Unfinished Business
4-25-11

DRAFT (4) – FOR DISCUSSION PURPOSES ONLY

MIDDLEBOROUGH BOARD OF SELECTMEN GUIDELINES AND PROCEDURES

In general, Selectmen as the chief executive officers of the Town, develop policies and the appropriate department head, board or officer within the Town is responsible for administering those policies. *(Role of Selectmen – A Guide to Financial Management for Town Officials)* Middleborough Board of Selectmen are also the Water & Sewer Commissioners, Board of Health and Rent Control Board.

Members of the Board of Selectmen may act in their official capacity only when in an open public meeting with a majority of the Board present. ~~This means~~ Individual members must abide by the requirements of the Open Meeting Law and cannot deliberate outside of an open meeting and is further detailed in the Open Meeting Law (G.L. c30A,18-25. Presentation of certificates or proclamations to residents or organizations may be made by individual members without a vote of the Board.

The Board normally meets every Monday evening at 7:00 p.m. in the Town Hall. A summer schedule, every other week, may be adopted prior to the last meeting in June. The summer schedule may be adjusted, by the Chairperson, to address situations requiring immediate action.

All Board members shall make every effort to attend each scheduled meeting. If unable to do so, it will be the individual's responsibility to advise the chairperson of such absence. In the alternative, the Town Manager or the Selectmen's secretary may be notified.

Election of officers will be held at the first meeting immediately following the April Town elections. If all five members are not in attendance, a Chairperson, pro-tem will be elected to conduct the meeting. It is strongly encouraged to rotate the Chairmanship to give each member an opportunity to serve in this capacity.

The following procedures have been adopted by the Board for the purpose of organizing and conducting their meetings:

POSTING OF MEETINGS

All meetings shall be posted in accordance with the Open Meeting Law.

Except in an emergency, a public body must post notice of meeting at Least 48 hours in advance, excluding Saturdays, Sundays and legal holidays.

"Emergency" is a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

ALL MEMBERS

Members may act in their individual capacity as Selectmen on various committees when so designated by the Board and will be responsible to keep other Board members informed on various activities of same.

The Board may also designate an individual member to gather information or perform other duties.

It will be any Board member's responsibility to bring to the attention of the Town Manager any issue arising which would require his attention or investigation.

Members are encouraged to attend other Town Board or Committee meetings to keep themselves informed for the benefit of the community.

MEETINGS

All meetings will be conducted in public, unless held in Executive Session for the stated purposes as allowed by the Open Meeting Law (G.L.Chapter30A Sections 18-25). Executive sessions are ~~only~~ allowed for specific purposes when discussion in public may be detrimental to the Town's position.

Meeting notices and agendas will be submitted to the Town Clerk no less than 48 hours prior to the scheduled meeting, unless for emergency purposes. Saturday, Sunday and holidays are not considered in the posting requirement. Every effort will be made to have these notices and agendas posted on the Town's website in a timely fashion as well.

All matters to be placed on the agenda must be submitted no later than Wednesday noon prior to the scheduled meeting. Any Board member or resident may request a matter to be placed on the agenda for discussion. The Chairperson will make every effort to accommodate the request for the scheduled meeting, but reserves the right to place on a subsequent agenda or refer the matter to the appropriate department head, committee or commission when appropriate to do so. The requestor will be advised if the matter does not fall within the jurisdiction of the Selectmen and to whom it has been referred.

Any matter requiring a Board vote must be included on the agenda.

Only extreme emergency or time sensitive matters, not known at the time of the agenda preparation, may be placed on the agenda for discussion/vote after the deadline stated above. These items will be announced by the Chair at the beginning of the meeting. If there are no objections by Board members, the matter will be included.

Any individual or department head requesting to place a matter on the agenda must supply eight (8) copies of all presentation materials/documentation no later than Wednesday noon preceding the scheduled meeting.

The Chair may take agenda items out of order for the purpose of expediting the meeting or to make a special accommodation.

Times indicated on the agenda are approximate. The Chair will make every effort to keep discussion within the allotted time.

The agenda for regularly scheduled meeting will be as follows:

1. Pledge of Allegiance
2. Minutes (Acceptance of previous meeting minutes)
3. Announcements (normally reserved for emergency/public safety, special or public service announcements not requiring Board action
4. New Business
5. Hearings – Meetings – Licenses
6. Unfinished Business
7. Town Manager's Report
8. Correspondence
9. Other
   BOS Comments
   Public Comment Opportunity
10. Executive Session
11. Adjournment

CONDUCT OF MEETING

General –

Board members and all attendees shall conduct themselves in a professional, respectful and orderly manner.

Anyone wishing to address the Board will do so from the podium or appropriate microphone. Each individual shall state their name and address and sign the signature sheet provided.

Discussions which are not addressing the business before the Board or disruptive in nature are not allowed. The Chair shall take whatever action necessary to achieve and maintain order, including ordering the removal of the offending person(s) by a constable or officer. (Open Meeting Law G.L. Chapter 30A, 18-25).

All cell phones, with the exception of the Town Manager's, Police and Fire Chief's must be silenced prior to the start of the meeting.

All those desiring to speak must first be recognized by the Chair.

PUBLIC PARTICIPATION

If a resident desires to make an inquiry or comment during the public comment portion of the meeting, although not required, notice to do so as stated above is suggested for the purpose of advising the Board and the public of a particular matter. This allows time for appropriate research if necessary. No advanced notice is required if an inquiry or comment is to be made on a topic already included as an agenda item

DUTIES OF THE SECRETARY FOR MEETING PURPOSES

Generally - The Selectmen's secretary working with the Chairperson and Town Manager shall prepare the weekly agenda and gather all background material which pertains to items to be considered by the Board and shall be responsible to accurately record the business conducted by the Board in accordance with Open Meeting Law requirements.

Posts all the Board of Selectmen's meetings. Attend all regular scheduled meetings of the Board and Special Meetings as required. Accurately record and transcribe minutes of each meeting and file, after acceptance by the Board, with the Town Clerk as required by Town By-Law.

Research records and reports for Selectmen as directed or required for various hearings applications and licenses.

Assists and answers questions of the general public and license/permit applicants. Review applications for accuracy and completeness. Prepare and arrange for any required legal advertisement.

Prepare packets for each meeting.

Prepare outgoing correspondence, licenses, and permits. Notifies, as appropriate, applicants, appointees, department heads or individuals of all votes by the Board of Selectmen.

Conduct research on any matter requested by any Board member.

Note: The above does not reflect the entire duties of the Secretary to the Board of Selectmen

OTHER TYPES OF MEETINGS

PUBLIC HEARINGS

Specific purpose – Chair will open the hearing and read the public notice for which the hearing has been posted. Individuals or their representative(s) will identify themselves and present the matter for which the request was made. Board members, Town Manager, Department Heads will then be recognized by the Chair for questions and comment. Affected abutters will be recognized next, after which general questions on the matter will be entertained. Upon the conclusion of public comment portion of the hearing the Chair will close the hearing. Or, if warranted, the members may vote to continue the matter for further information. If the hearing is closed the Chair will entertain a motion on the matter.

General purpose – The Board may decide a matter is of such significant importance a public hearing should be held for general discussion and input from residents. If a meeting of this nature is held, an announcement of the subject matter and date and time discussion will take place. It will be the Chair's responsibility to assure adequate space is procured to accommodate anticipated attendance. No legal advertisement is required.

Public Hearing – Town Meeting Warrant Articles. The Board shall hold public hearings for the purpose of discussing and informing residents of the anticipated matters to come before Town Meeting. These hearings will be held no less than two weeks prior to the scheduled Town Meeting date. All department heads and petitioners are expected to attend any scheduled hearing to answer questions from Board members and the public relative to the requested items.

Evidentiary Hearing - A formal examination of charges by the receiving of testimony from interested persons, irrespective of whether oaths are administered, and receiving evidence in support or in defense of specific charges which may have been made. Where an evidentiary hearing is held, the parties are entitled to know the charges and claims involved, have a right to meet such charges or claims by competent evidence, and the right to be heard by the Board upon the force of evidence put forth and upon the applicable law. Town Counsel shall be consulted prior to any hearing for appropriate procedure and notice requirements.

SITE INSPECTIONS

Site Inspections are held for the sole purpose of obtaining a better understanding of a specific matter in order to have adequate information to make a final decision on a pending agenda item. No vote shall be taken during any site inspection. Minutes are not required to be kept for site inspections.

EXECUTIVE SESSIONS

Executive sessions are to be held only for purposes specifically identified within the Open Meeting Law and when public discussion may be detrimental or compromise the

Town's position. These meetings are not open to the public. However, minutes are required to be kept. Minutes must be released when the matter has reached a conclusion unless not required do so in accordance with the Public Records law. It will be the Chair's responsibility to periodically review Executive Session minutes to determine if release is appropriate and submit to the Board for review. Minutes so voted will be released subject to the Open Meeting Law and Public Records Law.

Suggested Motion: Move to go into Executive Session for the purpose of_____as public discussion will be detrimental to the Town's position

WORKSHOPS

A less formal meeting of the Board generally conducted for the purpose of providing Board members with more detailed understanding of a specific issue and to permit discussion of the issue in greater depth. Votes may be taken and minutes are required to be kept.

VOTING

A motion must be duly made and seconded and acknowledged so by the Chair.

Each motion must be stated clearly and specifically.

All votes will be taken by voice vote of the yeas and nays. No secret ballot votes are allowed.

Chair will announce the results of each vote which shall be recorded in the minutes.

Amendments to a motion may be made prior to the Chair calling for the vote. The amendment will be voted on first. If the amendment is adopted, the main motion will then be voted on as amended. If the amendment fails, the original motion will be voted on as originally stated.

Once a motion and second has been acknowledged by the Chair, the Chair shall ask for any further discussion from Board members. If none, voting shall proceed.

The Chair may refuse to acknowledge a motion if it may be improper or out of order.

A motion to go into executive session must state the purpose for which the executive session is being held, made by a roll call vote and whether or not the Board will return to open session.

Chairman voting – The Chair may use their discretion whether to vote on a matter before the Board, but shall not vote to create a tie vote.

A motion to reconsider a previous vote must be made by a member on the prevailing side. A motion to reconsider must be made at the same meeting as the motion to be reconsidered was voted on.

If the Board desires to revisit an issue it must be requested to be placed on the agenda for full discussion. An item should only be revisited if the Board has received new, incomplete or inaccurate information during their prior deliberations.

A super majority voting in the affirmative is required in order to approve a WRPD permit. A super majority is defined as one more than a simple majority. In other words it would require 4 out of 5 members voting in the affirmative.

Abstentions – When counting the vote, the abstention is not counted for or against the motion. If the motion receives a majority of those present and voting, it carries. If not, it is defeated (Municipal Advocate Vol. 12, No. 2)

DISCUSSIONS

Only one person may speak at a time. Anyone wishing to speak must first be recognized by the Chair. Each person must stay on topic and all remarks must pertain to the matter before the Board.

QUORUM

A quorum is the number of members needed to be present to enable a board or committee to transact business. Normally, a quorum is a simple majority of the members of a board.

The general rule in Massachusetts is that in absence of a law to the contrary, a majority of a board present and voting constitutes a quorum and a majority of the quorum can transact business (Municipal Advocate Vol. 12, No. 2).

If there is a vacancy on the Board arising from resignation, removal, or death the number for a required quorum does not change (Municipal Advocate Vol. 12, No. 2).

MOTIONS

All motions are to be made in such a manner so the Secretary to the Board can record accurately.

SAMPLE FORMAL PUBLIC HEARING PROCEDURES

(Please note this information is for general reference only. Town Counsel should be consulted for further guidance for specific matters subject to formal hearing procedures)

Preliminary Procedures

1. Proponents and opponents must set up any displays or graphic presentations prior to the actual start of the hearing
2. Principal speakers must identify themselves to the chair prior to the start of the hearing.
3. Copies of the hearing should be distributed or read prior to the start of the hearing

Hearing Procedures

1. The chair will open the hearing by identifying the purpose of the hearing and the rules to be followed during the hearing

2. If testimony at the hearing must be given under oath, a five-minute recess will be taken to permit speakers to register with the meeting recorder. When the hearing is reconvened, the chair will render the oath in front of all present.

3. The basic format of the hearing will be:

Arguments/Presentation:	Proponents
Questions:	Board of Selectmen
Questions:	Public
Arguments/Presentation:	Opponents
Questions:	Board of Selectmen
Questions:	Public
Concluding statements rebuttal if any	Proponent
Concluding statements rebuttal if any	Opponent

4. No questions will be permitted until after the speaker has finished their presentation. Questions will be accepted first from board members and then from the public. All public questions will be addressed through the chairperson. Questioners will identify themselves, state their question and specify to whom it is addressed. Any disagreement with answers should be restricted to concluding/rebuttal statements if it is an evidentiary hearing.

5. If an evidentiary hearing, the board will allow time for the submission of written comments to be received by the board.

6. Prior to the close of the hearing, the board will announce what its next action will be. For example, hearing may be continued to a date certain, the matter taken under advisement, or allow time for additional submission of informational material.