

AGENDA

Wednesday

December 17, 2014

**TOWN OF EASTHAM
BOARD OF SELECTMEN
WORK SESSION AGENDA
Wednesday, December 17, 2014
2:30 PM**

Location: Small Hearing Room

2:30PM Proposed Revisions to *Policies and Procedures for Boards, Commissions and Committees* and the Volunteer Application – Sue Fischer

Minutes:	December 1, 2014	Regular Session
	December 3, 2014	Work Session
	December 3, 2014	Joint Session with the Finance Committee

EXECUTIVE SESSION – To discuss strategy with respect to non-union personnel and litigation when an open meeting may have a detrimental effect or the bargaining and litigating position of the public body and the chair is so declaring

Upcoming Meetings

<i>Monday, January 5, 2015</i>	<i>5:00 PM</i>	<i>Regular Meeting</i>
<i>Wednesday, January 7, 2015</i>	<i>2:30 PM</i>	<i>Work Session</i>

**Per the Attorney General's Office: The Board of Selectmen may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting.*

**If you are deaf or hard of hearing or are a person with a disability who requires an accommodation, contact Laurie Gillespie-Lee, 508-240-5900 x207*

December 17, 2014

To: Board of Selectmen

From: Sheila Vanderhoef, Town Administrator

Re: Policies and Procedures for Boards, Committees, and Commissions- Revision to Policy

Attached please find the revised Policies and Procedures for Boards, Committees, and Commissions. **Section 5.0 Appointments to Boards, Commissions and Committees** on page 1 is the noted revision to the policy. Also attached is the policy currently in use.

To coincide with the revision to the above noted policy, the Volunteer form has also been revised as attached. Those revisions include the following: On page 1, the two paragraphs under Please Note, and on page 2, the first two questions at the top of the second page.

For your reference, also included is Article V of the Town Charter noting section §C5-2 E.

Thank you.

**TOWN OF EASTHAM
POLICIES AND PROCEDURES FOR BOARDS, COMMITTEES, AND COMMISSIONS**

1.0 Authority

The Board of Selectmen hereby adopts, to the extent consistent with federal, state and local law, these policies and procedures for conducting the business of the Board of Selectmen and appointed Boards, Committees and Commissions, referred to here as "public bodies".

2.0 Purpose

The purpose of these policies and procedures is to promote among the Town's public bodies decision-making that is open, thoughtful, respectful and fair and in compliance with the town Charter and all state and federal laws.

3.0 Annual Organization

Public bodies must organize annually at the first meeting after July 1st. Public bodies will elect a Chair, Clerk and any other necessary officers such as a Vice-Chair or Co-Chair, and Assistant Clerk. The Board of Selectmen encourages the rotation of the roles of the Chair and Clerk.

4.0 Training

As a condition of appointment, the Board may require for certain public bodies, participation in training so members can effectively fulfill their duties. Training may be provided at Town Hall, over the internet, or may require out of town travel or require multiple sessions. Whenever training is required by the town so that a volunteer can serve on a public body, the Town will pay for the costs of tuition and travel. All such costs must be approved in advance by the Town Administrator before the costs are incurred.

5.0 Appointments to Boards, Commissions and Committees

Applicants who wish to be considered for board, commission or committee memberships must fill out an application form and submit it to the Eastham Town Hall. Applicants wishing to serve on a regulatory committee (Board of Health, Conservation Commission, Planning Board, Zoning Board of Appeals), must be a registered voter in Eastham. Regulatory committee members may only serve on one (1) regulatory committee at any one time. Applicants wishing to serve on any non-regulatory committee must be a resident or a non-resident taxpayer of the Town of Eastham, and may only be appointed to a maximum of three (3) non-regulatory committees or multimember bodies at one time.

6.0 Rules of Procedure and Voting

Under the Charter, each public body will establish rules of procedure and voting. Public bodies must establish a quorum before any meeting is called to order. The Town will provide to each committee member simplified rules of parliamentary procedure to provide a uniform procedural guide for all public bodies.

7.0 Minutes

7.1 Requirement for Meeting Minutes: The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. The law requires that existing minutes be made available to the public within 10 days upon request whether they have been approved or in draft form. Materials or other exhibits used by the public body in an open meeting must also be made available to the public within 10 days of request. One hard copy, original set of meeting minutes, signed by the public body's Clerk, must be submitted to the Town Clerk within 5 days of approval. If possible, minutes will also be submitted for posting on the website to: admin@eastham-ma.gov.

7.2 Role of the Clerk: Although town staff may record minutes for some public bodies, the Clerk is responsible for making sure minutes are recorded, created and submitted for approval and filed with the Town Clerk.

7.3 Contents of Minutes: Minutes must include the name of the public body, the date, time, and place of the meeting, the names of members present and absent, the names of staff present, and the substance of all discussion including all subjects acted upon or heard. Minutes must include a full and complete record of all motions proposed for vote and will include the exact vote, the names of the mover and the seconded for each motion, and the names of those voting against each motion. A verbatim record of meetings is not required.

7.4 Draft Minutes: Once created, draft regular meeting minutes are a public record and are subject to freedom of information requests even if they have not been reviewed at a meeting.

7.5 Executive Session Minutes: Minutes must be recorded for all Executive Sessions. Executive Session Minutes must not be released to the public until the reason for calling an Executive Session has ended, after which Executive Session Minutes must be reviewed and released by the public body.

8.0 Open Meeting - Posting of Meetings and Agendas

All public bodies must comply with the Open Meeting Law including but not limited to posting meeting notices and agendas with the Town Clerk at least 48 hours in advance of the meeting. Saturdays, Sundays and Legal Holidays are excluded in the counting of the 48 hours. The agenda must be provided to the Town Clerk along with the meeting posting or it may be e-mailed separately to the Town Clerk at clerk@eastham-ma.gov. The agenda must include a list of topics that is sufficiently specific to reasonably inform the public of the items to be discussed at the meeting. The agenda must also include any Executive Sessions planned under one of the 10 legal purposes for calling an Executive Session. Public bodies are encouraged to post a revised list of topics before the meeting whenever the Chair becomes aware, between the posting of the meeting and the date of the meeting, of any subject that must be heard by the public body on the posted date. Matters that are of an emergency nature, or are informational or administrative may be addressed under "Other Business" at the discretion of the Chair.

9.0 Open Meeting- Conducting Meetings

9.1 Requirement to follow Open Meeting Law: Public bodies must comply with all parts of the Open Meeting Law. Please refer to the MA Attorney General's Open Meeting Law Guide which is available on the Town website and through the Eastham Town Clerk and includes information on:

1. That the law applies to discussion by a public body of any "matter within the public body's jurisdiction"
2. Definition of a meeting / 5 Exceptions to the definition
3. Definition of a quorum
4. Posting requirements
5. Executive Sessions – 10 legal purposes
6. Remote Participation
7. Public Participation - What participation must be allowed?
8. Open and Executive Session required records
9. Open Meeting Law Complaint process

9.2 Recording of Meetings: Any member of the public has a right to make an audio or video recording of an open session and must notify the Chair before recording. The chair is then required to inform attendees of any such recording at the beginning of the meeting. The chair may impose reasonable requirements regarding audio or video equipment so recording does not interfere with the meeting.

9.3 Public Participation: Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair.

An individual is not permitted to disrupt a meeting of a public body, and at the request of the chair, all members of the public will be silent. If after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting, and if the person does not leave, the chair may authorize a constable or other officer to remove the person. The amount of time a member of the public will be allowed to speak to a public body will be determined at the discretion of the Chair.

9.4 Remote Participation at Meetings: While the Open Meeting Law now allows remote participation, it is the Board's policy not to allow remote participation by telephone or other means by members who are not physically present at public meetings.

9.5 Open Meeting Law Complaint Process: Individuals who allege a violation of the Open Meeting Law must first file a complaint with the public body alleged to have violated the OML within 30 days of the date of the violation, or the date the complainant could have reasonably known of the violation. The full complaint process is included in the Attorney General's Open Meeting Law Guide.

10.0 Use of E-Mail to Conduct Business

10.1 Public Records Law: E-mail communication created or received by a member of a public body while acting in his or her capacity as a member of the public body may be considered a PUBLIC RECORD and is subject to a freedom of information request under the Public Records Law even if the e-mail is received by or created on a private computer.

10.2 Open Meeting Law: When one member of a public body uses e-mail to discuss the public body's business with a quorum of the members, this constitutes "deliberation" and is in direct violation of the Open Meeting Law. E-mail communication between less than a quorum of a public body may also be considered in violation of the Open Meeting Law if the e-mail between less than a quorum of members is later forwarded to additional members, thus unintentionally creating a quorum.

10.3 Town Policy on E-Mail: To avoid violations of the Open Meeting Law and the Public Records Law, it is the Town's policy that e-mail created by members of the town's public bodies to conduct town business will be rigidly restricted to scheduling meetings and distribution of agendas, documents and reports.

11.0 Code of Ethics and Code of Conduct

11.1 Code of Ethics: All members are sworn in by the Town Clerk to uphold all state and local laws applicable to the public body's jurisdiction. Members must comply with the state ethics law (MGL Chapter 268A) regarding the conduct of public officials. Members must complete required ethics training and on-line tests. A member is required under the

law to not vote on any matter in which the member or an immediate family member has a financial interest. Members are encouraged to recuse themselves if there is an "appearance" of a conflict of interest.

11.2 Standard of Conduct: All members will treat the public, applicants before the body, town employees and each other with respect and courtesy. The members and chair of a public body should take time to listen to individuals speaking to the body. The Chair should make sure members of the public who are present also accord those speaking with respect and an opportunity to be heard uninterrupted.

11.3 Town Policies: Members of public bodies, when acting in their official capacity, are subject to any applicable state law and town policies such as those prohibiting sexual harassment, discrimination and workplace violence. Any allegation of misconduct made by the public, town staff or a fellow member will be reported immediately to the Town Administrator.

11.4 Bullying by public officials (including committee, board and commission members and staff) while in the course of public business is not tolerated. Bullying is the repeated use of a written, verbal, or electronic expression, or a physical act or gesture, or any combination thereof, that:

1. Causes physical or emotional harm to another party or that party's property;
2. Places another party in reasonable fear of harm or of damage to his or her property;
3. Creates a hostile environment within Town Hall or other Town workplace; OR
4. Materially and substantially disrupts the work of the multi-member body, town departments or the orderly process of government.

11.5 Role of Members: A member of any public body will:

1. Recognize that action at an official legal meeting is binding and that he / she cannot bind the public body outside of such meeting.
2. Not make statements or promises of how he / she will vote on matters that come before the public body until he / she has had an opportunity to hear the pros and cons of the issue during the body's public meeting.
3. Uphold the intent of Executive Sessions and respect the privileged communication that exists in Executive Session, holding it in confidence.
4. Make decisions only after all facts on a question have been presented and discussed.

11.6 Removal under this Section: The Board of Selectmen, under such procedures it may adopt, may remove a member from a public body for violations of this section.

12.0 Litigation against Town by a Member of an Appointed Public Body

An appointed member of any public body may be temporarily suspended by the Board of Selectmen during a lawsuit filed by the member against the town in a court of competent jurisdiction in the state of MA.

13.0 Absences

Under the charter, the absence without appropriate explanation of any member of an appointed body from 3 consecutive meetings may serve to vacate the office. The decision to recommend that the office be vacated will be made by a majority vote of other members of the public body and then transmitted to the Board of Selectmen.

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Except at the end of their appointed term, a member must submit to the Town Clerk with a copy to the Board of Selectmen, a signed letter of resignation, including the date the resignation is effective.

15.0 Reports

Public bodies are required to report annually to the Board of Selectmen and to provide a written report for inclusion in the Annual Town Report which is presented to Town Meeting.

16.0 Volunteer Appreciation

The contribution of time and consideration by volunteers of the many issues and problems confronting the Town is greatly appreciated. The Board of Selectmen thanks the members of all Boards, Committees and Commissions for giving their valuable time and effort in the improvement of the community.

I HAVE RECEIVED AND WILL ABIDE BY THE POLICIES AND PROCEDURES FOR APPOINTED BOARDS, COMMITTEES AND COMMISSIONS.

Signature / Date

-THIS POLICY WAS AMENDED BY THE BOARD OF SELECTMEN ON : _____

-ADOPTED BY THE EASTHAM BOARD OF SELECTMEN ON: Monday, October 15, 2012

***REPLACES 8/6/07 POLICY GUIDELINES ON MINUTES AND POSTING OF MEETINGS**

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I HAVE RECEIVED AND WILL ABIDE BY THE POLICIES AND PROCEDURES FOR APPOINTED BOARDS, COMMITTEES AND COMMISSIONS.

Signature / Date

ADOPTED BY THE EASTHAM BOARD OF SELECTMEN ON: Monday October 15, 2012

****REPLACES 8/6/07 POLICY GUIDELINES ON MINUTES AND POSTING OF MEETINGS***

Date Received: _____ Date Interviewed: _____

Disposition: _____

EASTHAM VOLUNTEER FORM

One of the foundations of good government in a small town is volunteer citizen participation on the boards, commissions, and committees, which play a vital part in the management of local affairs. The members of these boards and committees arbitrate issues that arise in interpreting and enforcing local laws, and recommend policies that will help to shape the future of our Town.

Name: _____

Address: _____ Zip code: _____

Mailing Address (if different): _____

Home Phone: _____ Cell Phone: _____

Work Phone: _____ Email: _____

LOCAL COMMITTEES: Please indicate up to three boards, commissions, or committees in which you are interested. Place a "1" next to your top priority, continuing with "2" and "3" as appropriate. If you have no preferences, simply check up to three.

PLEASE NOTE:

Applicants wishing to serve on a regulatory committee (**bold letters**), must be a registered voter in Eastham, and may only serve on one regulatory committee at any one time.

Applicants wishing to serve on any non-regulatory committee must be a resident or a non-resident taxpayer in the Town of Eastham, and may only be appointed to a maximum of three (3) non-regulatory committees or multimember bodies at one time.

___ Animal Advisory Committee

___ Bikeways Committee

___ Board of Assessors

___ **Board of Health (Regulatory)**

___ Board of Highway Surveyors

___ Board of Cemetery Commissioners

___ Community Preservation Committee

___ **Conservation Commission (Regulatory)**

___ Council on Aging Board of Directors

___ Cultural Council

___ Finance Committee

___ Historical Commission

___ Human Services Advisory Committee

___ Long Range Planning Committee

___ Olde Town Centre Historic District

___ Open Space Committee

___ **Planning Board (Regulatory)**

___ Public Access Committee of Eastham (P.A.C.E)

___ Recreation Commission

___ Recycling Committee

___ Search Committee

___ 1651 Forest Advisory Committee

___ Visitor's Tourism and Promotion Services Board

___ Water Management Committee

___ **Zoning Board of Appeals (Regulatory)**

___ Other

Please respond to the following questions:

- | | | |
|--|-----|----|
| • If applying to a regulatory committee, are you a registered voter in Eastham? | Yes | No |
| • If applying to a non-regulatory committee, are you a resident or a non-resident taxpayer in the Town of Eastham? | Yes | No |
| • Have you attended a meeting(s) of the committee(s) selected? | Yes | No |
| • Have you read the charge of the committee? | Yes | No |
| • Have you met with the chair(s) of the committee(s)? | Yes | No |
| • Have you read The Ten Rules Municipal Employees Need to Know about the Conflict of Interest Law? | Yes | No |

Describe briefly your experience, including volunteer service, that you feel would be useful to the Town and to the committee(s) you are interested in. You may add any additional information including education, other formal training, specialized courses, professional licenses or certifications.

☐ Check here if additional information is attached.

If you have served or are serving on an Eastham Town committee, please list committee(s), year(s), term(s) served:

Committee Name: _____ Term(s) Served: _____

Committee Name: _____ Term(s) Served: _____

Committee Name: _____ Term(s) Served: _____

Check the Town website (www.eastham-ma.gov) for meeting dates and times and additional committee information. If you have any questions, call Town Hall, 508-240-5900.

If you are aware of any possible conflicts of interest to serve on a particular committee, please contact the MA State Ethics Commission @ (617) 371-9500 or (888) 485-4766 for an opinion.

APPLICANT: PLEASE SIGN BELOW

Signature: _____ **Date:** _____

Your completed application form will be kept on file for two years.

Please return completed form to:

Selectmen's Office, Eastham Town Hall, 2500 State Highway, Eastham, MA 02642.

Phone: 508-240-590 Fax: 508-240-1291

The Top Rules Municipal Employees Need to Know About the Conflict of Interest Law:

10. Whether elected or appointed, paid or unpaid, part-time or full-time, you are a municipal employee subject to the conflict of interest law - even "consultants" may be considered municipal employees.
9. Don't accept bribes (don't sell or trade your official actions).
8. Don't accept meals, tickets or gifts from anyone to thank or reward you for any official action you have taken or may take or to influence you in any official action.
7. Be loyal to the municipality:
 - * Don't accept money from or represent anyone other than the municipality for work involving the municipality.
 - * Don't accept paid, private work that is incompatible with your public position and duties.
 - * Don't improperly disclose or use confidential information that you obtained as a municipal employee.
6. Don't use your official position to get special benefits for yourself or anyone else that are not available to the general public.
5. Don't create appearances of conflicts of interest: Publicly disclose significant relationships or circumstances that might cause a reasonable person to think that you might be unfair or biased in your official actions.
4. Don't act on any matter affecting your own financial interests or those of family members, partners or organizations with which you have a private relationship.
3. Don't double dip. Don't accept an additional (even unpaid) municipal position before seeking legal advice.
2. After you leave municipal service:
 - * Don't accept money from or represent anyone other than the municipality if the private work involves a matter that you participated in or worked on as a municipal employee.
 - * Strictly observe the one-year "cooling off" rule: Don't represent or appear before municipal agencies for a private party on matters that were under your "official responsibility" when you were a municipal employee.

AND THE NUMBER ONE RULE IS . . .

Get Advice!

Most of these rules have exceptions. Some are simple; some are not.

Free legal advice is readily available from your municipal counsel or the

State Ethics Commission

(617-371-9500) or (888-485-4766)

ARTICLE V

Town Boards, Committees and Commissions

§ C5-1. Powers.

Multimember bodies shall possess and exercise all powers given to them under the Constitution and General Laws of the Commonwealth, and shall have and exercise such additional powers and duties as may be granted and delegated by this Charter, bylaw, or vote of the Town Meeting.

§ C5-2. Organizations and procedures. [Amended 5-1-2000 ATM by Art. 20; 5-3-2010 ATM by Art. 29]

- A. Each multimember body shall act in accord with the particular charge adopted for it by the Board of Selectmen, subject to any state law requirements.
- B. In addition all multi-member bodies shall:
 - (1) Organize annually at the first meeting of the fiscal year.
 - (2) Elect a chairperson, clerk and any other necessary officers.
 - (3) Adopt rules of procedure and voting.
 - (4) Establish that a quorum, which is by statute a majority of committee members, must be present at all meetings.
 - (5) Maintain minutes and all other records of proceedings, copies of which shall be a public record and shall be filed with the Town Clerk within five days of approval of the minutes.
 - (6) Report to the Board of Selectmen annually.
 - (7) Submit a report for inclusion in the Annual Report
 - (8) Conduct all meetings in accordance with the open meeting provision of the General Laws.
- C. Each appointed body shall consist of an odd number of members, who shall be appointed for three-year overlapping terms unless otherwise specified in the charge to that body.
- D. No member shall be appointed for more than three consecutive full terms. After reaching maximum service, an individual may be reappointed after one year elapses. [Amended 5-2-2011 ATM by Art. 32]
 - (1) Notwithstanding any other provision of this section, however, the appointing authority may reappoint an individual for more than three consecutive terms when no other individual is available and when membership on an appointed committee, board or commission requires, by statute, special training, certification, or technical skills.
 - (2) This act shall take effect upon passage.

- E. No member may be appointed to more than three committees or multimember bodies.
- F. Any person duly appointed or elected to any office or multimember body shall take up the duties of the office immediately upon the date specified by statute or as soon as such person shall have been sworn to the faithful performance of those duties by Town Clerk.
- G. The absence without appropriate explanation of any member of an appointed body from three consecutive meetings may serve to vacate the office. The decision to recommend that the office be vacated shall be made by majority vote of the multimember body. After such a majority vote, the Chairperson of the body shall advise the appointing authority forthwith. Upon receipt of such a recommendation, the appointing authority shall vote on whether to declare a vacancy. For any vacancy created in this manner, the appointing authority shall fill the vacancy in accordance with the General Laws and this Charter.
- H. A compensated Town employee may serve on a multimember body, with the exception of the Finance Committee, provided such body shall have no administrative responsibility over any such employee.

§ C5-3. Compensation.

Members of appointed multimember Boards may receive such compensation as may be authorized by the Town Meeting. During the term for which a member is appointed and for one year following expiration of such term, no member of any appointed Board under this Charter shall be eligible to accept any additional paid position under any such multimember Board.

§ C5-4. Change in composition of appointed multimember bodies.

The Town Meeting may, by bylaw, enlarge or decrease the number of persons to serve as members of multimember Boards established under this chapter, provided, however, that all such Boards shall always consist of an uneven number of members and no fewer than three.

ARTICLE VI

Financial Provisions and Procedures

§ C6-1. Submission of budget and budget message.

- A. Annually, prior to the first day of October, the Town Administrator shall establish and issue a budget schedule which shall set forth the calendar dates relating to the development of the annual operating budget for the ensuing fiscal year.
- B. The schedule shall be in accordance with this Charter unless deviation therefrom is recommended by the Town Administrator and approved by the Board of Selectmen and the Finance Committee.
- C. Annually, prior to the first day of October, the Town Administrator shall request and receive from the Town Treasurer/Collector, the Town Accountant, the Board of Selectmen, and the Board of Assessors the estimated revenues for the ensuing fiscal year.