

11 ~~OPEN MEETING~~ POSTING AND MINUTES POLICIES

11-1 POLICY ON POSTING MEETING NOTICES, AGENDAS AND MINUTES

The Town Manager is responsible to manage the distribution and compliance with this section of the Policy for all appointed and elected town officials.

Posting a Meeting

Meeting Notices and Agendas must meet the requirements of Massachusetts General Law and Open Meeting Law. ~~be posted forty eight (48) hours in advance of the meeting excluding Saturdays, Sundays, and legal holidays in accordance with the Open Meeting Law.~~ Please keep in mind the Town Clerk's hours of operation and make necessary arrangements to be sure your posting is made in an adequate amount of time. ~~The Town Clerk requires that agendas be sent no later than 1:00 pm on the day it is required to be posted. Call the Town Clerk's Office for accommodation if the requested deadline cannot be met. It is the responsibility of the Chair of the public body to insure their meeting is posted accurately and timely.~~

~~Meeting Postings must contain the following information:~~

- ~~▲ The name of the public body that is meeting~~
- ~~▲ The date and time of the meeting~~
- ~~▲ Where the meeting is being held (location, room, address)~~
- ~~▲ A list of topics that are reasonably expected to be discussed at the meeting in sufficient details to advise the public of the general issues to be discussed. Any revisions to the posting should be made as soon as possible, and no later than one hour prior to the meeting.~~

~~24 hour / 7 day a week Access~~

~~The Open Meeting Law requires twenty four (24) hour / seven (7) day a week access to meeting schedules and agendas. Each meeting will be posted online on the Official Meeting Calendar at www.chelmsfordma.gov.~~

~~Receiving and Filing Postings & Agendas~~

~~Although you may use any of the following means to communicate your postings with the Town Clerk's Office, email is the preferred method:~~

- ~~▲ Email: townclerk@ChelmsfordMA.Gov~~
- ~~▲ In Person: Town Clerks Office — Town Hall, 50 Billerica Road~~

~~PLEASE DO NOT email postings to a specific staff person in the Town Clerk's Office. Email to townclerk@ChelmsfordMA.Gov as that account is shared by all Town Clerk's Office staff. You should check the website to be sure your meeting was posted correctly. If your meeting was not posted correctly, please contact the Town Clerk's Office as soon as possible.~~

Public Hearings

~~Notice and conduct of Public Hearings must be made as required by Massachusetts General Law. If you are a member of a public body such as the Select Board, Planning Board, Board of Health, Zoning Board of Appeals, or Conservation Commission (etc.), periodically you will be required to hold a public hearing in accordance with Massachusetts General Law. In most cases where notice of a public hearing is required, notice shall be given by publication in a newspaper of general circulation in the town for a specified period of time. It is also necessary to post such notice in a conspicuous place in the Town Hall for a specified period of time. For specifics, please reference the specific governing statute. Written notices, the initiation of the hearing and the written conclusions of the public hearing may have strict legal time limitations that vary with the character of each board.~~

Cancelled, Postponed, or Relocated Meetings.

If a meeting is cancelled or moved to another location, the Town Clerk shall be informed as soon as practical, so that the Official Meeting Calendar may be revised. It is suggested that a sign be posted on the meeting room door and on the entrance door to the building informing the public of the changes.

Meeting Minutes

~~Importance of the Record—Many matters before public bodies are reviewable by a court on an appeal. In many of these matters, the appeal is based on the record developed before the public body. Thus, it is very important to adequately develop a record which is going to reflect accurately what went on and most importantly, support your decision. Public bodies shall create and maintain accurate minutes of all meetings, including executive sessions. Minutes are not intended to be a transcript of the meeting, but rather an accurate recording of the meeting logistics, topics discussed, and actions taken by the public body. Content must include all information as required by Massachusetts General Law and the Open Meeting Law, and including the filing of documents referenced in the meeting.~~

Meeting Minutes as set forth by law must include the following information:

- ~~• State the date, time, (location, room, address)~~

- List all members present and all members absent
- Summarize each topic discussed by the public body
- Exact wording of all motions, including who made and seconded the motion
- The decisions made and actions taken, including a record of all votes. (Votes in executive session must be recorded in the minutes by a roll call)
- A list of documents and other exhibits used by the body at the meeting and where such exhibits or documents may be reviewed by the public.

List of Documents and other Exhibits

Documents, emails, and other exhibits, such as photographs, recordings, or maps (etc.), used by the body at an open meeting or executive session shall be part of the record of the session. While public bodies are required to retain these records in accordance with records retention laws, the documents and exhibits listed in the minutes need not be physically stored with the minutes. Care should be taken to ensure these documents and/or exhibits are properly filed to facilitate retrieval as required.

Public Record

The records of all public body non-executive session meetings minutes are public and permanent records and must be available for public inspection. Records of any executive session remain closed to the public only as long as publication may defeat the purposes of the executive session.

Meeting notes and Draft minutes are considered public record until official Minutes are produced and voted on. Any secretarial notes, if not destroyed once the official minutes are accepted, are considered a public document under the public records law.

Once Minutes are Accepted by Public Body Vote

The timing for producing meeting minutes is outlined in Massachusetts General Law and Open Meeting Law.

Upon confirming that the final minutes document reflects what was approved, the public body designee responsible for the minutes shall insure they are posted appropriately, email the final minutes in Word or PDF format to townclerk@ChelmsfordMA.Gov for posting on the town website.

Timely Fashion

Chapter 30A, section 22C of the Open Meeting Law requires minutes to be produced in a

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~~timely fashion. For public bodies which meet monthly or more frequently, the goal is to have minutes drafted, approved, and releasability determined within the requirement of 30 days or three public body-public body meetings, whichever is later unless the public body can show good cause for further delay. Public bodies, which meet less frequently, shall designate a representative from the public body to review and approve the minutes.~~

~~The law does, however, state that in the event someone requests minutes from a meeting, such minutes must be provided to them within 10 days.~~

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Executive Session Minutes

Minutes from an executive session may be withheld if the lawful purpose for conducting an executive session would be defeated. Such minutes should be withheld from public disclosure unless and until the reason for convening the executive session no longer exists. However, they should be approved by the public body in a timely manner.

~~If multiple topics are discussed in an Executive Session, it is suggested that minutes be produced for each topic individually (Segment 1, Segment 2, etc.), to all separate approvals and release to the public, as needed. Each segment must details as described in Massachusetts General Law and the Open Meeting Law.~~

The public body chair or other appropriate designee shall, from time to time, but in no circumstances less frequently than every six (6) months, review the purpose for having entered into executive session to determine whether continued non-disclosure of minutes is warranted. Such reviews shall be documented and should not be unreasonably delayed in that there is a policy for release of executive session documents as soon as the reasons for executive privilege have lapsed. If the Chair or other designee determines that continued non-disclosure is no longer warranted, the full Board shall review such minutes and either confirm the decision or determine that continued non-disclosure remains warranted. This review and determination must be included as a topic discussed in the minutes of said meeting. Once disclosure would no longer defeat the lawful purpose for the executive session, the minutes must be disclosed unless they are otherwise exempt from the Public Records Law, G.L. c. 4 §7, cl. 26 or are subject to attorney-client privilege. ~~Case law has dictated that public bodies are entitled to attorney-client privilege but the Attorney General has offered an opinion that the privilege is not absolute.~~ Town Counsel should be ~~consulted if there are questions related to release of Executive Session minutes, including any necessary redactions, contacted to determine whether the privilege applies.~~ Members of public bodies must refrain from disclosing any matter discussed within an executive session unless and until the executive session minutes are released.

After review of executive session minutes has been conducted, the public body shall

make an announcement at its next open session as to which executive session minutes were determined to be subject to release, and which executive session minutes were determined to require continued non-disclosure.

Executive Session minutes that only reflect votes of other Executive Sessions are not required to be reviewed by the full public body. The Clerk, or designee providing those minutes, shall submit a draft to the Chair of the body for approval, after which time they can be publicly released.

11-2 SELECT BOARD MINUTES – DETAILED GUIDANCE

Public Session Minutes

The Recording Secretary will initiate the draft minutes from in-person attendance or from the Chelmsford Telemedia recording (or equivalent) of the public Select Board meetings.

The draft minutes will be forwarded to the Support Services Coordinator who will distribute the draft minutes to the Select Board Members.

The Select Board will be expected to review and provide edits back to the Support Services Coordinator in track changes one week from distribution of the draft minutes.

The Support Services Coordinator will consolidate all edits into one document while maintaining traceability of changes. When possible, the time point in the Telemedia recording of the meeting related to the proposed edit(s) should be provided to improve the verification and editing process. Duplicate edits (if any) will be edited out.

If clarification etc. is required, this will be coordinated with the Select Board Clerk or designee. In the Clerks absence, this can be accomplished with the Select Board Chair.

The final document with edits will be maintained and a final version will be prepared for inclusion into the next Select Board Meeting packet for review and approval.

If the Support Services Coordinator does not receive edits after a week has passed, it will be assumed that no edits are forthcoming. When vacations or other personal situations arise, a Select Board member may request a time-bound extension to complete the review process. We ask that those situations be infrequent and coordinated in advance of the deadline with the Support Services Coordinator.

The goal is to have minutes completed, approved, and releasability determined within the requirement of 30 days or three Select Board Meetings, whichever is later unless the public body can show good cause for further delay.

~~Audit of Held Minutes—Process~~

~~The Select Board Chair or appropriate designee shall, from time to time, but in no circumstances less frequently than every six (6) months, review held minutes to determine whether continued non-disclosure of minutes is warranted. When reviewing held minutes, consideration will include if a given matter reviewed at executive session is no longer ongoing. If the subject matter is no longer ongoing and there remains question on releasability due to attorney-client privilege or one or more of the exemptions under Public Records Law, the subject matter and minutes should be reviewed by Town Counsel to gain a determination as to whether the minutes should continue to be held. Such reviews shall be documented and should not be unreasonably delayed in that there is policy for release of executive session documents as soon as the reasons for executive privilege have lapsed (See Appendix).~~

~~The Select Board Chair or appropriate designee shall summarize the review of held minutes in a fashion that will not disclose the Confidential nature of any of the topics. An agenda item will then be placed on the next public meeting agenda to announce the completion of the review.~~

~~Those minutes deemed potentially releasable by the Select Board Chair or designee shall be placed on the next executive session agenda and the Select Board shall either confirm the decision or determine that continued non-disclosure remains warranted.~~

~~If the Select Board determines the minutes can be disclosed, the motion and vote on releasability of Executive Session Minutes will be noted at the end of the original minutes / segment with a statement that reflects the date of the vote, the motion, and votes taken. This section of the record documenting releasability will be confirmed by the Chair and Clerk for accuracy.~~