



MEETING POSTING

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TOWN OF NANTUCKET
Pursuant to MGL Chapter 30A, § 18-25
All meeting **notices and agenda** must be filed and time stamped with the
Town Clerk's Office and posted at least 48 hours prior to the meeting
(excluding Saturdays, Sundays and Holidays)

Committee/Board/s	Town Government Study Committee
Day, Date, and Time	Thursday May 13, 2021 9:00 AM
Location / Address	☐ "REMOTE PARTICIPATION VIA ZOOM Pursuant to Governor Baker's March 12, 2020 Order Regarding Open Meeting Law (Attached); the meeting will be aired at a later time on the Town's Government TV YouTube Channel https://www.youtube.com/channel/UC-sgxA1fdoxteLNzRAUHixA "
Signature of Chair or Authorized Person	John B. Brescher

WARNING: IF THERE IS NO QUORUM OF MEMBERS PRESENT, OR IF MEETING POSTING IS NOT IN COMPLIANCE WITH THE OML STATUTE, NO MEETING MAY BE HELD!

AGENDA

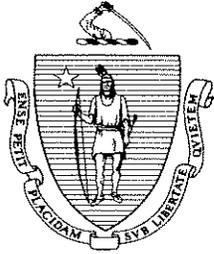
Please list below the topics the chair reasonably anticipates will be discussed at the meeting
TO JOIN MEETING

<https://zoom.us/j/2179151123>

MEETING ID:

217 915 1123

1. Call To Order
2. Approval of the Agenda
3. Public Comment
4. Approval of minutes of April 13, 2021 and May 6, 2021
5. Discussion: Review of Charter revisions from Town Counsel's office
6. Discussion re: finalization of report to Select Board and Town Meeting
 - a. Topics to include in report and motions related thereto
7. Other Business
8. Date and time of next meeting
9. Adjournment



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

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.

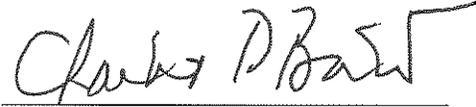
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby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

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts

Town Government Study Committee

Minutes of the meeting of April 13, 2021. The meeting took place via Zoom. Members of the committee present were: John Brescher, Linda Williams, Rick Atherton, and Curtis Barnes. Hillary Hedges Rayport was present from the public.

- 1) Chair John Brescher called the meeting to order at 10:06 am with a quorum.
- 2) Agenda: A motion was made by Linda Williams and duly seconded by Rick Atherton to approve the agenda as written. All voted in favor by voice vote.
- 3) Public Comment: None.
- 4) Approval of minutes of March 16, 2021 and March 30, 2021: A motion was made by Linda Williams and duly seconded by Curtis Barnes to approve the minutes of March 16, 2021 and March 30, 2021. All voted in favor by voice vote.
- 5) Discussion: unresolved items on topics to investigate list
 - a) Review of presentation on NPEDC

Linda Williams opined that the Committee should not weigh in on the makeup of the NPEDC.

Rick Atherton argued that the Committee's scope is broad enough and that the NPEDC can expand or revise their charter as they see fit. Furthermore, the question of the makeup of the appointments is a good question and if the NPEDC feels strongly about it, they can discuss the matter with the Select Board.

It was suggested by the Committee that it may be prudent to ask the Chair of the NPEDC and the Chair of the Planning Board to speak to the Committee. Curtis Barnes noted that it would be nice to hear more from the members of the NPEDC on the matter and presentation.

Linda Williams noted that she believes the report that was presented at the last meeting was off-base and not factually correct.

Hilary Hedges-Rayport disagreed and argued that it was a factually accurate report.

John Brescher noted that it was not the committee's job to adjudicate the factuality of the report.

The Committee agreed to move on and there was a motion made (Atherton) and duly seconded (Barnes) to invite the Chairs of the NPEDC and Planning Board to the

committee and to include the response letter prepared by the Chairs to these minutes. Three voted in favor (John Brescher, Curtis Barnes, and Rick Atherton) and one opposed (Linda Williams).

b) Expanding the role/redefining Town Government Study Committee and Town Governance Committee

The Committee then discussed the idea of expanding and redefining the role of the Town Government Study Committee into a Town Governance Committee.

Curtis Barnes liked this idea and suggested it be added to the final report. Linda Williams noted that we should flesh out the idea further and hoped that Tucker and Campbell would opine.

Linda Williams also suggested the Committee review how other Towns set up their committees. Rick Atherton noted that he looked at the Town of Andover as an example and their charge.

One of the discrepancies that the Committee discussed was that the Town Government Study Committee of Nantucket reports to Town Meeting per its charge, but as a practical matter, it also reports to the Select Board.

6) Other Business:

The Committee asked the chair to follow up with Town Administration in the hopes of getting a response from Lauren Goldberg.

7) Date and Time of the Next Meeting:

The Committee's next meeting will be at April 21, 2021 at 10:30 am 2021 via Zoom.

8) Adjournment:

A motion was made by Linda Williams and seconded by Campbell Sutton to adjourn at 10:42 am.

Respectfully Submitted,
John B. Brescher, Chair

Town Government Study Committee

Minutes of the meeting of May 6, 2021. The meeting took place via Zoom. Members of the committee present were: John Brescher, Linda Williams, Rick Atherton, Curtis Barnes, and Campbell Sutton.

- 1) Chair John Brescher called the meeting to order at 10:00 am with a quorum.
- 2) Agenda: A motion was made by Curtis Barnes and duly seconded by Rick Atherton to approve the agenda as written. All voted in favor by voice vote.
- 3) Public Comment: None. Curtis Barnes noted that Hilary Hedges reached out to him asked what was going on with the Committee's discussion re: the NPEDC. Campbell Sutton asked if there was anything re: meeting in person and John Brescher noted that he had not heard anything.
- 4) Meeting Minutes from April 13, 2021 and April 21, 2021: The minutes from April 13, 2021 had not yet been drafted and Curtis wanted to be noted as present to edit on April 21, 2021. A motion was made by Curtis Barnes and duly seconded by Rick Atherton to approve the April 21, 2021 minutes as amended.
- 5) Discussion: unresolved items on topics to investigate list
 - a) List of topics discuss

Campbell noted that she did send a link to the Committee with other Town Government Study Committees. Curtis commented that he had looked at those links. John chimed in that he thought the Committee had already discussed and agreed not to pursue anything further with the revisions to the Government Study Committee.

Campbell asked if there anything else that we can do to enhance the mission of the Government Study Committee – in other words, a way to make it more efficient and more effective. It would be nice to get a better response from Town Counsel and Town Administration. There was too much of a stonewall trying to get access from Town Counsel.

Campbell further noted that part of the challenge is that although we are accountable to the legislative branch, the topics are really directed by Town Administration more than anything else. Unfortunately, that weakens our report to Town Meeting because it makes it less effective. It makes us wonder if our time invested had any real impact. Are the issues that we're concerned with the ones that Town is concerned with?

Rick added, that while he certainly didn't disagree with anything Campbell, he wasn't sure what we do to make this more robust?

Rick suggested that the Committee take further votes on some of the discussion topics so there is something more to present to Town Meeting. Thus far, the Committee has only taken an action on the audit committee and the Town Meeting warrant articles. Rick further suggested proposing the motion on the topics so the Committee can vote on if we recommend making changes to the charter or if the Committee was fine leaving things as-is. Rick also suggested seeing this as an agenda item at the Committee's next meeting.

The Committee agreed this would be a wise way to continue moving towards finalizing the report for Town Meeting.

Campbell asked about the form of Town Government and Rick suggested we focus on the results of the non-binding ballot question and recommend it be further studied.

Curtis also suggested adding the recommendation re: the parking commission and Rick agreed the licensing commission should be included as well.

John asked if the Committee thinks it is possible to review these motions and review the charter review Lauren submitted.

Linda Williams noted that she will look through the 2019 memo that the Committee prepared and will work with Rick about any potential motions. Campbell agreed to work with Tucker and John agreed to work with Curtis.

6) Other Business:

We need to have a date for the report done for distribution. We may need to meet more.

7) Date and Time of the Next Meeting:

The Committee's next meeting will be Thursday May 13, 2021, at 9:00 am 2021 via Zoom.

8) Adjournment:

A motion was made by Linda Williams and seconded by Curtis to adjourn at 10:42 am.

Respectfully Submitted,
John B. Brescher, Chair

Section 1.1

Section 1.2

ARTICLE I
Powers of the Town

Section 1.1. Intention of this Charter

It is the intent of this Charter to confer on the Town of Nantucket, first incorporated in 1671, all powers possible under the Constitution of the Commonwealth as fully and completely as though they were expressly enumerated in this Charter. The Town shall remain subject to the laws of the Commonwealth, its rules and regulations and to the bylaws of the Town, except to the extent they are inconsistent with the provisions of this Charter. The Charter shall not be construed as a codification of all such laws, rules, regulations and bylaws but as effecting those particular changes by which the inhabitants of Nantucket may secure a more efficient, responsive and wise government.

Section 1.2. Liberal Construction

The powers of the Town under this Charter shall be construed liberally in favor of the Town.

**ARTICLE II
Legislative Functions**

Section 2.1. Legislative Powers

The legislative powers of the Town shall remain vested in the Town Meeting open to all voters.

Notwithstanding the foregoing, certain powers of Town Meeting as to real estate acquisitions shall be vested in the Board of Selectmen, as specified in Section 3.3., subject to the voters' right to petition, as specified in Sections 2.1(b) and 3.3, to place before Town Meeting any real estate acquisition voted by the Board of Selectmen under said Section 3.3.

The following additional powers may be exercised by Town Meeting:

- (a) To exercise any power which a charter for the County of Nantucket may vest in Town Meeting; and
- (b) To veto any real estate acquisition voted by the Board of Selectmen pursuant to Section 3.3; provided, however, that a petition proposing such veto in the form of a Town Meeting warrant article is signed by at least ten registered voters and provided that the petition is timely filed with the Town Clerk. The Town Clerk shall then present the petition to the Board of Selectmen within the time permitted for inclusion of the article in the next Town Meeting warrant. The Board of Selectmen may proceed with the real estate acquisition unless the acquisition is vetoed by the Town Meeting.

Section 2.2. Town Moderator

The Moderator shall be elected for a term of one year and shall have all the powers and duties given to moderators under the Constitution and the laws of the Commonwealth, and such additional powers and duties as are authorized by this Charter.

Commented [LFG1]: Many moderators are elected for a term of 3 years with the hope that they are able to be prepared for Town Meeting. The change to the term would have to be voted at a meeting held no later than 60 days prior to the date of the annual town election.

Section 2.3. Alternate Town Moderator

In advance of each Town Meeting, the Town Moderator shall by written notice to the Town Clerk appoint an Alternate Town Moderator who shall, during such Town Meeting, serve as acting Moderator in the event of absence or disability of the Moderator.

Section 2.4. Clerk of the Meeting

The Town Clerk shall serve as Clerk of the Town Meeting. In advance of each Town Meeting, the Town Clerk shall by written notice to the Moderator appoint an Alternate Clerk of the Meeting who shall, during such Town Meeting, serve in the event of absence or disability of the Clerk of the Meeting. If an Alternate Clerk of the Meeting is not appointed or is unable so to serve, the Moderator shall appoint a clerk.

Commented [LFG2]: Note that this doesn't address whether the appointing of a clerk under this section must be a resident or registered voter in the Town.

Section 2.5. Town Meeting Warrant

- (a) The Board of Selectmen shall include all proposed operating expenditures in a single article or in consecutive articles in the warrant and also all proposed capital improvement expenditures in a single article or in consecutive articles.
- (b) The board of selectmen shall publish notice of the issuance of the warrant of each town meeting in a newspaper of general circulation within the town promptly after the issuance of the warrant. After such publication, the Finance Committee shall hold a public hearing on each article and vote its recommendations. For articles that do not call for the Town to raise and appropriate, transfer or borrow sums of money, the Finance Committee may choose to make no recommendation. **[Amended Acts 2016, Ch. 362, approved 1-5-2017]**
- (c) The Board of Selectmen shall publish the warrant with the recommendations of the Finance Committee by mailing a copy of such warrant to the address or postal box of each registered voter at least seven days prior to the Town Meeting.

Commented [LFG3]: Would recommend that the Town website be added here.

Commented [LFG4]: Requirements like this are being removed from other charters. The general feeling is that mailing is expensive, people can download from the internet, and/or people who want the printed docs can request that they be mailed (i.e., a sign-up list for mailing of warrant). Lots of talk of trees.

Section 2.6. Rights of Nonresident Property Owners

One spokesperson for the Town's nonresident property owners shall be allowed to speak at any annual or special Town Meeting on matters before the Meeting but only at such times during a Meeting as the Moderator may allow and in accordance with the rules of order.

Section 2.7. Conduct of the Town Meeting

Except to the extent other procedures have been or are adopted by Town Meeting or by the Moderator in conformity with this Charter and the laws of the Commonwealth, Town Meeting shall follow the latest revised edition of Town Meeting Times: A Handbook of Parliamentary Law, by Johnson, Trustman and Wadsworth.

ARTICLE III
Board of Selectmen

Section 3.1. Composition, Term of Office and Quorum

The Board of Selectmen shall be composed of five members elected for terms of three years each, so arranged that the terms of as nearly equal number of members as possible expire each year. To qualify for office, each member shall be and remain a resident of the Town. Three of the five members shall constitute a quorum. A majority of the quorum shall be sufficient to set the Board's meeting agenda and to decide any question, except as may be otherwise provided in this Charter.

Section 3.2. Board Officers

Within 30 days following each annual Town election, the Board of Selectmen shall choose one of its duly elected members as Chair and another as Vice-Chair, each to serve until a successor is elected. The Vice-Chair shall, during any temporary disability or absence of the Chair, serve as Acting Chair. The Chair shall:

- (a) Execute, and cause the Town Clerk to affix Town seal to, all contracts, bonds or other instruments requiring the signature and seal of the Town and having been duly approved by the Board of Selectmen;
- (b) Preside over all meetings of the Board of Selectmen with the right to vote on all questions, absent conflict of interest, and to propose the agenda prior to each such meeting;
- (c) Report annually to the people of the Town on the work of the previous year; and
- (d) Serve as representative of the Board of Selectmen at ceremonial and civic occasions.

Section 3.3. Power to Acquire Real Estate for the Town

Subject to applicable administrative procedures pursuant to the laws of the Commonwealth or Town bylaw, the Board of Selectmen may, notwithstanding any law to the contrary, vote the following:

To acquire any real estate, including any partial interest therein, by purchase or acceptance of gift; such acquisition being without the necessity of any vote of Town Meeting, but subject to the restriction that any acquisition of real estate by eminent domain may only be effected if first authorized by vote of Town Meeting pursuant to the

Section 3.3

Section 3.4

laws of the Commonwealth and subject also to the availability of any necessary funds appropriated for such acquisition.

The Board of Selectmen shall publish a public notice of such vote in a newspaper having general circulation within the Town. Any such acquisition shall be subject to veto by Town Meeting if a petition as set forth in Section 2.1(b) is filed with the Town Clerk within 30 days following the date such public notice is published.

Commented [LFG5]: Same as previous comment.

Nothing in this Section of the Charter shall affect the acceptance of gifts pursuant to c. 44, Section 53(a) of the General Laws.

Section 3.4. Selectmen Powers as to Appointments

(a) The Board of Selectmen may, at a public meeting, exercise the following powers:

- (1) To appoint the Town Manager for the purposes set forth in Article IV. Such appointment shall be upon appropriate terms and conditions, including provision for annual performance reviews, in conformity with this Charter and the General Laws. By a majority vote of the full count of members then in office, the Board may remove the Town Manager; **[Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]**
- (2) To appoint Town Counsel, and registrars of voters and other election officials (upon the recommendation of the Town Clerk), also other Town officers and employees to the extent so permitted to them by this Charter;
- (3) To appoint and, for cause, upon written charges and after a public hearing if so requested, to remove members of the following Town boards, councils, commissions and committees: **[Amended 4-11-2007 ATM by Art. 51, approved 5-21-2007]**

Airport Commission, Conservation Commission, Commission on Disability, Council on Aging, Council for Human Services, Finance Committee, Parks and Recreation Commission, and Zoning Board of Appeals; and any other committee for which a Town bylaw makes the Board of Selectmen the appointing authority; also any advisory committee established by the Board of Selectmen and any committee acting for both the Town and the County.

Cause for removals shall be put forward in good faith, and not arbitrary, irrational, unreasonable or irrelevant to the duties of the office, on grounds of incapacity beyond temporary illness, chronic nonattendance or violation of the oath of office.

Nothing in this Section 3.4(a)(3) mandates the continued existence of any such board or the specific number of members appointed;

- (4) To exercise the power to disapprove of appointments made by the Town Manager pursuant to Section 3.4(b) or 4.3 of this Charter. All appointments by the Town Manager to the position of Assistant Town Manager, of department head or of any other position pursuant to this Charter, are subject to a vote of disapproval by the Board of Selectmen; provided, however, that such appointments shall take effect unless the Board of Selectmen votes disapproval within a 15-day period following the day on which notice of the proposed appointment is filed with the Board Chair; **[Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]**
- (5) To fill by appointment any elective position on a Town board, commission or council, vacant by reason of a member's resignation, death or incapacity beyond temporary illness, but only if the laws of the Commonwealth allow for appointments in such cases, the appointee to serve, any such laws notwithstanding, only until a successor is elected at the next annual Town election; and the successor so elected then to serve for the remainder, if any, of the member's unexpired term; and
- (6) To appoint to the Planning Board three associate members to serve in zoning matters as alternates in lieu of any elected alternate, the terms of appointment being of such length and so arranged that the term of one associate member shall expire each year. Nothing in this Charter shall affect the

Commented [LFG6]: The following could be added at the end, "or the Board's sooner approval."

Section 3.4

Section 3.5

election of the regular Planning Board members in accordance with the laws of the Commonwealth.

- (b) Any vacancy occurring in an appointed position in Town offices, boards, councils, commissions or committees shall be filled by the Board of Selectmen, the Town Manager or other appointing authority, whichever is empowered to make the initial appointment to the position vacated, for the balance of the unexpired term. **[Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]**

Section 3.5. Further Powers of the Selectmen

The Board of Selectmen shall have the power:

- (a) To act in the capacity of the Board of County Commissioners;
- (b) To establish general Town priorities, goals and policies;
- (c) To establish as may be advisable or needed one or more advisory committees to conduct any inquiry or investigation or to make planning, policy or other recommendations; further, to establish and shall so establish as a permanent standing committee of the town a three member audit committee whose duties shall include appointment of an outside audit firm, review of the annual audit results and evaluation of the internal accounting procedures and controls. The audit committee shall be composed of three members each serving a term of one year. The committee will consist of the Chairman of the Board of Selectmen, the Chairman of the Finance Committee and one member of the Board of Selectmen appointed by the Board of Selectmen. **[Amended 4-11-2007 ATM by Art. 50, approved 5-21-2007]**
- (d) To adopt rules for the conduct of business and to fix times and places for meetings, to establish all five members as a committee of the whole, and to designate any number of its members as a subcommittee;
- (e) To approve or disapprove Town contracts, contract amendments, contract terminations and contract enforcement actions proposed by the Town Manager; **[Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]**
- (f) To identify emergency situations and to declare emergencies;
- (g) To hear and decide upon license applications as may be provided by Town bylaws or by Special or General Laws; and

Section 3.5

Section 3.5

- (h) To hear and decide administrative appeals from the Historic District Commission or from any other Town body as may be provided by Town bylaw or by the laws of the Commonwealth.

ARTICLE IV
Town Administration

Section 4.1. Roles of Selectmen and Town Manager [Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]

- (a) The administration of the Town shall be vested in the Town Manager who shall, with the assistance of the various Town Department heads, cause this Charter, the Town's legislative actions pursuant to Articles II and III, and applicable General Laws to be enforced.
- (b) It is the intent of this Charter to confer upon the Board of Selectmen such limited legislative powers and general executive policy setting and investigative powers as are provided in Article III but at the same time, by virtue of this Article IV, to confer upon the Town Manager full control over Town Administration, as defined in Section 4.4(a) of this Charter, and of the administration of Town services provided for in this Article IV. Accordingly, this Charter seeks to establish clear lines between Article III powers of the Board of Selectmen and Article IV administrative functions as follows:
 - (1) The Board of Selectmen are to deal with individual Town Administration employees only through or jointly with the Town Manager responsible for the overall administrative management of the Town's affairs as specified in this Article IV; and
 - (2) All routine contact with Town employees concerning the functions of Town Administration and its provision of services shall be from the Board of Selectmen through or jointly with the Town Manager.
- (c) Nothing in the foregoing nor in this Charter shall be construed to prohibit informal, non-directive conversations of Town Selectmen with other Town officials, nor the inquiry by the Board of Selectmen into any act or issue concerning Town Administration.

Section 4.2. Town Manager [Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]

- (a) The Board of Selectmen shall appoint a Town Manager for an initial term of 2 years. Any successive terms shall not exceed 3 years each. The Town Manager so appointed shall, by education, experience and ability, be qualified to perform the duties established for the position. Such person need not be a resident of

the Town at the time of appointment but shall be a resident during the term of office starting not later than six months following appointment.

- (b) The Town Manager shall devote full time to the duties of the office.
- (c) The Town Manager shall be responsible to the Board of Selectmen for the efficient operation of Town Administration, for acting in conformity with policies established by the Board with respect to budget and other matters, and for the proper implementation of legislation adopted by the Town pursuant to Article II. The Town Manager shall have all the powers, rights and duties delegated by the Board of Selectmen or as are commonly associated with the office of chief administrative officer of a local government unit.
- (d) In particular, the Town Manager:
 - (1) shall supervise, direct and be responsible for the efficient administration of all officers, boards, councils, commissions and committees appointed by the Town Manager, and all other Town functions for which the Town Manager is given responsibility by this Charter, Town bylaw, administrative code, or other legislation; and may issue administrative orders;
 - (2) shall have appointment powers as provided in Section 4.3;
 - (3) shall, with the assistance of the department heads, prepare and submit to the Board of Selectmen, all annual operating budgets and capital budgets, and any proposal for budget amendment; shall establish the schedules and procedures to be followed by all Town departments, boards, councils, commissions and committees in connection therewith and shall direct all phases of the budgetary process throughout each fiscal year;
 - (4) shall prepare the Town Meeting warrant for adoption by the Board of Selectmen pursuant to a schedule set by the Board, by administrative code or Town bylaw.
 - (5) may be present at all meetings of the Board of Selectmen and may participate in all deliberations, without the right to vote;
 - (6) shall, with the assistance of the Town department heads, ensure adequate inventory, care, construction and maintenance of all Town properties, owned or leased, and

foster centralized purchasing including, if so requested, for the School Committee;

- (7) may require reports from and may examine the records, accounts and operations of any Town department, board, council commission or committee and shall recommend whatever actions or programs are deemed necessary or desirable for the Town, the welfare of its residents and of visitors to the Islands;
- (8) shall review, analyze and forecast trends of Town services and programs of all Town departments, boards, councils, commissions and committees and make reports and recommendations thereon to the Board of Selectmen;
- (9) shall negotiate and sign on behalf of the Town contracts and contract amendments for the Town and initiate contract terminations and enforcement actions, subject in each case to resolution of approval or disapproval of the Board of Selectmen, and including any Town employment (but not union) contracts, subject to the availability of funds;
- (10) shall have the authority, subject to resolution of approval or disapproval of the Board of Selectmen, to prosecute, defend and compromise, all litigation to which the Town is party. In the event that a board, council, commission or committee of the Town is a party defendant to litigation and the Town a party plaintiff, that board may vote to be represented by special counsel funded from the same appropriation as Town Counsel would otherwise be;
- (11) shall assure that all terms and conditions imposed in favor of the Town or its inhabitants in any statute, franchise or contract are faithfully kept and performed;
- (12) may order any Town Administration department head to undertake tasks for any other Town Administration department, on a temporary basis if deemed necessary for proper and efficient administration;
- (13) shall make recommendations to the Board of Selectmen of actions they might take for the improvement of the Town and for the welfare of its residents and Island visitors, also for provision of adequate working space and conditions of Town Administration and other Town agencies;
- (14) shall approve warrants for payment before such warrants are submitted to the Board of Selectmen; and

Commented [LFG7]: Many communities are providing that the Town Manager can approve warrants for payment in lieu of the Board of Selectmen.

Section 4.2

Section 4.4

- (15) perform any other duties as may be required by this Charter, by Town bylaw or by majority vote of a quorum of the Board of Selectmen.

Section 4.3. Town Manager Appointments [Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]

The Town Manager:

- (a) shall appoint the heads of all Town Administration departments (other than any elected heads), subject to resolution of disapproval pursuant to Section 3.4(a)(4) by the Board of Selectmen;
- (b) shall appoint members of Town boards, councils, commissions and committees, but only to the extent that the power of appointment of the Board of Selectmen under Section 3.4 of this Charter to make such appointments is delegated by the Board of Selectmen to the Town Manager and then subject to resolution of disapproval pursuant to Section 3.4(a)(4) by the Board of Selectmen;
- (c) may, at the Manager's discretion and for cause, remove, suspend or otherwise discipline any appointee of the Manager, subject, however, to any grievance procedure as may be established by Town bylaw, rule or regulation or any applicable union contract provisions; and
- (d) may, if the Board of Selectmen creates the office of Assistant Town Manager, appoint and, subject to the limitations set out in Section 4.3(c) above, remove, suspend or otherwise discipline the Assistant Town Manager. Such Assistant Town Manager shall serve as acting Town Manager during the temporary absence or disability of the Town Manager.

Commented [LFG8]: Consider inserting the word "department" prior to the word "heads".

Section 4.4. Town Administration Departments [Amended 4-10-2002 ATM by Art. 46, approved 4-1-2003 ATE]

- (a) The Town Administration shall include the Building, Finance, Fire, Health, Island Home, Marine and Coastal Resources, Police, Public Works, and Visitors Services departments; provided, however, that nothing in this Charter mandates the continued existence of any such Town Administration department or continuance of a department name or function.
- (b) The Town Administration shall not include the Airport, the Park and Recreation, the School and the Water departments.

In addition to the foregoing, the following boards, commissions and agencies shall be hereby classified as town administration departments:	
•	Board of Appeals
•	Conservation Commission
•	Council on Aging
•	Council for Human Services
•	Historic District Commission
•	Planning Board
•	Park & Recreation Commission
•	Shellfish & Harbor Advisory Board
All town employees in the employ of these boards, and commissions, and agencies as staff, assistants and the like shall, on the effective date of this amendment, come under the appointment, removal or other authority of the Town Manager in accordance with section 4.3 and 4.6 of the Charter; provided, however, that the method of appointment or election of members of such boards and commissions (which boards and commissions shall be "Department Head" within the meaning of section 4.6 of the Charter of the Town for each of their respective jurisdictions) shall not be changed by this amendment. [Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]	

Section 4.5. Department Head Responsibilities [Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]

The heads of Town Administration departments shall be responsible to the Town Manager for the efficient operation of their respective departments and for the proper implementation of the laws and regulations of the Commonwealth and of Town bylaws applicable to their departmental functions.

Section 4.6. Department Personnel [Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]

With authorization of the Town Manager and subject to availability of budgeted funds, the heads of Town Administration departments shall appoint and hire the personnel of their respective departments. With authorization of the Town Manager, the department heads may remove, suspend or otherwise discipline such personnel, subject, however, to any grievance procedures as may be established by Town bylaw, rule or regulation or any applicable union contract provisions.

Section 4.7. Town Clerk

The Town Clerk shall be elected and shall have such duties and powers as are provided by General Law, including the power to appoint an Assistant Town Clerk.

**Section 4.8. Town Boards not within Town Administration
[Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]**

The Town Manager shall not exercise any control over the discretionary power vested by the laws of the Commonwealth in any Town board, council, commission, or committee not within Town Administration.

**Section 4.9. Staff of Boards not within Town Administration
[Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]**

Each Town board, council, commission or committee not within the Town Administration shall have the power to appoint its respective staff personnel, subject to availability of budgeted funds and (except staff of the School Committee) subject to prior written notification to the Town Manager. Such staff personnel shall be responsive to the Town Manager only in matters of the Town's general administrative procedures but not as to substantive decisions entrusted to such board, council, commission or committee. With prior written notification to the Town Manager, such boards may remove, suspend or otherwise discipline their staff personnel, subject, however, to any grievance procedures as may be established by Town bylaw, rule or regulation or any applicable union contract provisions.

ARTICLE V
Elections, Dismissals and Recalls

Section 5.1. Elections

The regular elections to any Town office shall be by official ballot for the annual Town election. Except as may be provided generally for town governments by the General Laws of the Commonwealth or as provided for recalls in Section 5.4, nothing in this Charter shall grant any power to remove or dismiss any elected Town official.

**Section 5.2. Actions Not to be Influenced by Selectmen
[Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007]**

No Selectman shall individually or collectively seek to influence the Town Administration to dismiss any person from or to appoint or to promote any person to any position in the Town Administration. However, the Board of Selectmen may, pursuant to Section 3.4(a)(4), adopt a resolution of disapproval as to appointments which the Town Manager is empowered to make in accordance with Section 3.4(b) or 4.3 of this Charter.

Section 5.3. Indemnification of Town Officials

The Town shall indemnify and hold harmless all Town officers pursuant to Chapter 258, Section 13 of the General Laws.

Section 5.4. Recall of Elected Officials

- (a) Any holder of elective Town office may be recalled by the voters of the Town. Any two-hundred registered voters may file with the Town Clerk an affidavit identifying the name of the officer sought to be recalled and stating in full the specific grounds for the recall. The affidavit shall be signed by each voter under pains and penalty of perjury and shall include the street address of each voter.
- (b) Within ten days, the Town Clerk shall certify the signatures and, if sufficient, shall deliver upon request to any of the certified voters a blank recall petition form naming such voter. Each such petition form shall carry the Clerk's signature and seal and date of the certification, shall be addressed to the Board of Selectmen, shall identify the officer's name and the stated grounds for recall, and shall demand election of a successor to the office.
- (c) If, within 21 days after the certification date, such recall petition forms signed by at least 20% of registered voters with Town

Commented [LFG9]: Newer recall acts require the recall petitioners to identify the first 10 signers of the petition and the lead petitioner.

Commented [LFG10]: It would be useful to identify when this number should be measured. Perhaps at the last regular Town Election?

Section 5.4

Section 5.4

residence address shown are returned to the Town Clerk, the Clerk shall, within 14 days, certify the signatures of registered voters, to determine sufficiency of the petition.

Commented [LFG11]: This is a REALLY long time...

(d) If sufficient the Town Clerk shall thereupon submit the petition with date of its certification to the Board of Selectmen which shall forthwith give written notice thereof to the officer sought to be recalled. If the officer does not resign within 7 days, the Board of Selectmen shall order a recall election to be held concurrently with the next annual election for Town officers not less than 75 days after such certification date. The recall election, once ordered, shall proceed, even if the office becomes vacant, in the same manner as for an annual Town election.

Commented [LFG12]: Most similar provisions provide only 5 days.

Commented [LFG13]: This needs to be moved, in my opinion. The language should be inserted before the words after the words “, the Board of Selectmen shall”

(e) The officer sought to be removed may seek renomination, may serve until expiration of the current term of office unless and until a successor is sooner elected, and may not be put twice to the recall process in the same term.

(f) Recall election ballots shall first submit the question:

For the recall of (name of officer)	<input type="checkbox"/>
Against the recall of (name of officer)	<input type="checkbox"/>
and then the heading "Candidates" followed by a listing of the names of candidates nominated for the office. Only if the majority of votes counted upon the question of recall is in the affirmative shall the votes upon the candidates be effective to elect the one receiving the highest number.	

Commented [LFG14]: Consider revising to state, “name and title of officer”

Commented [LFG15]: See previous comment.

ARTICLE VI
General Provisions

Section 6.1. Application of Laws of the Commonwealth

The provisions of this Charter shall govern notwithstanding any General or Special Law of the Commonwealth to the contrary. Where not contrary to or inconsistent with the provisions of this Charter, the Town shall remain subject to the laws of the Commonwealth.

Section 6.2. Code of the Town of Nantucket

Unless expressly altered or superseded by the provisions of this Charter, the Code of the Town of Nantucket shall remain in force and effect notwithstanding ratification of this Charter unless and until amended, added to or repealed in accordance with this Charter and the laws of the Commonwealth.

Section 6.3. Town Clerk to have Custody of Charter

The Town Clerk shall have custody of the original of this Charter and any amendments thereto.

Section 6.4. Charter Interpretation

- (a) To the extent any specific provision of this Charter shall conflict with any provision expressed in general terms, the specific provision shall prevail. The provisions are severable, the remaining provisions being unaffected if a Charter provision is held to be invalid.
- (b) To facilitate bringing Town governmental organization and operations into conformity with this Charter, the members of the Town and County Charter Commission elected April 4, 1995 shall serve ex officio as members of a Committee on Charter Conformance, but only during the continuance of the Charter Commission and, in any event, not later than April 4, 2000. Such Committee shall serve in an advisory capacity to the Board of Selectmen, the Town Manager and to such boards, councils, commissions and committees as may request advice. [**Amended 4-11-2007 ATM by Art. 44, approved 5-21-2007**]

Section 6.5. Amendment of Charter

- (a) This Charter may be replaced, revised or amended in accordance with the procedure set forth in either Chapter 43B of the General Laws of the Commonwealth or in c. 328 of the Acts of 1992.

Section 6.5

Section 6.6

- (b) As permitted by Article II, Sec. 4, of the Articles of Amendment of the Constitution of the Commonwealth, this Charter may also be amended as follows:

The Town Meeting may, by a two-thirds vote, propose amendments of this Charter. All proposed Charter amendments so voted shall be published and submitted for approval at the next annual Town election in the same manner as provided for the adoption or revision of a charter upon the recommendation of a charter commission. Notwithstanding the foregoing, any change in the Charter relating in any way to the composition, mode of election or appointment, or terms of office of the Town Meeting or the Board of Selectmen or a town manager shall be made only by the procedure of charter revision set forth in Section 3 of Article II of the Articles of Amendment of the Constitution of the Commonwealth.

Section 6.6. Time of Taking Effect

This Charter shall take effect on July first next following ratification by the voters of the Town. All Town officers, boards, councils, commissions and committees shall continue to perform their duties until re-appointed or re-elected or until successors to their respective positions are fully appointed or elected or until their duties have been transferred and assumed by another.

Any person holding a Town office or employment under the Town shall continue to retain such office or such employment and shall continue to perform the duties of the office or of the employment until such time as provisions shall have been made in accordance with this Charter for the performance of such duties by another person or agency. No person in the permanent, full time service or employment of the Town shall forfeit pay grade or time in service by reason solely of the adoption of this Charter. All such persons, unless removed in accordance with this Charter, shall be retained in an employment capacity as similar to their former employment capacity as is feasible.

Commented [LFG16]: This entire section, including the chart, can be deleted. These were "transitional provisions".

SECTION 2. Continuance of the Charter Commission.	
The Town and County Charter Commission elected April 4, 1995 pursuant to Chapter 328 of the Acts of 1992 shall continue to exist until thirty days after the enactment of this Act and any act that it may recommend in furtherance of a merger of the Town and County of Nantucket, provided that it shall submit a final report of its recommendations as to such a merger by December 31, 1998 and provided further that in no event shall such Commission continue beyond April 4, 2000.	
SECTION 3. Ratification by the Voters.	
On the official ballot to be used by the Town of Nantucket at the next annual election for Town officers at least two months after enactment of this Act by the General Court, the question shall be placed substantially as follows:	
"Shall an act passed, by the General Court in the year 1996 entitled 'An Act providing for a Charter for the Town of Nantucket' be accepted?"	
A summary of the Charter to be prepared by the Town and County Charter Commission shall accompany the ballot question described herein.	
If the majority of the votes cast in answer to such question is in the affirmative, this Act shall take full effect but not otherwise.	
	Ratified April 8, 1997

MEMORANDUM

TO John Brescher, Chair, Nantucket Government Study Committee, john@gliddenandglidden.com
Members: Rick Atherton, rickatherton@comcast.net; Curtis Barnes, barnesack@comcast.net;
Kristi Ferantella, kferrantella1@gmail.com; Tucker Holland, acktownconsultant@gmail.com;
Campbell Sutton, ccoastpaper@gmail.com ; Linda Williams, czarinalinda@comcast.net

FROM: Nat Lowell, natlowell@comcast.net , Chair NPEDC; Judith Wegner, judithwegner@gmail.com,
Chair, Nantucket Planning Board

RE: Discussion of Nantucket Planning and Economic Development Commission (NPEDC)

DATE: April 12, 2021

Dear Members of the Nantucket Government Study Committee:

We have heard informally that the Study Committee has or might plan to engage in discussion of restructuring or other modification of the NPEDC. In our view, the information that we understand you have received to date fails accurately to characterize the Commission's mission or its structure, among other flaws. For now, we want simply to set the record straight on these two points, without giving undue significance to the views of a single individual who has asserted the virtues of major reforms. We would ask that we have the opportunity to be involved in any further discussion, if in fact you intend to pursue this issue further.

Mission:

- Regional planning agencies are created pursuant to state legislation. Nantucket's NPEDC was created by special legislation after being authorized by a home rule petition voted affirmatively at town meeting. As a result, changes would have to proceed once again through town meeting and the state legislature. Other regional planning agencies are typically much larger, better funded, with more staff, and with responsibilities associated with coordinating among adjacent locales including multiple municipalities. For example, the Vineyard's Commission is responsible for an area that includes six separate towns. Nantucket is an island with only a single town, so the particulars of the NPEDC are in important ways distinctive. It would be a mistake to assume that what works for the Boston or Cape Cod or even the Vineyard regional commissions applies readily here.
- Among other things, NPEDC and other regional planning agencies operate as "metropolitan planning organizations" (MPO) mandated by federal law as a means of facilitating transportation and transit planning and tapping federal and state funds for eligible projects within their jurisdictions. We believe Nantucket is fortunate to have been allowed to have its own regional planning organization since otherwise any available state and federal funding for transportation purposes would only be allocated if approved through another larger MPO that likely would not understand local needs and would likely allocate funding to other competing communities within its jurisdiction. The proponent of reform does not seem interested or aware of these consequences.
- The Planning Board is authorized by state statute (chapter 41, section 81D) to develop the community's master plan. It works with the NPEDC which in turn, pursuant to its authority,

coordinates work on small area plans for different parts of the island where there is need and desire by residents to address targeted issues relevant to the overall Master Plan. The NPEDC is not the ultimate authority for planning on the Island, but was constituted to include all elected members of the Planning Board to facilitate coordination on planning.

Structure

- The NPEDC is primarily composed of elected officials. Planning Board members are elected on Nantucket with the understanding that they serve both on the Planning Board itself and on the NPEDC. Other members are designated by elected officials in other elected bodies (Select Board/County Commissioners which designates one of their members to serve on the NPEDC), the Housing Authority (an elected board which designates a representative), the Conservation Commission (a board appointed by the Select Board with a member designated by the Select Board to serve on the NPEDC), for a total of 8 out of 11 members. Three members at large members are elected by the Commission, following an open application process, to provide additional relevant perspectives. Thus the characterization you have had that the NPEDC is not composed of elected representatives is flatly incorrect and misleading. The NPEDC as currently composed reflects the Nantucket view that there should be close accountability of key town government entities to the electorate. The regional commissions that have been proposed as “superior” to the current NPEDC cover much larger areas, and have multiple towns, so they lack the opportunity to maintain that kind of close connection to the electorate.
- The relationship between the NPEDC and the town is incorrectly described in the information provided to you to date. There is a memorandum of understanding in place that governs the role of the NPEDC on behalf of the town and the relationship of the Town Manager and Planning Director. The NPEDC does NOT appropriate funds from the Treasury of Nantucket. The characterization of the Novak Consulting Report is incorrect in that that report only suggested further consideration of the question of the relationship between the town and NPEDC and clearly did not recommend a change. This matter was indeed discussed with town administration after the submission of that report. It is surprising to see someone wholly uninvolved in these discussions try to cite the report as reaching definitive conclusions to the contrary.

In our shared experience, the following considerations should be borne in mind. We are one town and have regulatory boards in place that work together. There is a fantastic balance of different perspectives from those boards represented on the NPEDC. The 2012 memorandum of understanding with the town creates an effective working matrix. The current arrangement provides key financial support to the town, covering the salary of a transportation manager and leveraging available state and federal funding for transit. Changing the mission or structure of the NPEDC would likely require action at town meeting and by the state legislature, and would deny the town of an effective means of collaboration and needed funds. We ask that you bear these factors in mind as you decide whether, and under what auspices, you might recommend action changing the NPEDC as it currently exists.

Sincerely,

Nat Lowell, Chair, NPEDC

Judith W. Wegner, Chair, Nantucket Planning Board