



Town of Middleton, Massachusetts



Committee Handbook

2022

Middleton Select Board

A NOTE FROM THE MIDDLETON SELECT BOARD

January 2022

This handbook is intended as a guide for all Town Boards, Committees, and Commissions as well as the staff that provide support. It describes, in general terms, important requirements for the conduct of Town business and should prove useful to new and current members alike. It is intended to guide boards and committees whether members are elected or appointed.

Certain sections of the handbook refer to various provisions of the Massachusetts General Laws. Some committees are governed by individual statute, identified in the guide as MGL (Massachusetts General Laws) followed by the appropriate chapter and section. It is recommended that these sources be consulted whenever a specific problem is encountered involving a state statute or local by-law or regulation. Also helpful is the Inspector General's *Guide for Members of Public Boards and Commissions: How to be an Effective Member of a Public Board or Commission*. The *Guide* can be found at:

<https://www.mass.gov/doc/guide-for-members-of-public-boards-and-commissions/download>

This handbook provides a general description of procedures and summaries of important state statutes that govern the conduct of committees and their members, such as the Open Meeting Law and the Conflict-of-Interest Law.

Through voluntary service as an appointed or elected member of a board, committee, commission or council, citizens like you gain the opportunity to directly help the Town meet its current challenges and address its future needs and goals. Volunteers who serve on our committees are an essential part of running an effective and efficient local government. We hope it is also an informative and rewarding experience. The Select Board is deeply grateful to all who are willing to serve as a volunteer member of the government of the Town of Middleton.

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1. **Becoming a Committee Member**

Elected Office

Board and committee members are either appointed or elected. Members on elected boards are chosen by registered voters at the Annual Town Election or at a Special Election. Elected boards and committees in Middleton include the Select Board, School Committee, members to the regional School Committee, Planning Board, Board of Assessors, Library Trustees, and Electric Light Commissioners. More information on elected boards and committees can be found in the Charter. One must be a registered voter to stand for election. Local boards and committees are non-partisan and candidates run without party affiliation.

Qualifications for Appointment

All Middleton residents may apply for membership on any committee. The Select Board is the appointing authority for the majority of Town boards. The Town Moderator appoints the Finance Committee, Master Plan Committee, and committees created by action of Town Meeting.

With few exceptions, committee members are residents of the Town of Middleton. There may be occasional exceptions when an individual's unique skills or experience support the appointment of a non-resident and would be beneficial to the committee's work. In the event a committee member moves out of Middleton, the member or the committee chair shall promptly notify the appointing authority. This is most easily done by providing written notice to the Town Clerk.

The Town desires diversity in committee membership. Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin. In filling committee seats, appointing authorities rely on:

- Talent Bank applications;
- Recommendations from town organizations or individuals;
- Suggestions from the committee with a vacancy;

Application Procedure

Residents who are interested in being considered for appointment should submit a [Talent Bank Application](#). This is available from either the Select Board's office or from the Town's website under "Select Board – Board and Committee Opportunities." The completed form should be returned to the Select Board or the appointing authority if not the Select Board. Applicants to any committee should inquire as to the time requirements of the specific committee and the frequency with which each committee meets.

The appointing authority shall have sole discretion to make such appointments or other changes as the appointing authority deems to be in best interest of the Town. Notices of vacancies on boards are posted on the Town's website www.Middletonma.gov. Applicants are encouraged to attend one or more meetings of the board on which they are interested to become familiar with the time commitment and other functions on that board.

Each committee or board is expected to:

- Encourage individuals to complete letters of interest to be appointed to a board or committee

- State the qualifications they are looking for in appointments.
- Make suggestions on potential members

Committees should not make any representation to candidates concerning the likelihood of appointment nor provide their suggestions with any rank order, but may invite prospective members to attend meetings to familiarize themselves with the work of the committee.

2. Oath of Office

Written notification of appointment will be issued to newly appointed members and reappointed members. Appointees must report to the Town Clerk's office, within two weeks of being appointed, to be sworn to faithful performance of their duties prior to taking any official action as a member of the board (MGL Ch. 41 section 107). Failure to be sworn in leaves the member unable to participate. If an unsworn member participates, the board's actions are invalid. If litigation results from some action taken by a board, the case may be lost if any or all board members involved in the action have not taken the required oath.

Open Meeting Law

The Town Clerk will give appointees information about the Open Meeting Law, as required by the Law and 940 CMR 29.04. Members are required to sign written acknowledgement of receipt.

Conflict of Interest Law

Additionally, each year, all municipal employees (which include members of boards, committees and commissions) must be given a Summary of the Conflict of Interest law prepared by the State Ethics Commission and every two years, they must complete the online training program.

The online training program is available at: www.muniprogram.eth.state.ma.us. Once you have completed the program online, you will be prompted to print a Certificate of Completion, which must be returned to the Town Clerk's office to be retained on file.

It is the responsibility of the committee chair to provide for the orientation of new members. This helps familiarize the individuals with the work of the committee, current projects, and town government operations in general as they may impact the committee's work.

3. Term of Office

Unless prescribed by statute, Charter, Town Meeting vote, or specific committee charge, three years is the standard term of office. All terms of office are staggered so the entire committee does not turn over at once. This helps preserve continuity of knowledge and experience.

The three year term may not apply to ad-hoc committees appointed for a specific responsibility. The charge to the committee will include a specific time frame for submission of the committee's final report and dissolution of the committee.

4. Vacancies & Attendance

Resignation

Any member who, for any reason, chooses to resign before a term is complete shall provide immediate written notice of the resignation to the Committee Chairperson, the Town Clerk, and the Select Board, and cite the effective date of resignation. As a courtesy, notice should also be provided to the committee chair and members. The remaining committee members may recommend individuals who have demonstrated an interest in the work of the committee for consideration as a replacement member. They will be considered along with others who have expressed an interest and have filed a Talent Bank Application.

The Select Board may remove appointed members of boards at its discretion. Removal from office is a rare occurrence. Removal may occur due to incapacity other than temporary illness, inefficiency, insubordination, and conduct unbecoming the office. Removal is discussed in more detail in the Charter. Elected members may be recalled, as described in the Charter.

Attendance

Anyone appointed to a board is expected to attend regularly scheduled meetings. Excused absences reported to the board/committee chairperson prior to a regularly scheduled meeting shall be allowed.

Vacancies

For vacancies on boards appointed by the Select Board, the appointment will be made at a regular Select Board meeting. Interim appointments to elected boards are governed by the provisions of MGL Chapter 41 Sections 10 and 11 unless otherwise provided by statute.

Dissolution of Committee

Upon the dissolution of any committee, either by action of the appointing authority, or pursuant to an expiration date provided in the committee charge, all records, documents, correspondence and files concerning the committee's work should be organized in a reasonable and understandable manner and turned over to the Town Clerk for appropriate filing and archival storage. As appropriate, the Town Clerk may forward such records to another department.

5. Organization of Boards & Duties of Officers

Election of Officers

Boards are normally organized with a chair, vice chair, and clerk. Boards should annually reorganize (elect officers). For elected boards, this is typically done immediately after the Annual Town Election. For appointed boards and committees this is most often done after annual reappointments in June. Following reorganization, please provide notice of the officers to the Town Clerk and Office of the Select Board. The board's webpage should be updated to identify the new officers.

Duties of Officers

Chairperson:

- Presides at all meetings, decides questions of order;

- Calls meeting dates and times;
- Ensures that meeting and agendas are properly posted in accordance with the Open Meeting Law;
- Sets agenda topics;
- Represents the board before the appointing authority, other town bodies and the public, as required;
- Ensures that members are kept informed of meetings and attend regularly;
- Ensures that all members have taken the oath of office and acknowledged receipt of information from the Town Clerk with regard to the Open Meeting Law and Conflict of Interest Law;
- Ensures that a summary of the board's actions of the previous year are submitted to the Town Administrator for inclusion in the Annual Town Report;
- Exercises control over public meetings and hearings, ensures that the proper decorum is maintained and that such meetings and hearings are conducted in an orderly and appropriate manner

Although the Chair manages the meeting the Chair possesses no more authority than any other member. The Chair is equal to all other members.

Vice-Chairperson: The Vice-Chairperson acts as Chairperson in the absence of the Chair.

Clerk/Secretary:

- Signs correspondence on behalf of the committee.
- In the absence of paid staff, ensures that minutes of every meeting are taken, prepared, voted and filed with the Town Clerk in a timely manner, in accordance with the Open Meeting Law.
- Ensures that copies of documents and other exhibits used during meetings are provided and referenced in a list to be included in the approved meeting minutes, in accordance with the Open Meeting Law.
- In the absence of paid staff, performs any other clerical or administrative duties as required.

6. Adoption of Rules and Regulations

State law permits some committees, such as the Board of Health, Conservation Commission, Planning Board, and Zoning Board of Appeals, to adopt rules and regulations. The procedures set forth in the relevant state law must be observed when adopting such rules and regulations. Other Committees' Rules and Regulations must be adopted by the Select Board. All fees are adopted by the Select Board. In the interests of transparency, the board or committee should provide advance notice of its intention to consider regulations. In some cases, it is a requirement to advertise and hold a public hearing relative to the proposed rules and regulations prior to adoption. Please check with the relevant section of the General Laws and the Town Clerk's Office for further details and clarification.

7. Meetings

Open Meeting Law

All boards and committees, whether appointed or elected, are required to follow the Open Meeting Law, MGL c 30A, § 18-25. All board members are required to take the time to familiarize themselves with the provisions of the Open Meeting Law (MGL c 30A, § 18-25) and its accompanying regulations (940 CMR 29.00). The Open Meeting Law sets forth specific requirements for posting, scheduling, conducting, and recording meetings. The purpose of the law is to promote the democratic process in assuring that deliberations and decisions made by our public officials are conducted openly, and not hidden from the public. Failure to follow the Open Meeting Law may result in the invalidation of actions taken at a meeting and could result in the imposition of a penalty upon the public body.

Meetings are open to the public and the chair may allow members of the public to speak, share opinions, or ask questions. Any person may record a meeting with a tape recorder or other means of audio reproduction and/or videotape equipment, provided they announce their intention to do so and there is no active interference with the conduct of the meeting.

More information of the Open Meeting Law is available on the Attorney General's website:

<http://mass.gov/ago/government-resources/open-meeting-law/>

For purposes of the Open Meeting Law, a "meeting" is defined as a deliberation by a public body with respect to any matter within the body's jurisdiction. A "meeting" shall not include:

- An on-site inspection of a project or program, so long as the members do not deliberate;
- Attendance by a quorum of a public body at a public or private gathering, including a conference or training program or media, social or other event, so long as the members do not deliberate.
- Attendance by a quorum of a public body at a meeting of another public body that has complied with the requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate.
- A meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
- A session of a town meeting convened under MGL c39, §10 which would include the attendance by a quorum of a public body at any such session.

It is a violation of the Open Meeting Law to conduct serial meetings, telephone meetings, e-mail meetings, or to hold other such discussions outside of a duly posted meeting at which the public is deprived of the opportunity to attend and monitor the decision-making process. This includes "revolving door meetings," which are individual conversations that occur in serial fashion in which a quorum of members participates and/or deliberates. "Deliberation" is defined as "an oral or written communication through any medium, including electronic mail, along with social media deliberations between or among a public body or any public business within its jurisdiction; provided, however, that "deliberation" shall not include the distribution of a meeting agenda, scheduling information or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed."

Often there is a need for the chair or staff to communicate with committee members via email. A good email practice is to utilize the BCC function. That eliminates an inadvertent serial deliberation that can occur when a member replies all to an email. This advice goes for board members and staff.

Quorum

In order for a board to call to order or take an official vote, a quorum must be present. A quorum is a simple majority of a governmental body, unless otherwise defined by law. A simple majority is based on the total number of full positions on a board, whether or not all available positions have been filled or are present. Once a quorum is present, a board may act by a majority of the quorum, unless otherwise provided by law.

State law requires a “super majority” vote in certain cases such as special permits and variances under MGL Chapter 40A. A super majority vote is a vote of at least four members of a five member board.

Conducting a Meeting

Although most board discussions may seem too casual to be called debate, it is advisable for the board to observe a minimum of generally accepted procedures. Attentive guidance by the Chair and adherence to adopted procedures can increase efficiency as well as maintain objectivity.

The Chair should limit all participants to concise, non-repetitive statements. In some cases, establishing time limits may be advisable. All those members who wish to speak should be allowed to do so before anyone is invited to speak a second time. It is the chair’s choice whether to allow members of the public to address the public body at regular meetings; however, at a public hearing members of the public are allowed to speak. Although desirable, it is not necessary for the board to continue discussion until consensus is achieved. Other actions, such as calling for a vote, postponing until more information is available, or referring to a subcommittee may be required. It is recommended that committees seeking public input, incorporate an item related to “public input” or “public comment,” for example on their agenda. If this tool is used frequently, a chair may impose a time limit. Residents participating in a committee’s public hearing or public input should be prepared to share their name and street address prior to making public comment.

All votes must be taken publicly. The use of secret ballots is prohibited.

Executive Session

The Open Meeting Law requires that all meetings of a governmental body be open to the public, except for a few limited purposes for which a board may enter into executive session.

All appointed boards are urged to consult with legal counsel (with prior authorization from the Town Administrator) if they have any questions as to the process and/or permissibility of entering into executive session.

Executive session is closed to the public, but the board must first convene in a duly posted open session. A majority of the members must vote by roll-call in favor of a motion to enter into executive session. The motion, as well as the posted agenda, must state the reason for the executive session and must state whether or not the board will return to open session. All votes taken in executive session must be recorded roll-call votes. Minutes must be taken during executive session; however, they will not be released until the matter discussed has been resolved. Once the matter has concluded and the minutes

have been approved, a copy should be provided to the Town Clerk. The Board shall regularly review executive session minutes for public release.

Executive session¹ may be held only for the following purposes:

- a. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. ²
- b. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.
- c. To discuss strategy with respect to collective bargaining or litigation if any open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.
- d. To discuss the deployment of security personnel or devices, or strategies with respect thereto.
- e. To investigate charges of criminal misconduct or to consider the filing of criminal complaints.
- f. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.
- g. To comply with, or act under the authority of, any general or special law or general grant-in-aid requirements.
- h. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening.
- i. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity (see MGL Ch.30A sec. 21 for further provisions).
- j. To discuss trade secrets or confidential, competitively sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such government body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or selling or distributing electric power and energy.

Remote Participation³

In August of 2014, the Middleton Select Board voted to authorize remote participation during public meetings pursuant to 940 CMR 29.10 and M.G.L. c4 sec. 7.

¹ See Attorney General's website: <http://www.mass.gov/ago/government-resources/open-meeting-law> for further explanation of each example

² See MGL Ch. 30A sec. 21 for individual rights

³ COVID-19 State of Emergency: On March 12, 2020, Governor Baker issued an "Emergency Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20 ("OML Order") which was to remain in effect until rescinded or until the State of Emergency was terminated, whichever happens first."

A quorum must be physically present at the meeting. The Chairperson, or a person authorized to chair the meeting in the Chairperson's absence must be physically present. All members, including the members participating remotely, must be clearly audible to each other. A member can participate remotely under the following reasons that make the member's presence unreasonably difficult:

- Personal illness
- Personal disability
- Emergency
- Military Service
- Geographic Distance

A member can participate remotely using the following types of media:

- Telephone, internet, or satellite enabled audio or video conferencing
- Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

A member wishing to participate remotely must notify the Chairperson as soon as possible before the meeting with the facts supporting the request. At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reasoning. This information must be included in the meeting minutes. All votes taken must be taken by roll call vote and recorded as such in the minutes, including in open session. Members participating remotely may participate in executive session but shall, at the start of that session, state that no other person is present and/or able to hear the discussion at the remote location.

Posting Meeting Agendas

The Open Meeting Law Regulation (940 CMR 29.03) provide, in part, that "public bodies shall file meeting notices⁴ sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meetings, excluding Saturdays, Sundays and legal holidays. The date and time that the notice is posted shall be conspicuously recorded thereon or therewith."

Meeting Notices and agendas must be posted in compliance with the specific instructions of the Town Clerk. Postings must be emailed to notices@middletonma.gov and received in the Clerk's office 48 hours prior to the next meeting, not including weekends and holidays. Meeting notices must include the name

This OML Order temporarily suspended two major requirements of G.L. c. 30A, § 20:

- *G.L. c. 30A, § 20 requirement that a public body meet in a public place that is physically open to the public. This resulted in public bodies being able to meet without the public physically present.*
- *G.L. c. 30A, § 20(d) and 940 CMR 29.10(4)(b) requirements that members of a public body be physically present to participate. This enabled members to satisfy quorum requirements and participate in meetings remotely by video call, or other means.*

The COVID State of Emergency was lifted by the Governor on June 15, 2021. However, on June 16, 2021, Governor Baker signed another bill that allows for an extension of remote meetings and hearings by public bodies through April 1, 2022. This is the current status as of July 6, 2021.

⁴ See Attachment A: Sample Meeting Notice/Agenda

of the board, and the date, time, and location of the meeting⁵. Notices must also include a listing of the topics the chair reasonably anticipates will be discussed at the meeting. The chair must exercise good judgment when faced with issues not included on the agenda. Routine issues may be raised. New and/or potentially contentious issues may be noted but not acted upon. They should be placed on a future meeting agenda to allow for proper posting and public discussion.

Posting Emergency Meetings

The filing and posting requirements for meeting notices do not apply to emergency meetings. Emergency is defined in 30A § 18i as a "sudden, generally unexpected occurrence or set of circumstances demanding immediate action". For example, a meeting of the Board of Health to take action with respect to a matter endangering the public health due to a sudden flooding of an area would be considered an emergency meeting. A meeting simply called in a hurry to take action prior to the expiration of a deadline would not qualify as an emergency meeting.

Meeting Cancellations

In order to support a uniform procedure upon cancellation of Committee or Board meetings due to inclement weather or any other unforeseen event, outlined below is a procedure for notifying the public. The decision to cancel a meeting is up to the individual Committee or Board. Should it be necessary to cancel a meeting due to inclement weather or any other unforeseen event, the Committee Chair or the assigned staff person should notify the Town Clerk's Office of the cancellation. The Chairperson or staff person should arrange for the posting of a cancellation notice, as well as posting a note on the entrance to the building where the meeting is to take place; both should include the date, time, and location of the rescheduled meeting.

Meeting Minutes

Section 22 of the Open Meeting Law requires every governmental body to "...create and maintain accurate minutes of all meetings, including executive session, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes." ⁶ Minutes should not be verbatim of all discussion during a meeting. Copies of documents and/or exhibits, such as pictures or maps, used by the body at a meeting shall, along with the minutes, are part of the official record of the session.

Minutes must include each of the following:

- The date, time and place of the meeting;
- A list of members present or absent;
- A summary of the discussions on each subject;
- A list of documents and/or exhibits used at the meeting;

⁵ For meetings that include an option to participate remotely through a virtual meeting service, a meeting hyperlink, password (if required), and a telephone number for call-in participants should be included along with the date, time, and location of meeting.

⁶ See Attachment B: A Public Body Checklist for creating and approving meeting minutes

- The decisions made and the actions taken at each meeting, including a record of all votes (who moved and seconded motions).
- Names of additional participants (not including press or observers);
- Name of person taking minutes;
- Time the meeting convened and the time it was adjourned.

Meetings may not proceed without a designated secretary responsible for providing a written record of the meeting as prescribed by the Open Meeting Law. Audio or video recordings may not be used as permanent records of a meeting. The approval of the prior meeting's minutes should always appear as an agenda item to encourage timely completion and filing of the minutes.

Draft minutes may be sent to members for review prior to the meeting at which they are to be voted upon. Deliberation regarding the contents of the draft minutes of an open meeting must occur at an open meeting, not by e-mail or telephone (other than to point out scrivener's errors such as wrong date, time or place, wrong person named as present or absent, spelling errors.) Boards should strive for transparency, posting minutes on the town's website as soon as they have been approved.

It should be noted that the minutes of an open meeting, in whatever form (notes, draft, tape recording, etc.) are considered public records and must be made available to the public upon request, under the public records as defined under the provisions of Chapter 66 §§ 10 (a-c)v. If a meeting is tape recorded the recording should be retained until the minutes are adopted or any appeal periods or litigation have passed.

The Town employs a number of meeting secretaries who attend meetings and prepare meeting minutes. The secretaries are paid a flat rate per meeting. Staff can assist in finding a meeting secretary or the Chair can reach out to the Town Administrator's Office.

Public Hearings

Some boards, including but not limited to the Select Board, Planning Board, Zoning Board of Appeals, Conservation Commission, Historical Commission, and the Board of Health, are occasionally required to hold a public hearing in accordance with Massachusetts General Laws. Hearings are held for the purpose of gathering information from which the board or committee can draw a conclusion. Written notices, the initiation of the hearing, and the written conclusions of a hearing may have strict legal time limitations that vary with the nature of the hearing and the Board. Several procedures are common to all hearings.

Hearings generally require that a legal notice be published in a newspaper of general circulation in the community. Until recently, legal notices were published in the *Tri-Town Transcript* because it was the least expensive option. However, the *Tri-Town Transcript* merged with another weekly and is now a digital-only publication. Currently, there is no weekly newspaper. It is recommended that legal notices be published in the *Salem News*. Legal ads can be mailed to SNLegals@salemnews.com.

The Chair or other designated person should run the hearing and state the guidelines and time allowances before any testimony is given. All questions should be directed to the chair who in turn may ask for a response from the floor. It is suggested that each board/committee develop written guidelines that include:

- Ground rules, time limits, directing all questions to chair, etc. are set;

- During deliberations, findings of fact are noted;
- Decision is written using notes of discussion, fact and findings;
- Decision is filed in appropriate places.

An important aspect of the hearing process is that a decision must be based on the testimony and evidence submitted at the hearing or if written, entered into the record at the hearing. The decision must be based on facts and cannot be arbitrary. Hearsay and emotions are not evidentiary and should not impact the final decision.

A board member serving on a hearing must be neutral without having formed an opinion in advance. The purpose of the hearing is to determine all facts. Once fact finding is complete, the board can begin to develop a basis for an opinion based on those facts that have been identified and outlined. Any board member who is pre-disposed to a decision must consider recusing himself or herself from the hearing.

It is not required that a decision be arrived at on the date of the hearing. Boards and committees should take such time as they need and are legally entitled to in order to arrive at a decision.

Meeting Conduct

Meetings need not be excessively formal and strict adherence to Robert's Rules of Order is not expected. It is more important to be respectful to fellow board members, the public, representatives, and staff. That being said, all actions need to be moved, seconded, and voted upon. A common form of a motion starts with "I move that the Board of [name of board or committee]" followed by a description of the action (e.g. adopt a particular policy, grant a permit, etc.). The motion then needs to be seconded. Following the motion and second the Chair calls for a vote: all in favor, all opposed, any abstentions. If a motion does not receive a second the motion fails. If there is a tie vote the motion fails.

8. Use of Town Buildings

Every committee should establish a regular meeting schedule to suit the needs and convenience of the members. All meetings must be scheduled in a public location accessible to the disabled. The majority of boards and committees meet at either the Fuller Meadow School or the Flint Public Library. Scheduling of meetings must be done through the relevant facility contact.

Meetings at the Fuller Meadow School can be booked by filling out the Facility Use Request Form at <https://www.tritownschoolunion.com/central-office/facilities>. Space at the Flint Public Library can be booked by emailing meetings@flintpublib.org and submitting the [Meeting Room Request Form](#). Space at either location is subject to availability. Additional information is available from the Town Administrator's Office.

9. Conflict of Interest

Members of a board are considered municipal employees, regardless of their compensation, and as such, are subject to the Conflict of Interest Law. A copy of the law may be viewed online at www.state.ma.us/ethics. The purpose of the law is to ensure that the private financial interests and

personal relationships of public employees do not conflict with their public obligations. A copy of this law and responsibilities is provided to each board member by the Town Clerk's office.

Bi-annual Required Ethics Training

Each year, all municipal employees (which includes members of Boards, Committees and Commissions) must be given a Summary of the Conflict of Interest Law prepared by the Ethics Commission and, every two years, they must complete an online training program prepared by the Commission.

The online training program is available at www.muniprogram.eth.state.ma.us. Once you have completed the program online, you will be prompted to print a Certificate of Completion, which must be provided to the Town Clerk's Office.

If you have a Conflict of Interest

If a board member has a conflict of interest, that member must recuse themselves and leave the room. A recused member is not counted toward the quorum. However, members that wish to speak as an abutter or as someone with a particular interest to an item before their own board may do so. In such case they shall step down from their duties on the board and sit with other members of the public to speak about the project.

The law provides for the legal determination of Conflict of Interest status for any employee submitting a request to the appointing authority or State Ethics Commission. If board members have any questions about whether or not their activities could be a conflict of interest, they should seek guidance from the Town Administrator.

A board member may also request a confidential opinion directly from the State Ethics Commission by contacting the Commission's Legal Division at 617-371-9500.

10. Standards of Conduct for Appointed Town Officials

Professional Conduct Expectations

Members of all boards, committees and commissions are expected to:

- Realize that their basic function is to make policy, not execute it, unless otherwise empowered by state and/or local laws.
- Be well informed concerning the state and local duties of the board on which the members serve.
- Always keep in mind that they represent the Town of Middleton and its residents.
- Accept their position as a means of unselfish public service, not to benefit personally, professionally, or financially from their position.
- Treat all members of the board, all applicants who come before the board, all staff members and the public with respect, despite differences of opinions.
- Treat all staff as professionals in a manner that respects the abilities, education, experience, and dignity of each individual.
- Give weight to the input and advice of professional staff, department heads, and other boards and committees.
- Share information obtained on pending issues with other board members.

- Conduct themselves in a manner that maintains public confidence in local government.
- Conduct official business in such a manner as to give the clear impression that they are not improperly influenced in the performance on their official duties.
- Abide by the ethics guidelines established under MGL Chapter 268A, making every effort to avoid any appearance of conflict, and properly disclosing any apparent conflict.
- Unless specifically exempt under MGL Chapter 30A, section 18-25 (Open Meeting Law), conduct the business of the public in a manner that promotes open and transparent government.
- Honor confidential matters not legally subject to disclosure that come before the board in executive session.

Corrective Action

Anyone who feels that an appointed board member is acting inconsistently with these standards of conduct may take one or more of the following actions, as deemed necessary, in the order listed below:

- Speak privately with board member about their behavior in an effort to correct said behavior.
- Ask the Chair of the board to speak with the individual in an effort to correct the behavior.
- Bring the matter to the attention of the appointing authority.

Speaking for a Board or Committee

An individual board member has a right to speak publicly as a private citizen but should not purport to represent the board or exercise the authority of the board except when specifically authorized by that body to do so. If members identify themselves as members when speaking as private citizens, it may be perceived that they speak for the board. Such a perception should be avoided.

11. Administration

Public Records

With few exceptions, every hard copy or electronic document and record made or received by a board or other public entity is presumed to be a public record under the Massachusetts Public Records Law (MGL Chapter 66). As such, the public has a right of access to these records.

Town boards and departments are also obligated to properly secure and maintain public records. Public records should never be kept in a home or on private property of a board member. A guide to the Massachusetts Public Record law: <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>

Use of Town Counsel

Request for opinions or assistance from Town Counsel must be directed through the office of the Town Administrator.

Appointing Authorities

The Select Board may require that the board chair report regularly to the appointing authority about the board's actions and plans. The Town Administrator helps in maintaining communication between the

committee, staff, and appointing authority. If needed, the Chair may request a meeting with the appointing authority to resolve problems and report progress.

12. Annual Report & Town Meeting

All committees must file an annual report of committee activities for the Annual Town Report. The chair or other designated member should detail committee membership including changes, and a concise explanation of accomplishments and future plans to be submitted to the Select Board on by or before the Annual Town meeting. Boards and committees should be represented at all Town Meetings.

13. Electronic Communication and Social Media

Using Email

A member of a public body may email other public body members so long as the email does not reach a quorum of the public body. Communications between and among a quorum of a public body on matters within the jurisdiction of the public body must occur only during a noticed meeting. G.L. c. 30A, §§ 18, 20. A public body member may lawfully email a quorum of the public body only to discuss scheduling a meeting, distribute a meeting agenda, or to distribute reports or documents that will be discussed at a meeting, provided that no opinion of a member of the public body is expressed. See G.L. c. 30A, § 18.

Many boards and committees have been found to violate the Open Meeting Law by using the reply all feature of email. This often happens quite innocently. A common occurrence is when staff sends out a meeting packet or staff report to all committee members. One member then replies all with their thoughts. That step constitutes a serial deliberation, which is a violation of the Open Meeting Law. A good practice is to send staff reports and meeting packets using the blind copy feature (BCC); that prevents an innocent or unintentional serial deliberation among a quorum.

Social Media Platforms

Public bodies may communicate with members of the public through social media platform such as Facebook, Twitter, and webpages. However, individual members must be careful not to engage in deliberation with the other members of the public body through such communications or appear to speak for the committee. If a member of a public body communicates directly with a quorum of the public body over social media platforms that communication may violate the Open Meeting Law. Public body members should proceed with caution when communicating via these platforms.

Electronic Messaging During a Meeting

The Open Meeting Law does not address the issue of texting or other forms of electronic messaging. The Open Meeting Law encourages government transparency. The best practice is for public body members to avoid the use of electronic devices during meetings. The deliberative process must take place in view of the public during a posted meeting. Members of the public should be aware that emails, text messages, and phone logs are considered public records. As such they are discoverable and may be ordered to be released.

HELPFUL LINKS

Middleton Talent Bank Application:

<https://www.middletonma.gov/DocumentCenter/View/567/Talent-Bank-Application-PDF?bidId=>

Middleton Remote Participation Policy:

<https://middletonma.gov/DocumentCenter/View/1234/Remote-Participation-Policy?bidId=>

Middleton Policy on Fraud Prevention and Detection:

<https://middletonma.gov/DocumentCenter/View/1243/Fraudulent-Financial-Activities-Policy?bidId=>

Middleton Sexual Harassment Policy:

<https://middletonma.gov/DocumentCenter/View/1312/EEO-Discrimination-and-Sexual-Harassment-Policy?bidId=>

State Guide: How to be an Effective Board and Commission Member:

<https://www.mass.gov/info-details/guide-for-members-of-public-boards-and-commissions-introduction>

State Website offering guidance for board & committee members:

<https://www.mass.gov/info-details/guide-for-members-of-public-boards-and-commissions-introduction>

Open Meeting Law Training videos:

<https://mass.gov/service-details/open-meeting-law-training-videos>

Open Meeting Law Guide:

https://www.mass.gov/files/documents/2018/01/30/2017%20Guide%20with%20ed%20materials_revised%201-30-18.pdf

Conflict of Interest Law Training and Guide:

<https://www.mass.gov/complete-conflict-of-interest-law-training-and-summaries>

Massachusetts Public Record law:

<http://www.sec.state.ma.us/pre/prepdf/guide.pdf>

ATTACHMENT A: Model Agenda & Checklist

[LETTERHEAD OF BOARD/COMMITTEE]

NAME OF BOARD > Middleton Town Board
DATE > June 30, 2021
TIME > 7:00 PM
LOCATION > Fuller Meadow Media Room, 143 South Main Street, Middleton
REMOTE INFO > Zoom Link (if applicable): zoom/link
RECORDING NOTE > [Add note here if the meeting is being recorded]

TITLE > Meeting Agenda

MINUTES > 1. Approval of Minutes
a. May 4, 2021 Minutes; votes may be taken

HEARINGS, IF ANY > 2. Continued Public Hearings
a. 195 North Main Street – Main Street LLC – Special Permit to Allow a Restaurant Use; votes may be taken

3. New Public Hearings
a. 48 South Main Street – Town Common LLC – Variance to Allow a Residential use in a Business Zone; votes may be taken

4. Old or New Business
a. License Agreement for United Oak Construction to remove dam on Babble Brook; votes may be taken
b. Approval of Tripartite Agreement for the Waverly Peak Subdivision; votes may be taken
c. Review Draft Warrant; votes may be taken
d. Review and discuss winter parking policy; votes may be taken

5. Staff Update (if any)

6. Announcements/Correspondence

7. Adjournment

Upcoming Meetings: July 27, August 31, September 28

Public Body Checklist for Posting a Meeting Notice

Issued by the Attorney General's Division of Open Government – September 25, 2017

Notice Contents

- The notice contains the date, time, and location of the meeting. G.L. c. 30A, § 20(b).
- If the meeting is a joint meeting of several public bodies, the names of all bodies meeting are listed at the top of the notice.
- The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics are sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting, including executive session topics. G.L. c. 30A § 20(b); 940 CMR 29.03(1)(b).
- The notice is printed in a legible, easily understandable format. G.L. c. 30A, § 20(b).
- The date and time that the notice is posted is conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d). If the notice is amended within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended must also be conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d).

Notice Publication

- The notice is published at least 48 hours before the meeting, not including Saturdays, Sundays and legal holidays. G.L. c. 30A, § 20(b).
- The notice is posted with the proper authority:
 - o Local public bodies – Filed with the municipal clerk, who must post it in a location conspicuously visible to the public at all hours in or on the municipal building where the clerk's office is located, or to the municipal website if adopted by the municipality as the official method of posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.
 - o State public bodies – Posted to a website, and a copy sent to the Secretary of State's Regulations Division. G.L. c. 30A, §20(c).
 - o Regional public bodies – Posted in every municipality within the region, unless the public body has adopted an alternative notice posting method. G.L. c. 30A, § 20(c); 940 CMR 29.03.
 - o County public bodies – Filed with the office of the county commissioners and a copy of the notice is publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose, unless the county has adopted its website as the official method for posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. These checklists are updated periodically, so please check that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

ATTACHMENT B: Public Body Checklist for Creating and Approving Meeting Minutes

Public Body Checklist for Creating and Approving Meeting Minutes

Issued by the Attorney General's Division of Open Government – September 25, 2017

- Minutes must accurately set forth the date, time, place of the meeting, and a list of the members present or absent. G.L. c. 30A, § 22(a).
- Minutes must include an accurate summary of the discussion of each subject. See G.L. c. 30A, § 22(a). The summary does not need to be a transcript, but should provide enough detail so that a member of the public who did not attend the meeting could read the minutes and understand what occurred and how the public body arrived at its decisions.
- The minutes must include a record of all the decisions made and the actions taken at each meeting, including a record of all votes. G.L. c. 30A, § 22(a).
- The minutes must include a list of all of the documents and other exhibits used by the public body during the meeting. G.L. c. 30A, § 22(a). Documents and exhibits used at the meeting are part of the official record of the session, but do not need to be physically attached to the minutes. See G.L. c. 30A, §§ 22(d), (e).
- If one or more public body members participated remotely in the meeting, the minutes must include the name(s) of the individual(s) participating remotely. 940 CMR 29.10(7)(b).
- If one or more public body members participated remotely in the meeting, the minutes must record all votes as roll call votes. 940 CMR 29.10(7)(c).
- Executive session minutes must record all votes as roll call votes. G.L. c. 30A, § 22(b).
- The minutes must be approved in a timely manner. G.L. c. 30A, § 22(c). A “timely manner” will generally be considered to be within the next **three** public body meetings or within **30 days**, whichever is later, unless the public body can show good cause for further delay. 940 CMR 29.11(2).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

ATTACHMENT C: Public Hearing General Steps

1. Open Public Hearing
2. The Chairperson or designee will read the legal notice, announcing the nature and purpose of the hearing and identify the particular matter.
3. Order of Presentation
 - a. Presentation by Proponent
 - b. Receipt of recommendations from any Town agency, advisor, or officer
 - c. Questions from Board Members
 - d. Statements by members of the public
 - e. Rebuttal by Proponent
4. Close Public Hearing
5. Deliberate on Findings and Merit
6. Entertain Motions to render a decision or take the matter under advisement, announcing the intended date of decision.