shooting facility being indoors and also to construct a mental health facility at the property. Ms. Murphy asked about what would be going to Town Meeting. Mr. Giorgio explained. Some discussion followed as to the term of a long-term lease, with respect to the investment that will need to be made in a facility. Mr. Fee asked if a new procurement process could cause litigation again. Mr. Giorgio said that the prior litigation is settled, and that the procurement process would be written with all legal requirements firmly in place. Some discussion followed as to an indoor facility. Mr. Fee spoke on the benefits of an indoor facility. Mr. Holdgate expressed concern about an indoor range being a requirement in a procurement because that would result in all new or amended permits and he is fearful of the cost. Ms. Deborah Soffen spoke about lead exposure concerns. Mr. Giorgio noted a provision of the lease restricting the use of lead materials and requiring certain levels of clean-up. Mr. Giorgio noted that an indoor range would trigger additional public construction requirements that will further complicate this issue. Ms. Kathleen Matthews spoke against an outdoor facility for health and safety reasons. She spoke in favor of an indoor range. She said that there are numerous property owners in the area who would like to "partner" with the Hunting Association to help fundraise for an indoor facility. Ms. Holly McGowan spoke on an indoor facility with a nearby mental health facility. She spoke on the need for such a facility. Chair Holdgate noted that a mental health facility is not on the Board's agenda tonight and if that is a true proposal, she encourages the professionals in those areas to come forward with a specific proposal. Ms. Binth Rustad concurred with Ms. McGowan. Chair Holdgate reiterated that a mental health facility is not on the agenda tonight and encourages interested parties to get together and put a proposal together. Ms. Murphy asked if an indoor facility could be required in a procurement and asked about the complications referenced earlier by Mr. Giorgio. Mr. Giorgio said a provision could be included that allows for an indoor facility at a future time; and that the complication

relates to a building to be constructed on public land which requires compliance with public construction laws, which can be complicated. And, the cost would increase, as well as permitting issues. Ms. Murphy asked what the Board's options are, tonight. Chair Holdgate said the issue before the Board is a short-term lease, to get the matter to a future Town Meeting with respect to a longer-term lease. Mr. David Bold expressed support for the Hunting Association's effort to construct an outdoor facility and spoke on the complications of an indoor range with respect to cost and maintenance. He added that a shooting facility is a benefit for the entire community. Mr. Holdgate spoke as to initial plans for the facility vs what has transpired as of today, which is a much smaller facility. He noted that an indoor range would still be quite large, to be as effective as envisioned. He said that because of environmental permitting and required mitigation for endangered species, the footprint is even smaller. Mr. Giorgio asked if there is any need for the Hunting Association to continue with a lease at all, pending a Town Meeting vote. Mr. Holdgate said "yes" due to environmental approvals expected shortly which will enable them to break ground. Mr. Giorgio asked if the NHA would continue with its plan to break ground without a Town Meeting vote for a long-term lease. Mr. Holdgate said, most likely yes. Mr. Fee asked about the location of the nearest skeet facility. Mr. Holdgate said on the Cape. Mr. Fee said he is trying to find a way to "align interests" and realizes an indoor facility is challenging. He said he also realizes there are positives for the community with a shooting facility. Mr. Bridges spoke on the need to get this matter to Town Meeting to put forward a long-term lease and asked about the term of a short-term lease. Mr. Giorgio explained the procurement thresholds based on Fair Market Value and that most likely a procurement process will be required. Mr. Bridges moved to move forward with a procurement for a two-year lease and to include language for an automatic extension for a long-term lease subject to a Town Meeting vote; seconded by Ms. Murphy. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

2. Discussion/Review of Select Board Comments to 2021 Annual Town Meeting Warrant Articles. Tabled to the Board's April 14, 2021 meeting.

3. Committee Reports. None

XIII. ADJOURNMENT

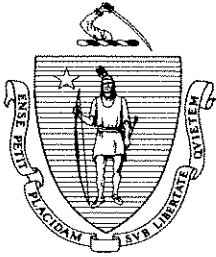
Ms. Murphy moved to adjourn at 8:54 PM; seconded by Mr. Bridges. So voted by roll call vote. Chair Holdgate – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Murphy – Yes.

Approved the 14th day of April 2021.

**SELECT BOARD
APRIL 7, 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:

- III. 2. DEI - Asian American Pacific Islanders Solidarity letter
- III. 3. Surfside Road Sewer Improvements Project ad
- IV. 2. COVID-19 update presentation
- VII. 1. Draft minutes 6/24/2020 and 3/24/2021
- VII. 4. Pending contracts spreadsheet
- VIII. 1. Gift acceptance summary & recommended motion; Saltmarsh gift letter; Fire Dept. gift letter
- IX. 1. AIS re: Bartlett Tree request for waiver of Noise Bylaw; Bartlett Tree Experts email
- IX. 2. AIS re: Bulk Fuel Storage License at 9 Salem St; VHB letter with license extension request; Select Board 12/17/2020 extension approval; Select Board 12/19/2019 amendment approval
- X. 1. AIS re: 2021 Outdoor Dining; Outdoor Dining/Street and Sidewalk Closures presentation; outdoor dining letter of concern
- XI. 1. AIS re: Jetties Beach Concession RFP re: awning; 2/10/2021 AIS
- XII. 1. Nantucket Hunting Assn. request for lease for shooting range; Town Counsel opinion re: lease with Hunting Assn.; History/Timeline; 2019 Town Counsel opinion; Amended & Restated Ground Lease Agreement 4/13/2011; Planning Board Special Permit for Hunting Assn; Town Meeting votes; letters of support; Nantucket Land Council letter with attachment
- XII. 2. Draft 2021 Annual Town Meeting Warrant



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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.

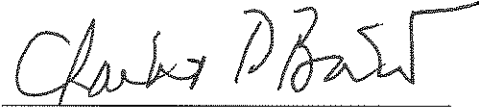
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby 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 that reads "Charles D. Baker". The signature is written in dark ink and is positioned above a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts