

Town of North Yarmouth

Select Board Business

III. Public Hearing(s)

May 3, 2022

OPENING THE PUBLIC HEARING

Move that the Select Board open the public hearing on the amendments to the Select Board Bylaws. Second, discussion and vote follow.

AUDIENCE PARTICIPATION

Once the Chair opens the public hearing, those present who wish to speak may approach the microphone and address the Chair with their comments. Those wishing to speak shall state their name and street address for the record.

CLOSE THE PUBLIC HEARING

Move that the Select Board close the public hearing on the amendments to the Select Board Bylaws. Second, discussion and vote follow.

Town Manager Comments:

This item is listed under “Old Business” for further discussion and acceptance by the Select Board.

Town of North Yarmouth



Select Board

NOTICE OF PUBLIC HEARING

Tuesday, May 3, 2022

7:00 PM

Wescustogo Hall & North Yarmouth Community
Center

RE: Select Board Bylaws

Town of North Yarmouth – Select Board Bylaws

SECTION 1 – PURPOSE & SCOPE

The purpose of these bylaws is to establish reasonable rules of procedure for Board meetings and to promote the fair, orderly, and efficient conduct of the Board's proceedings and affairs. These bylaws shall govern the Board's practices and procedures except as otherwise provided by laws and shall be liberally construed so as to accomplish their purpose. This policy is in compliance with the town charter and shall be judiciously understood so as to accomplish its purpose. Conditions not addressed in the town charter or this policy shall be governed by general law.

SECTION 2 – OFFICERS & DUTIES

- A) Officers of the Board shall consist of a Chairperson (Chair) and Vice-Chairperson (Vice-Chair) to be chosen on or after July 1st of a year to serve until the following June 30th. The term of office of the Chair and Vice-Chair shall be limited to two (2), one (1) year consecutive terms. Should the terms of the Chair and Vice-Chair expire prior to the Board having elected replacements, then the tenured serving remaining member(s) shall act as interim(s) until an election has been held.
- B) The Chair or his/her designee shall have the following responsibilities:
 - 1. Serve as the official spokesperson of the Board;
 - 2. Preside over all meetings of the Board to maintain order and determine the course of proceedings;
 - 3. Establish the schedule and agendas of the Board and
 - 4. Ensure that the Board develops and maintains these bylaws.
- C) In the event of an emergency requiring input from the Chair, and neither the Chair nor the Vice-Chair can be contacted, the most tenured Selectperson available will assume the role as Chair until the Chair or Vice-Chair is available.
- D) The Select Board retains authority to rule on questions of evidence and procedure. Any action as may be necessary and not inconsistent with these bylaws or other laws to enable the Select Board to perform its duties and conduct its affairs shall be taken by vote of the Selectpersons present.
- E) In the event the Chair ceases to serve as a selectperson, resigns as Chair, or is otherwise unable to discharge his or her duties prior to the end of their term, the Board shall elect a new Chair as soon as practicable. In the absence of the Chair, the Vice-Chair shall preside and shall have the same authority.
- F) By an affirmative vote of not less than four (4) members, the Select Board may vote to remove a Chair prior to the expiration of their term and thereafter by an affirmative vote of no less than three (3) members, elect a replacement.
- G) The Town Clerk (or his/her designee) shall maintain a permanent record of all Board meetings and all correspondence of the Board, which shall be a public record except as otherwise provided by law. An audio and/or video record of each regular meeting will be kept and be considered the primary record of the meeting with the Select Board meeting minutes. The meeting minutes shall only include who made the motion, who seconded the motion, who voted in favor or opposition, and if the motion passed. Roll call votes shall be recorded by listing the members present and how they voted.
- H) Board members shall notify the Town Manager (or his/her designee) prior to the Board meetings if they are unable to attend.
- I) Contacting the Town Attorney shall be initiated through the Town Manager.

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J) Direct assignment requests of the Town Manager shall be put forth by a consensus of the Board, and not an individualized basis.

SECTION 3 – MEETINGS & AGENDAS

A) The Select Board shall hold regular meetings no less than monthly and give notice of such meetings as required by law.

A)B) The Select Board Chair shall provide to the Town Manager or designee their agenda no later than one (1) week prior to the Select Board meeting for posting on the town's communication platforms. If altered by the Chair, there must be an indication of the date of the change on the agenda. EXCEPTION: Any applications for appointment consideration may be accepted up until the next business meeting.

B)C) The Select Board may call special meetings as necessary and must give notice as required by law.

C)D) Public Hearings will be posted on the Town website at least seven (7) days prior to the meeting.

D)E) The Select Board may call emergency meetings as needed with notice as required by law, to meet public emergencies affecting life, health, property, or the public space.

E)F) The Chair may cancel one (1) regular meeting of each month if there is not sufficient business. If a regular meeting is canceled, arrangements must be made for no less than three (3) members to convene for the purposes of acting on accounts payable. This meeting shall be publicly announced as provided by law.

F)G) Special meetings may be called at the discretion of the Chair, or upon the request of the majority of the Board, provided; however, that notice thereof shall be given to each member at least 24 hours in advance and that no business is conducted other than as specified in said notice.

G)H) Notice of all Board meetings shall be given as required by law, and all such meetings shall be open to the public except as otherwise provided by law.

I) No business shall be conducted by the Board except at a duly called and noticed meeting or without a quorum of members of the Board being present.

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H)J) For transparency purposes, the Bylaws should always contain a general outline of an agenda. Changes in the order of business are at the discretion of the Chair. The general order of business at regular meetings shall be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Appointments
4. Public Hearings (when applicable)
5. Special Presentations
6. Consent Agenda
 - Meeting Minutes
 - Accounts Payable
 - Calls for Public Hearings
7. Public Comment – Non-Agenda Items
- 7-8. Management Reports & Communications
- 8-9. Old Business
- 9-10. New Business
- 10-11. Any Other Business Announcements & Future Agenda Items
- 11-12. Adjournment

SECTION 4 – HEARINGS

A) Members of the public shall introduce themselves to the Board by stating their name, address, and the nature of the business. The public must be recognized by the Chair before speaking. Each recognized individual shall have at least three (3) minutes to speak, the Chair having the authority to limit a comment thereafter. All persons who wish to speak during “Public Comment” shall be recognized by the Chair. The public has the right to comment on ‘New Business’ and ‘Old Business’ items.

A)B) Public hearings of the Board shall be called as required by law or on such other occasion, as a majority of the Board may deem appropriate. Notice of all such hearings shall be given as required by law and shall include the date, time, and place of the hearing and a general description of the subject matter.

B)C) The Chair shall convene all hearings by describing the purpose of the hearing and the general procedures to be followed.

C) The Board may receive any oral or documentary evidence but shall exclude irrelevant, immaterial, or unduly repetitious evidence, provided, however, that formal rules of evidence shall not apply. Every party shall have the right to present its case in the order determined by the Chair, and without interruption, provided, that the Chair may impose such reasonable time limits as may be necessary to ensure that all parties have an adequate opportunity to be heard. In any adjudicatory proceeding, including proceedings on licenses, permits, or other approvals, every party shall also have the right to submit rebuttal evidence and to conduct cross-examination of any other party through the Chair, provided, however, that the Chair may impose such other reasonable limitations as may be necessary to prevent an abuse of process.

SECTION 5 – PARTICIPATION & VOTING

A) The action of the Board, when a quorum of members is present, shall require the affirmative vote of the majority present and voting unless otherwise provided by law. This shall include all items brought forth to the Board that require any action, including adjournment unless an emergency or urgent issue

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arises where the Chair must adjourn the meeting for the safety and welfare of the Board members or community.

B) No items shall be decided on by consensus voting. All votes shall be initiated by a Board member's motion, second, an opportunity for discussion, and a vote either verbally or by the showing of hands recorded on video, if available.

B)C) No member shall participate or vote in any matter in which the member has a conflict of interest or other disqualifications as defined by law. Any question of whether a member is such a conflict of interest or other disqualification shall be decided by the majority vote of the remaining members.

E)D) No member shall participate or vote in any adjudicatory proceeding, including proceedings on a license, permits, or other approvals, unless the member was present during all hearings thereon.

E) All members who are present and not disqualified as provided herein shall vote in every matter to be voted upon unless excused by the Chair for good cause.

SECTION 6 – DECISIONS

- A) All decisions of the Board shall be made within the time limits, if any, established by law.
- B) All final decisions shall be in writing, shall become a part of the Board's permanent record, and shall, where required by law, include a statement of findings and conclusions and the reasons or basis therefore.
- C) All such decisions, together with any tape recording or transcript of testimony and deliberations and any documents and exhibits, shall constitute a public record.
- D) The Board may reconsider any decision within 30 days of its original decision, provided, however, that both a vote to reconsider and any action taken pursuant thereto shall occur and be completed within said 30 days. Notice of any reconsideration shall be given to any party thereto a reasonable time in advance of the reconsideration. The Board may conduct additional hearings and receive additional evidence and testimony as provided herein.

SECTION 7 – CONFLICT WITH LAWS

Any conflict or consistency between these bylaws and any applicable law shall be resolved in favor of the law.

SECTION 8 – CONFLICT OF INTEREST

- A) Conflicts of Interest – As a general rule, a conflict of interest occurs when an official has a pecuniary (i.e., financial) interest in a matter of official business.
- B) Appearance of Conflict of Interest – Even when a Town official's conduct is not specifically prohibited by law, competing interests and personal relationships could create an appearance of wrongdoing that could undermine the public trust in the integrity and impartiality of local government. 30-A M.R.S. § 2605 addresses this issue by providing that town officials shall "attempt to avoid the appearance of a conflict of interest by disclosure or by abstention."

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SECTION 9 – CODE OF CONDUCT

Purpose and Scope – This section of the bylaws is to define the executive role and attendant duties of the Select Board in carrying out its policy functions as part of the North Yarmouth's town government, and to clarify the separation of the Board's executive role from the legislative role of the Town Meeting and the administrative role of the Town Manager.

A) Definitions

1. Town Meeting – Select Board – Town Manager form of government. Under this form of government, the legislative and executive functions are divided:
 - a. The Town Meeting performs the election function and the legislative function of adopting governmental policy, levying taxes, raising and appropriating monies, authorizing the contracting of debts, etc.
 - b. The Select Board is the executive body that interprets, processes, and sets the policies of the town and chooses the course of action between town meetings, has ultimate administrative responsibility to see that the governmental policies are carried out (but must deal with administration solely through the Town Manager), and appoints and supervises the Town Manager.
 - c. The Town Manager executes and carries out the government and fiscal policies with guidance from the Select Board. The Select Board has direct responsibility for and authority over all administrative functions. The Town Manager carries out the day-to-day operations of the town, and as defined in the town charter.

B) Duties of the Select Board

1. A member of the Select Board, in relation to their community, should:
 - a. Understand that his or her basic function is to make policy, with administration delegated to the Town Manager.
 - b. Understand that he or she should abide by, stand by, and carry out all Board decisions once they are made.
 - c. Be well informed concerning the duties of a Board member on both local and state levels.
 - d. Remember that he or she represents the entire community but must make decisions based on their best judgment.
 - e. Accept the role of a member is a means of unselfish service, not a benefit personally or politically from his or her Board activities.
 - f. Abide by the ethics guidelines established by the State and not use the position of Selectperson to obtain inside information on matters that may benefit someone personally.

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2. A member of the Select Board, in his or her relations with the Town Manager, should:
 - a. Endeavor to establish sound, clearly defined policies that will direct and support the administration of or the benefit of the staff and residents of the community.
 - b. Refuse to act on complaints as an individual outside of Staff, Department Heads, and the Town Manager.
 - c. Give the Town Manager full responsibility for discharging their disposition and/or solutions.
 - d. When a situation comes to the attention of a Board member, convey that information to the Town Manager for consideration and resolution of action as the Town Manager may deem appropriate. Inform the other Board members of suggestions and information conveyed to the Town Manager.
 - e. Not give orders of directions of the Town Manager for action as an individual Board member.
 - f. Not give instructions or request assistance from town department heads, but rather channel all such activities through the full Board and the Town Manager.
3. A member of the Select Board in his or her relations with fellow Board members, should:
 - a. Recognize the action at official legal meetings is binding and that he or she alone cannot bind the Board outside of such meetings.
 - b. Not make statements or promises of they will vote on matters that will come before the Board until they have had the opportunity to hear the pros and cons of the issue during a Board meeting.
 - c. Uphold the intent of executive session and respect the privileged communications that exists in executive session.
 - d. Make decisions only after all facts on a question have been presented and discussed.
 - e. Refrain from communicating the position of the Select Board to anyone unless the full Board as previously agreed on both the position and the language of the statement conveying the position.
 - f. Treat with respect and rights of all members of the Board despite differences of opinion.
4. A member of the Select Board, in his or her relations with town staff, should:
 - a. Treat all staff as professionals that respect the abilities, experience, and dignity of each individual.
 - b. Limit contact to specific town staff. Questions of town staff and/or requests for additional background information should be directed only to the Town Manager.

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- c. Never publicly criticize an individual employee. Concerns about staff performance should only be made to the Town Manager through private conversation.
- d. Ensure that all requests for staff support go through the Town Manager's office.
- e. Ensure that any materials or information provided to a Selectperson from a staff member be made available to all Select Board members.

SECTION 10 – DECORUM & ORDER

A) Public Attendance

1. All attendees of a meeting shall be respectful and refrain from arguing or debating with the Select Board. There will be no personal remarks or accusatory comments. Profanity, disorderly language or gestures at meetings are prohibited.
2. No comments regarding personnel will be entertained by the Select Board in an open meeting. All issues must be addressed with the Town Manager regarding staff. If regarding the Town Manager, any concerns must be addressed with the Select Board Chair.
3. There will be no discussion on new topics outside of "Public Comment"
4. In addition to the Board voting to address a topic at a future meeting, members of the public may also submit a request form to the Select Board Chair which can be found on the Town's website or at the Town Office.
5. There will be no discussion from the public if not recognized by the Chair.

B) Select Board

1. Any member may appeal to the Board from a ruling of the Chair. The member making the appeal may briefly state their reason for it and the presiding officer may briefly explain his/her ruling. There shall be no debate on the appeal, and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the chair be sustained?" If a majority of the members present vote in the affirmative, the ruling of the Chair is sustained, otherwise, it is overruled.
2. The Select Board, in all other cases, will follow the most up-to-date version of Robert's Rules of Order.

SECTION 110 – WAIVERS & AMENDMENTS

These bylaws, or any provision thereof, may be waived on any occasion by a majority vote of the Select Board unless others provided by the town charter or state law. These bylaws may be amended at any time in writing by majority vote of the Select Board.

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Amended and agreed by the Select Board this 3rd day of May 2022.

Select Board

Brian Sites, Chair

James Moulton, Vice-Chairperson

David Reed

Paul Hodgetts