TOWN OF MARION
BOARD OF SELECTMEN

APPOINTED COMMITTEE HANDBOOK

APPROVED NOVEMBER 20, 2012

APPOINTED COMMITTEE HANDBOOK

I. Committee Function and Formation

The Role of Appointed Committees

Appointed committees serve many vital functions in Town government. The roles of appointed committees include advisory, regulatory, investigative, and planning functions. While the specific role or each committee may differ, many committees have overlapping responsibilities and jurisdiction. The Board of Selectmen will provide each committee with written guidance with respect to the committee's function and purpose in order to reduce confusion and overlapping responsibility and jurisdiction. The Board of Selectmen expects that committees will cooperate and coordinate activities so that all decisions reflect that which is in the best interest of the Town.

The following are general responsibilities of appointed committees:

- Protect and act in the best interest of the Town within the function and purpose;
- Understand the laws and regulations related to the committee's function and purpose;
- Exercise power and authority cautiously, fairly, and responsibly;
- Adhere to the laws that guide procedures and decision making;
- Actively seek effective solutions to the problems and dilemmas that confront the Town: and
- Represent the Town residents, not just a segment.

Commensurate with the general responsibilities are the following general rights of appointed committees:

- To be treated with respect;
- To be candid and forthcoming without fear of personal consequences;
- To relevant information within the committee's responsibility and jurisdiction; and
- To be fully informed about, and participate in, actions that impact the committee.

Committee Appointment

The appointing authority for most committees is the Board of Selectmen. Massachusetts General Law requires that the Town establish some committees, while others are established based on the unique needs of the community. The goal of the Board of Selectmen is to appoint candidates who are broadly representative of the community and whose qualifications and interests match the needs of the committee. However, an applicant does not need to be an expert in any particular area to be appointed.

Committee vacancies may be advertised in local weekly newspapers or listed on the Town website. The Town website provides an application form for potential applicants to be submitted to the Board of Selectmen. Applicants may be asked to have an interview with the Board of Selectmen at a regular meeting. Although committees may recommend and recruit potential members, Massachusetts General Law designates the Board of Selectmen as the appointing authority and does not allow committees to appoint new members.

Duration of Term and Reappointment

Committee terms range from temporary to five years. If an appointment is the result of a committee member resigning prior to completing a term, then the appointee serves the duration of the original term. Some committees are limited by the number of consecutive terms that members may serve. In any case, reappointment is not automatic and members are under no obligation to accept reappointment. The Board of Selectmen will evaluate the member's contribution, attendance at meetings, and the changing needs of the committee and community. If reappointment is accepted, the member must be sworn in by the Town Clerk.

Certification

Committee appointees must be sworn in by the Town Clerk and will receive a Certificate of Appointment. Committee members may not act in any official capacity until the member is sworn in by the Town Clerk. Additionally, the Open Meeting Law requires that within two weeks of qualification for office, all persons serving on a public body shall certify that s/he has reviewed the educational materials provided by the Attorney General's Office. Each committee member shall provide certification of completion of this requirement to the Town Clerk.

Attendance Guidelines

Volunteers who accept appointments to committees and commissions accept a responsibility to regularly attend scheduled meetings. Without regular attendance, the business of that group and, hence, the Town, cannot be conducted. While some absences will invariably occur, habitual, repeated or consistent absence cannot be accepted. To better serve the interests of the Town, the following guidelines will be used for all committees and commissions appointed by the Board of Selectmen:

- Missing three consecutive monthly meetings or four consecutive semi-monthly meetings or a majority of meetings in an appointed year by a member may be taken that the person does not want to continue serving and may be asked to resign or not be reappointed;
- To prevent the perception that a Chairman is giving preference to some individuals, the Chairman will simply report the situation to the Board of Selectmen on a quarterly basis and leave it to the Board of Selectmen to take whatever action is necessary.

Resignation

The Board of Selectmen expects that all committee members will fulfill the duration of their term. However, the Board does recognize that, in some cases, a member is not able to complete a term. It is hoped that the committee member will work with the committee Chairman to determine a timely manner and process in which the member can resign from the committee. A written resignation must be submitted by the committee member to the Town Clerk, the appointing authority (usually the Board of Selectmen), and the committee Chairman.

Committee Officers

Massachusetts General Law requires that some committees elect certain officers. However, all committees must elect a Chairman and designate a clerk (unless the committee has an assigned person). A Vice-Chairman may be elected at the committee's discretion. Committees must notify the Selectman's office whenever a committee elects new officers.

Chairman. The Chairman presides at all meetings, decides questions of order, calls special meetings and signs official documents that require the Chairman's signature. The Chairman has the same rights and responsibilities as other members to offer resolutions, make or second motions and vote.

Vice-Chairman. Performs the Chairman's duties in his/her absence.

Clerk. Unless the committee has an assigned staff person, the clerk or secretary should record and prepare minutes, prepare and distribute agenda and other meeting materials, schedule a meeting room and post meetings with the Town Clerk. These responsibilities may be shared with other members.

Staff Support

Some committees do have hired staff to serve their committee. The staff person is hired to provide assistance, rather than perform the duties that are expected of committee members. The staff member may record minutes of meetings, prepare and circulate information for meetings, serve as a liaison and perform clerical duties. Please be aware that most committee staff have limited hours and committees should not ask for more than can reasonably be accomplished in those hours.

II. Conduct and Policies

Conflict-of-Interest Law

The conflict-of-interest law (MGL Chapter 268A) strictly regulates the activities and conduct of public officials, including appointed committee members, *during and after their service.* The purpose of the law is to ensure that public officials' financial interests and personal relationships do not conflict with their public obligations. The law is broad and expansive to prevent an official from becoming involved in a situation that becomes a conflict or creates an appearance of conflict. Committee members must not accept gifts, privileges or employment provided as a result of acting in a capacity as a public official.

The law prohibits a committee member from engaging in deliberations, votes or any other form of committee participation in which the committee member or any of the following have a financial interest:

- Immediate family;
- Partner or business associate;
- Business organization where the member serves as an officer, employee, or other position; and

- Any person or organization with whom the member is negotiating with or has any arrangement concerning prospective employment.

Any committee member who has a conflict or suspects there may be an appearance of a conflict must abstain from committee involvement regarding that matter. In some cases, the member may not be required to abstain if full disclosure is made prior to the committee's action. Violations of this law may result in large fines, legal action and/or imprisonment. Prior to accepting an appointment, candidates should consider any potential conflicts. Be aware that the law also limits activities of members after they have left the committee. Any questions or perceived conflicts of interest should be directed immediately to the Town Administrator.

Budget and Fundraising

In general, committees have limited budgets. Funds are only allocated for expenses directly related to the committee's sphere of responsibility including mailings, postage, and travel expenses for seminars and meetings. Contact the Town Administrator or Town Accountant with any questions concerning budget.

All payments and purchases must be coordinated with the Town Accountant's office. Items purchased without first contacting the Town Accountant may not be reimbursable.

Massachusetts General Law requires that any funds or donations received by the committee must be placed in the Town's general fund unless a special fund has been dedicated to receive funds or donations.

Sexual Harassment Policy

The Town of Marion sexual harassment policy pertains to all Town officials and employees, as well as appointed committee members. Sexual harassment in the workplace is unlawful. It is unlawful to retaliate against anyone for filing a complaint about sexual harassment or for cooperating with an investigation into sexual harassment. It is the policy of the Town of Marion that no employee be harassed by another employee or supervisor on the basis of sex and that no personnel action be taken affecting any employee (either favorably or unfavorably) on the basis of conduct that is not related to work performance. Such conduct may include submitting to sexual advances, refusing to submit to sexual advances, protesting sexual overtures or raising a complaint concerning the alleged violation of this policy.

The policy was formulated to protect Town employees and officials – both males and females – against unsolicited and unwelcome sexual overtures or conduct, either physical or verbal. It prohibits misconduct that may upset morale and interfere with work and efficiency. Some forms of misconduct may even constitute a violation of equal employment opportunity law.

Each committee member will be provided a copy of the Town of Marion Sexual Harassment Policy when s/he is sworn in. Each committee member shall read the Policy and return the signed acknowledgement statement to the Town Clerk.

Misuse of Position

Misuse of position is expressly prohibited in the Massachusetts General Laws. No unwarranted privileges should be sought or accepted if the reason for the privilege results from serving in an official capacity. This includes gifts, favors, employment, and preferable treatment.

Use of Town Equipment and Facilities

Each committee is responsible for its own clerical work. Town equipment and facilities should not be used for personal purposes that are unrelated to the committee's work.

Annual Town Report

Each year, the Selectmen's office prepares the Annual Town Report. Committees are required to submit a short, but detailed report on the committee's membership, activities, accomplishments, and future plans. The Annual Town Report is the official historical record of Town government activities for the year. Committee reports must be submitted to the Selectmen's office by January of each year. Contact the Selectmen's office for more information.

III. Meetings and Procedures

Meeting Definition

A meeting occurs at any time a quorum (majority) of the committee members meet to deliberate any public business or policy over which the committee has jurisdiction or advisory power. Deliberation is oral or written communication (including email) that expresses a member's opinion.

Several specific exemptions are provided:

- Site visits and on-site inspections – when board members meet at or near the locus of a project that is the subject of permit approval or permit review, so called site visits do not constitute a meeting so long as the members do not deliberate. Site visits are data gathering events.
- Attendance by Board Members of one Board at another Board's meeting – attendance by a quorum of a public body at a meeting of another public body that has complied with the notice 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 is <u>not</u> a meeting. With sufficient notice, it would be prudent for the visiting committee to also post a meeting notice and produce meeting minutes.
- Attendance at Town Meeting – attendance by a quorum of a public body at Town Meeting does <u>not</u> constitute a "meeting".

Members of the Board of Appeals and Planning Board could potentially act in a quasi-judicial manner in certain circumstances. Members of these Boards should request additional information from the Town Administrator.

Attendance and Quorums

It is expected that committee members will regularly attend meetings. Members are chosen based on their unique qualities and needs of the committee. The effectiveness of each committee depends upon the knowledge and dedication of its members. All meetings must have a quorum – a majority of members - present in order to conduct official business. Some committees require a super-majority to act on certain applications or petitions. All votes require a majority (or super-majority) of the full committee – not a majority of those members attending.

Public Hearings

Many communities are required by Massachusetts General Law to conduct public hearings. Other committees may also choose to have a public hearing in order to receive input from the community. All public hearings must be conducted in accordance with the Open Meeting Law and Town by-laws. It is recommended that a formal procedure be developed to conduct the hearing, which may include the following:

- Chairman states guidelines and procedures, including time limits and decorum;
- Where necessary, Chairman states background information;
- Petitioner makes presentation;
- Information presented from Town officials and other committees;
- Committee members question petitioner;
- Public directs questions and comments through the Chairman, allow only questions and comments that are relevant to the discussion;
- Committee closes public portion of hearing;
- Committee begins deliberation;
- Motions may be made and votes taken at the committee's discretion;
- Hearing is closed or continued to a specific date.

Open Meeting Law

The Open Meeting Law (MGL Ch. 30A) requires that meetings be conducted in open session. When any elected or appointed Board, committee, or subcommittee meets, the public and press are allowed to attend. However, the open meeting law does not require that the public be allowed to participate. A copy of the open meeting law will be given to all committee members when they are sworn in.

Posting of Notice of Meeting. It is the responsibility of each committee to ensure that all meetings are posted. A meeting notice must be posted at least 48 hours prior to the meeting. Note that Saturdays and Sundays do <u>not</u> count as part of the 48 hours. The date, time, and location of the meeting must be provided. If a meeting date, time, or location changes, or the meeting is canceled, a reposting may be required. The meeting notice shall be filed with the Town clerk and posted in a manner conspicuously visible to the public <u>at all hours</u>. The meeting notice must include an agenda of the meeting that lists topics that the chair reasonably anticipates will be discussed during the meeting. Only the Town Clerk has the authority to remove meeting notices from the posting Board.

Control of Meeting. It is the responsibility of the Chairman to maintain order and decorum at the hearing, no person shall address a meeting of a public body without the permission of the chair. The Chairman must be consistent and fair, but may put restrictions on the nature, number, and frequency of individual's comments and questions. It is within the Chairman's power to order the removal of an individual from the hearing if the individual does not adhere to the guidelines and procedures established by the committee; however, a Chairman should carefully consider this action before exercising it.

Audio and Video Recording. Any person may record a meeting (with the exception of executive sessions) with a audio recorder or video recording equipment, provided that there is not active interference with the meeting. Upon opening the meeting the Chairman shall inform other attendees of any such recording. Note that the board may not refuse to allow a recording.

No Votes by Secret Ballot. The law prohibits the taking of any votes, whether in open or executive session, by secret ballot.

Executive Session. An executive session is a committee meeting held in private to discuss, deliberate, and vote on confidential matters. Most committees will not need to conduct executive session. If a board determines that an open meeting may have a detrimental effect on any of the following, the board may enter into an executive session to discuss any of the following provided proper procedure is followed:

- Collective bargaining
- Litigation
- The purchase, exchange, lease or value of real property
- The interviewing of applicants for employment or appointment by a preliminary screening committee.
- The following topics are categorically appropriate for executive session:
- Strategy for nonunion personnel negotiations
- Collective bargaining or contract negotiations with nonunion personnel
- Strategy for or deployment of security personnel or devices
- Investigate charges of criminal activity or to consider filing criminal complaints
- Comply with or act under the authority of any general or special law or federal requirements
- Meet with or confer with a mediator subject to specific limitations
- Discuss trade secrets relating to "selling or distributing electrical power and energy.

Executive sessions should not be convened without first consulting the Town Administrator prior to the meeting. Violations could result in legal action and large fines.

Meeting Minutes. The law requires that a formal and permanent written record be kept of all meetings, both open and executive session. The minutes must be typed and include (as a minimum):

- Date, time and location of meeting;
- Names of those members present and absent;
- A record of all votes, decisions, and actions taken;

- Names of residents and others who speak before the committee;
- Brief summary of the discussion;
- A list of documentation and other exhibits used at the meeting.

Minutes should be reviewed and approved by the committee at a subsequent meeting. Copies of approved minutes should be forwarded to the Town Clerk as soon as they are available and a file including minutes and copies of the agenda should be maintained. Unless related to an executive session, minutes from a public meeting are a public record and must be disclosed, whether in draft or final form, if a proper request for a copy has be made within 10 days. The law requires withholding disclosure of executive session minutes and records for a period no longer than necessary to support the lawful purposes of the executive session. More specifically, the law requires that when the purpose for which a valid executive session was held has been served the materials discussed and recorded during the executive session must be disclosed.

Open Meeting Law enforcement – the Massachusetts Attorney General enforces the Open Meeting Law. The law provides very broad investigative authority to the Attorney General's Office to investigate claimed Open Meeting Law violations and suggests almost unlimited authority to enforce the law. Accordingly, it would be prudent to seek counsel's opinion where questions arise regarding compliance with the Open Meeting Law.

Meeting Schedule.

Meetings may be held weekly, bi-monthly, monthly or less frequently, depending upon the nature of the committee's work; committees may meet more often in one time of the year than others. Meetings are generally held in the evenings, but may be held at other times. The Board of Selectmen urges committees to schedule meetings at times that are convenient for the public to attend – weekends and holidays should be avoided. Massachusetts General Law requires that meetings are open to the public and that the meeting be accessible to the public. Committees must make reasonable accommodations for people with disabilities, including holding the meetings in an accessible location.

Meeting Rooms

Please note that the posting of a meeting does not constitute reserving a meeting room, conversely, reserving a meeting room does not constitute the posting of a meeting. Each committee using a meeting room is responsible for ensuring that the lights are turned off, that the room is free of trash and that the building is locked up when the meeting is concluded (if no other committees are in the building). Doors should not be locked while a meeting is in progress.

Town House. The Town House has two handicapped-accessible public meeting rooms, the main conference room used for Selectmen's meetings and the Town Administrator's office. Meeting rooms must be reserved by contacting the Administrative Assistant at 748-3520.

Music Hall. The Music Hall has a large and a small meeting room. Rooms must be reserved by contacting Susan O'Brien, Music Hall coordinator at 748-2474 (susanobie@gmail.com).

Police Station. The Police Station has one modern conference room. The meeting room must be reserved by contacting Chief Miller at 748-1212 (chiefmiller@maironpolice.org).

Sippican School. ??

Elizabeth Taber Library. The library has two very small meeting rooms. The meeting rooms must be reserved by contacting Judy Kleven at748-1252 (jkleven@sailsinc.org).

Waste Water Treatment Facility. The Waste Water Treatment Facility has one modern conference room. The meeting room must be reserved by contacting Rob Zora or the administrative assistant at 748-3540.