

COUNTY COMMISSIONERS

Minutes of Meeting of February 17, 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 Commission present were Jason Bridges, Matt Fee, Kristie Ferrantella, Melissa Murphy and Dawn Hill Holdgate. Ms. Holdgate, as Select Board chair, read a prepared statement of how the meeting would be conducted via remote participation and the ground rules for any discussion and called roll for those present.

I. CALL TO ORDER

Chair Ferrantella called the meeting to order at 5:03 PM.

II. ANNOUNCEMENTS

1. Chair Ferrantella announced that the County Commission meeting is being audio/video recorded.

III. PUBLIC COMMENT

None.

IV. NEW BUSINESS

None.

V. APPROVAL OF MINUTES AND WARRANTS

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

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

VI. OFFICIAL BUSINESS

1. Update Regarding Sheep Pond Road Erosion and Alternative Access. County Manager C. Elizabeth Gibson provided an overview of recent erosion at a portion of Sheep Pond Road which has caused a partial collapse of the road making it impassable to vehicular traffic. She noted that Town/County staff has been working on alternative access since before the recent erosion; however, it became stalled somewhat, due to COVID-19 related delays. DPW Director Rob McNeil reviewed photos of the erosion and reviewed a map showing the area as well as proposed temporary access, as well as a potential longer-term access which remains under discussion with area property owners. Using additional photos, Mr. McNeil reviewed the proposed area of construction of the access, which is intended to accommodate emergency vehicles but otherwise, create as little disturbance as possible. Ms. Vicki Marsh, real estate attorney from Town Counsel's office reviewed the documents necessary to enable the temporary access: temporary construction easement(s) for those properties where needed (most specifically Nantucket Conservation Foundation; and, over the portion of Head of Plains Road where the additional temporary access will be constructed); and a temporary easement over Head of Plains Road for County use – from all abutters of that road; all with the understanding that when the temporary easement(s) are no longer needed, the access may go back to being restricted, as it is at present. Ms. Marsh noted that approval from the state Natural Heritage agency will be required due to endangered species issues. Ms. Marsh noted these are all voluntary easements and if not granted, then the County will have to take the necessary property by

eminent domain and explained that process. Ms. Marsh reviewed the betterment assessment process by which the costs associated with these alternative access(es) will eventually be recovered. Mr. Fee asked about utilities in the area and whether or not the County needs to accommodate easements for those. Ms. Marsh said those do not run in favor of the County and are private. Some discussion followed as to longer-term options for the roadway access; and future potential erosion scenarios. Mr. Fee commented that if this cannot be done amicably, then takings are most likely going to be needed and that process should start sooner rather than later if necessary. Cormac Collier, President and CEO of the Nantucket Conservation Foundation spoke on the temporary access and private easement agreements in place that may have to be modified to allow for public access. Ms. Marsh noted that may be necessary but the necessary title research has not been done yet to confirm what may be needed. Chair Ferrantella asked about the timeline for the initial temporary access to be constructed. Ms. Marsh said that with respect to documents, those can be prepared and executed fairly quickly, unless property owners are not willing to grant voluntary access. Mr. McNeil said that with respect to construction, it can be done by early March, depending on Natural Heritage approval, which requires executed easements. Ms. D. Anne Atherton asked about the Town's obligation to provide access to the homes. Ms. Marsh responded affirmatively that the Town is obligated to provide the access. Ms. Atherton asked what a betterment is. Ms. Marsh explained it is a measure to recover the cost of a public improvement for those benefitted by it. Ms. Atherton thanked the Conservation Foundation for their help to make this option possible. Mr. Burton Balkind asked if the public will be allowed to access the temporary access point. Ms. Marsh responded affirmatively. Ms. Marsh suggested a motion that the County Commissioners approve temporary easement agreement(s) as needed and an estimated road betterment assessment statement for the costs associated with this public improvement, with any non-substantial changes to be made by Town Counsel. So moved by Mr. Fee; seconded by Ms. Holdgate. So voted by roll call vote. Chair Ferrantella – Yes; Ms. Murphy – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes.

VII. COMMISSIONERS REPORTS/COMMENTS

None.

VIII. ADJOURNMENT

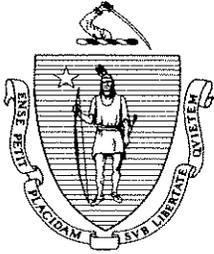
Mr. Fee moved to adjourn the meeting at 5:41 PM; seconded by Ms. Holdgate. So voted by roll call vote. Chair Ferrantella – Yes; Ms. Murphy – Yes; Mr. Bridges – Yes; Mr. Fee – Yes; Ms. Holdgate – Yes.

Approved the 24th day of March 2021.

COUNTY COMMISSIONERS
FEBRUARY 17, 2020 – 5:00 PM
REMOTE PARTICIPATION VIA ZOOM WEBINAR
PURSUANT TO GOVERNOR BAKER'S MARCH 12, 2020
ORDER REGARDING OPEN MEETING LAW
NANTUCKET, MASSACHUSETTS

List of documents used at the meeting:

- V. 1. Draft minutes 1/27/2021
- VI. 1. Option plans for Sheep Pond Road alternative access; GIS maps; photos



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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.

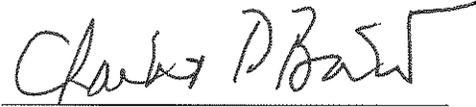
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby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