

TOWN OF HARWICH

COMMITTEE HANDBOOK



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INTRODUCTION

TOWN OF HARWICH COMMITTEE HANDBOOK

The Board of Selectmen wishes to thank you for giving of your time and effort in the improvement of our community and hope you find this handbook informative and useful.

Objective: This handbook, prepared by the Board of Selectmen, is intended as an aid to assist all Town boards, committees, commissions, and those residents interested in serving on same. The handbook provides a brief description of elected and appointed officials' duties and is a resource to those residents considering applying for a committee. Through service to the community, participants will have a unique opportunity to know the workings of the Town and will find that service a rewarding and informative experience.

Appointing Authority: The Selectmen, in carrying out their duties as prescribed by law and by the votes taken at Town Meetings, make appointments to the Town's committees. The Selectmen's objective is to appoint qualified and interested Harwich residents who broadly represent the Town. During your appointed or elected term, you will work with other volunteer members who are charged with meeting the purpose of the board, committee or commission, addressing specific issues and bringing the best recommendations and/or solutions for Harwich to the Selectmen and/or to Town Meeting.

Important conduct that leads to successful and productive participation include:

- You represent the entire Town, not one segment.
- Single approach solutions, while good for your committee, are not always best for the Town. Be open to all of the ideas and possible solutions.
- All plausible solutions need to be explored and many factors taken under consideration, including one-time capital costs as well as ongoing annual costs. Your decision must consider impacts on other programs or plans.
- There can be no appearance that a committee member is predisposed either positively or negatively towards the matter under consideration. In all such cases the committee member must recuse her/himself (remove oneself from the discussion and vote). If aware of the situation, the Committee Chair should ask the committee member to consider the need to recuse
- Discussion and decisions should follow the concept: what is in the best interests of the entire community.

References and resources: Other references and resources the board, committee or committee member should review and consider include:

State statutes outline the powers and duties of many boards, committees, commissions
Harwich Home Rule Charter and General Bylaws as adopted by Town Meeting
Annual Town reports and Harwich Staff, Open Meeting and Conflict of Interest Laws

I CODE OF ETHICS AND CONDUCT FOR MEMBERS OF BOARDS, COMMITTEES & COMMISSIONS (Appendices D, K and L)

The acceptance of this Code of Ethics implies a basic understanding of it as it relates to the laws of the Commonwealth of Massachusetts, the Charter, General Bylaws and administrative code of the Town.

The oath of office binds individual members to adherence to those state laws that apply to all areas of municipal government that comes under this jurisdiction.

This code of ethics delineates these areas of responsibility to all members of Boards, Committees and Commissions whether elected or appointed "Regular" or "Special Municipal Employees" as defined under Massachusetts General Laws, Chapter 268A

II COMMUNITY RESPONSIBILITY. A member of any Board, Committee or Commission in relation to his/her community, shall:

1. Realize that his/her basic function is to suggest policy, not administer it, unless otherwise empowered by the laws of the Commonwealth or the Harwich Home Rule Charter. (Appendix B).
2. Realize that he/she is one of a team and should abide by, and carry out, all board decisions once they are made.
3. Be well informed concerning the duties of a board member on both local and state levels.
4. Remember that he/she represents the entire community at all times.
5. Accept the appointment as a means of unselfish service, not benefit personally or politically from his/her board activities.
6. In making all decisions relative to individual appointments, he or she shall avoid political patronage by judging all candidates on merit, experience and qualifications only.
7. Before any vote, he/she shall refuse (shall not) vote on any matter involving an immediate family member (spouse, mother, father, sister, brother) in which he/she has a financial interest. (See Conflict of Interest).
8. Decisions made should support the Town Charter and refrain from putting the Town in positions of liability.

III RESPONSIBILITY TO MUNICIPAL ADMINISTRATION. A member of any Board, Committee or Commission, in his/her relations with administrative officers of the Town, shall:

1. Endeavor to establish sound, clearly defined policies that will direct and support the administration for the benefit of the people in the community.
2. Recognize and support the defined administrative chain of command and refuse to act on complaints as an individual outside the administration.
3. Give the Town Administrator full responsibility for discharging his/her disposition and solution. Therefore, all Boards, Commissions and Committees shall:

- a) Direct all problems or conflicts which cannot be solved in-house to the attention of the Town Administrator.
- b) Direct all legal questions or requests to Town Counsel through the Town Administrator or person designated by the Town Administrator.
- c) Direct all questions or concerns to the Town Administrator. Letters may also be addressed to the Board of Selectmen. However, an initial letter to the Town Administrator will expedite any necessary action and will deal most directly with an issue, which needs to be clarified, changed or corrected. Please remember, however, that the Town Administrator and Board of Selectmen do not have control over issues dealing with other elected officials or committees/individuals appointed by the Moderator.

ACCESS TO TOWN COUNSEL

Department Heads, Committee Chairs and/or designees shall have access to Town Counsel for business requiring legal assistance. Request for information from Town Counsel must be authorized by the Town Administrator. The requests will be in written form, indicate the need for the information and also pose the question. The Town Administrator or appropriate Department Head would submit the question to Town Counsel and report the answer back to the committee

IV RELATIONSHIP TO OTHER BOARD, COMMISSION OR COMMITTEE MEMBERS.

A member of any Board, Commission or Committee, in his/her relations with fellow board members, shall:

1. Recognize that action at official legal meeting is binding and that he/she alone cannot bind the board outside of such meeting.
2. Not make statements or promises of how he/she will vote on matters that come before the Board until he/she has had an opportunity to hear the pros and cons of the issue during a board meeting.
3. Uphold the intent of Executive Session and respect the privileged communication that exists in Executive Session.
4. Make decisions only after all facts on a question have been presented and discussed.
5. Treat with respect the rights of all members of the board, despite differences of opinion.

V PROHIBITED CONDUCT. A member of any Board, Committee or Commission, in accordance with Massachusetts General Law, Chapter 268A, shall (Appendices K and L):

1. Not accept other employment which will impair his/her independence of judgment in the exercise of his/her official duties.
2. Not accept employment or engage in any business or professional activity which will require him/her to disclose confidential information which he/she has gained by reason of his/her official position or authority.

3. Not improperly disclose confidential information acquired by him/her in the course of his/her official duties, nor use such information to further his/her personal interests.
4. Not use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.
5. Not by his/her conduct give reasonable basis for the impression that any person can improperly influence him/her or unduly enjoy his/her favor in the performance of his/her official duties, or that he/she is unduly affected by the kinship, rank, position or influence of any party or person.
6. Not pursue a course of conduct which will raise suspicion among the public that he/she is likely to be engaged in acts that are in violation of his/her trust.
7. Not be influenced in his/her performance of any official act or any act within his/her official responsibility.
8. Not be influenced to commit, or aid in committing or to collude in, or allow any fraud, or make opportunity for the commission of any fraud on the Commonwealth or on a state, county or municipal agency.
9. Not be induced to do or omit to do any acts in violation of his/her official duty.

In addition, the committee member must treat residents, non-residents, petitioners, other committee members and Town employees with respect while performing the duties of the committee. How a committee member reacts with other members of the community will be given major consideration in the decision of whether the individual should be reappointed.

VI COMMITTEE MEMBERSHIP (appendices B, C, D, K, L and M)

DUTIES OF BOARDS, COMMITTEES, COMMISSIONS

Many committees such as the Conservation Commission, the Historical Commission, Planning Board, Zoning Board of Appeals, Council on Aging, Board of Assessors and Board of Health are charged by the applicable laws of the Commonwealth. Upon appointment to one of these committees, you will be given the information about the applicable law by the committee chair.

APPOINTMENTS

All appointments made by the Board of Selectmen or other elected boards are made by majority vote in a regular open meeting. All appointments must be residents in the Town unless otherwise exempted. All Ad-Hoc or Ex-Officio appointments are non-voting members. Section 7-3-1 of the Charter requires all appointed boards, committees and commissions to consist of an odd number of members. Initial appointments by the Board of Selectmen are made from a list of volunteers who have filled out a Citizens Activity Record Form indicating their areas of interest or expertise, kept on file in the Selectmen's Office. Prior to appointment, appointees will be contacted to discuss interests of the individual in serving on a particular committee. Citizens are encourage to attend meetings of their committee of interest to learn about the committee and its role in the community. Written notification of an appointment is made by the Board of Selectmen.

When you receive notification of an appointment, you must contact the Town Clerk to be sworn in. **You must be sworn in by Town Clerk before taking a seat on the committee and before voting on committee matters.**

DURATION OF APPOINTMENT/REAPPOINTMENT

Depending upon the need, vacancy and/or Town Meeting vote, appointment length varies. Some appointments are made for the duration of a project, some yearly, but the most common term for standing committees are terms of three years.

Reappointment is based on an evaluation by the appointing authority of the citizen's contribution to the committee, the desirability of widespread involvement and the changing needs of the committee and the Town. A committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to offer reappointment.

RESIGNATIONS/NON-ATTENDANCE AT MEETINGS

A committee member who is no longer able to serve should resign promptly so that the vacancy may be filled as soon as possible. **Any resignation (either effective immediately or at a certain date in the future) must be submitted in writing to the Town Clerk.** Without a formal notification to the Town Clerk, a vacancy does not exist and a replacement member cannot be appointed. Once the notice is filed, the Town Clerk will notify the members of the board/committee/commission and the Board of Selectmen. When the vacancy occurs, the remaining committee may recommend individuals who have demonstrated an interest in the work of the committee for consideration as a replacement member. They will be considered along with others who have expressed an interest and have filed a Citizens Activity Form. In accordance with Home Rule Charter section 7-2-7, the unexcused absence, without good cause, of a member from four (4) or more consecutive meetings shall serve to vacate the office. When such a vacancy has been created, it shall be filled within thirty (30) days, in accordance with general law.

VIII COMMITTEE LEADERSHIP (appendices F, G, H, I, K)

Unless otherwise specified by Town Meeting Vote, the Chair and other (usually Vice Chair and Clerk) officers of every board, committee or commission are chosen by the voting members of the committee, generally annually(known as reorganization). The name of the Chair should be made known to the Office of the Selectmen to enhance communication with the group. Some committees have responsibility for financial recommendations and budgets addressed elsewhere in this handbook. Any questions pertaining to budgets or procurement process should be directed to the Town Administrator.

If appointments are made by another elected board other than the Selectmen, the members' names must also be given to the Selectmen's Office so that all members will be acknowledged in the Annual Town Report.

KEY RESPONSIBILITIES OF A CHAIR

1. Treat all people including fellow committee members with respect.
2. Schedule and maintain control of the meeting. If an individual or individuals, including committee members, exhibit increasing emotions, call a short recess so that all involved may regain composure.
3. Ensure that the business of the committee/board/commission moves forward in a productive manner.
4. You are not expected to do all of the work. Spread the tasks to other committee members.
5. Remember that your opinion/vote does not have additional weight by virtue of holding the position of Chair.

ADOPTION OF RULES AND REGULATIONS

ROBERTS RULES OF ORDER, NEWLY REVISED, shall generally prevail in conducting all meetings. Copies are available in local bookstores or may be viewed in the Selectmen's office

When a committee is contemplating adopting or amending their specific Rules and Regulations, there is a need to advertise and hold a Public Hearing relative to the proposal before adoption. All Rules, Regulations and/or Rates: notice of such proposed changes shall be advertised two (2) weeks (14 calendar days) prior to the meeting on the proposed changes. Statute allows some committees to adopt Rules, Regulations and Fees, such as the Board of Health, Conservation Commission, Planning Board and Zoning Board of Appeals. Other Committees' Rules, Regulations and Fees must be adopted by the Board of Selectmen. Please refer to Appendix I., Public Hearings, and/or check with the Town Administrator's Office for further details/clarification.

AGENDAS

The meetings which are most productive follow an established order of business. A suggested order of business might be:

1. Executive Session (as needed and as properly noticed to public)
2. Roll Call or attendance
3. Approval of prior meeting minutes
4. Correspondence
5. Scheduled agenda items
6. Reports of Town officials or others
7. Old business
8. New business
9. Adjournment.

VIII MEETINGS (appendices F, G, H, I, K)

OPEN MEETING LAW

The Massachusetts Open Meeting Law is one of the so-called "Sunshine Laws" enacted throughout the country over the past several years and designed to shed some light on the previously obscure area of government decision making. The law is based on the premise that the public is entitled to see the process of government and not simply its end result. Except on very specific cases spelled out in the law, the public and the press now have the right to attend all meetings of government bodies.

WHAT IS A MEETING?

Basically, a meeting occurs any time a quorum (usually a simple majority) of the members gets together and discusses or considers any public business or policy over which the agency has some jurisdiction or advisory power. A quorum shall not meet in private for purposes of deciding or deliberating toward a decision on public business. A meeting must be held in public even if there will be no vote or decision reached. Polling of Board members for a decision prior to an Open Meeting of the Board is illegal and in violation of the Open Meeting Law. Members are allowed to participate remotely using electronic means.

LOCATION

Every committee should establish a regular meeting schedule to suit the needs and convenience of the members; however, they must be scheduled for *public locations* and accessible to the handicapped. Committees are urged to meet in a Town building because meetings in private homes or restaurants may give the appearance of being secret and discourage the public from attending. Space is generally available at Town Hall (call the Selectmen's office 430-7513) or at the Community Center (call 430-7568). Some coordination with other boards and committees for space may be necessary.

VERBAL AND WRITTEN PUBLIC INPUT should be considered as a part of each business agenda for every committee. However, there is no legal requirement to allow input at a meeting. It is at the Chair's discretion.

RECORD KEEPING

State law requires that a committee keep accurate records of its public meeting. The committee must vote to accept all minutes. The records of each regular meeting are public information, and chairs or their designees must maintain a copy of all approved minutes for public inspection. In addition, by law, all approved minutes must be filed with the Town Clerk's office and a copy provided to the appointing authority, (Selectmen). This filing of approved minutes should be completed within two weeks of approval by the committee.

Minutes must include:

- The names of committee members present and absent at the meeting.
- The names of others present, if Executive Session.
- Date, place, time convened, and time adjourned.
- All agreements reached by vote or consensus.

Minutes should include:

- Assignments to committee members.
- Mention of topics discussed.
- Exact wording of all motions, including who made the motion and
- Who seconded. Also, the vote of each member and those members
- Who did not participate in the vote should be recorded.
- Names of additional participants (not press or observers)
- Summaries of discussion.
- Schedule of future meetings

Staff Support. Minutes of meetings are usually done by the clerk of the committee. Some committees may have their members take turns taking the minutes, so that one member is not overly taxed with the responsibility. We realize that occasionally there are some larger projects or Regulatory Boards that would require outside assistance. A committee should not rely on the Town staff to accomplish minute taking. Some standard office supplies and use of the photocopier may be available. Please check with the Town Administrator's office. Some committees may have a budget and paid employees to do the clerical work. Committees appointed by the Selectmen do not have the power of appointment of personnel. Please contact the Town Administrator on all matters relating to personnel.

Public Records Law. The Massachusetts Public Records Law (MGL Chapter 4, Section 7, cl 26) provides right of access to public records, broadly defined to include all documentary materials (except eleven specific exemptions such as personnel and medical files, proposals and bids, and appraisals of property). All minutes, informational data, memoranda and circulating materials of any Town board or committee are usually public information. The committee should consult the Town Administrator's office if questions arise concerning freedom of information.

RECORDINGS

Any person may record a meeting (with the exception of Executive Session) with a tape recorder or any other means of sonic reproduction and/or videotape equipment, provided there is not active interference with the conduct of the meeting. The manner in which this right is exercised is subject to the reasonable direction of the chair.

EXECUTIVE SESSION

Deliberations and votes held in private, commonly called Executive Session are allowed only under strict circumstances as outlined in the Open Meeting Law. Executive Sessions may only be held after convening in an open, public session. Executive Sessions are allowed for discussions and negotiations of a land purchase by the Town;

pending litigation; union negotiations; deployment of security measures, personnel or equipment; individual tax or support issues and certain actions of employees.

IX FINANCIAL MATTERS AND YOUR COMMITTEE

In general, an individual committee only has a budget if one is authorized by Town Meeting or at the time of its formation. If a committee anticipates a need to expend funds, it can request a budget for the next fiscal year through the Town Administrator, or if funds are needed during the fiscal year the Town Administrator should also be contacted. Unless a committee has funds specifically appropriated to it, the committee should not spend or commit to the spending of any funds without first obtaining guidance from the Town Administrator and the Director of Finance.

BUDGET

If your board or committee already has an established budget, prior to November 1, you will receive a budget package from the Town Administrator. The budget package will include directions for filing, time the budget forms must be filed, and other pertinent information. Your committee's annual operating budget form should be filled out and returned to the Town Administrator as instructed in the budget package. Your board or committee might be asked to meet with the Town Administrator, Finance Committee and/or Board of Selectmen to discuss your budget request before the warrant for the Annual Town Meeting goes to press. These meetings usually take place during January to March... The Finance Committee is required by our By-laws to vote on each article in the warrant.

SUBMISSION AND PAYMENT OF BILLS

All requests for payment of bills must be given to the Town Accountant on a bill schedule provided by the Director of Finance and all appropriate receipts must be attached. The bill schedule must be approved and signed by a majority of committee members before the Director of Finance can process any bill for payment. There are very strict laws for collecting, accounting and expending public money. Any questions regarding expenditures should be directed to the Director of Finance or Town Administrator.

COLLECTION OF FEES

If your board or committee charges a fee for any of your services or programs, that money must be kept in a secure place and then turned over to the Town Treasurer with a duplicate accounting of the receipts given to the Director of Finance. To eliminate security problems and facilitate a positive cash flow, plan to turn in whatever money you have on a weekly basis or sooner if the amount exceeds \$100. Please keep in mind that unauthorized expenditures of public money for goods or services are illegal.

PURCHASES/PUBLIC BIDDING REQUIREMENTS

All purchasing must be done in compliance with Massachusetts Public Procurement Law (MGL C30B). In general, committee expenditures will not be large enough to require formal bidding.

Purchases for amounts less than \$1,000 do not require formal bids. Good business practices should be followed

Purchases for amounts between \$1,000 and \$10,000 require three price quotes and the lowest price accepted. The quotes must be in written form.

Purchases/services repair or construction of buildings estimated to cost in excess of \$10,000 require formal bidding procedures.

The Town Administrator's office should be contacted for assistance and guidance for all purchasing and bidding.

CONTRACTS

The Board of Selectmen is the awarding authority for all contracts for the Town (excluding Water, or Library). Recommendation for award should be made by the Committee. If necessary, the Town Administrator or his/her designee can provide detailed information relative to awarding of contracts.

FUND RAISING

Background Information. The provisions of MGL Chapter 44, Section 53A enable a Town committee to raise and disburse funds according to specific procedures.

Procedures. All funds received by the committee go into the Town's General Fund and may not be dispersed by the committee on its own without special arrangements. Arrangements can be made through the Town Administrator and Town Treasurer to establish a special fund or gift account for some purposes which allow a committee to retain control of its funds. This will need to be authorized by a vote of the Board of Selectmen. The Town Administrator should be contacted by the committee for guidelines prior to commencing a special project.

X REPORTING PROCEDURES AND TOWN MEETING (appendices B, E, J)

APPOINTING AUTHORITY

The Town Charter requires that the committee report annually to the Board of Selectmen about the committee's actions, progress and goals. If needed, the committee may also request a meeting with the Selectmen to resolve problems or provide specific updates as needed.

PUBLIC INFORMATION MEETINGS

The success of a committee's endeavors often depends on effective communication with the public. The committee should hold public meetings and hearings when needed both to inform citizens of work in progress and to gain public reaction and response.

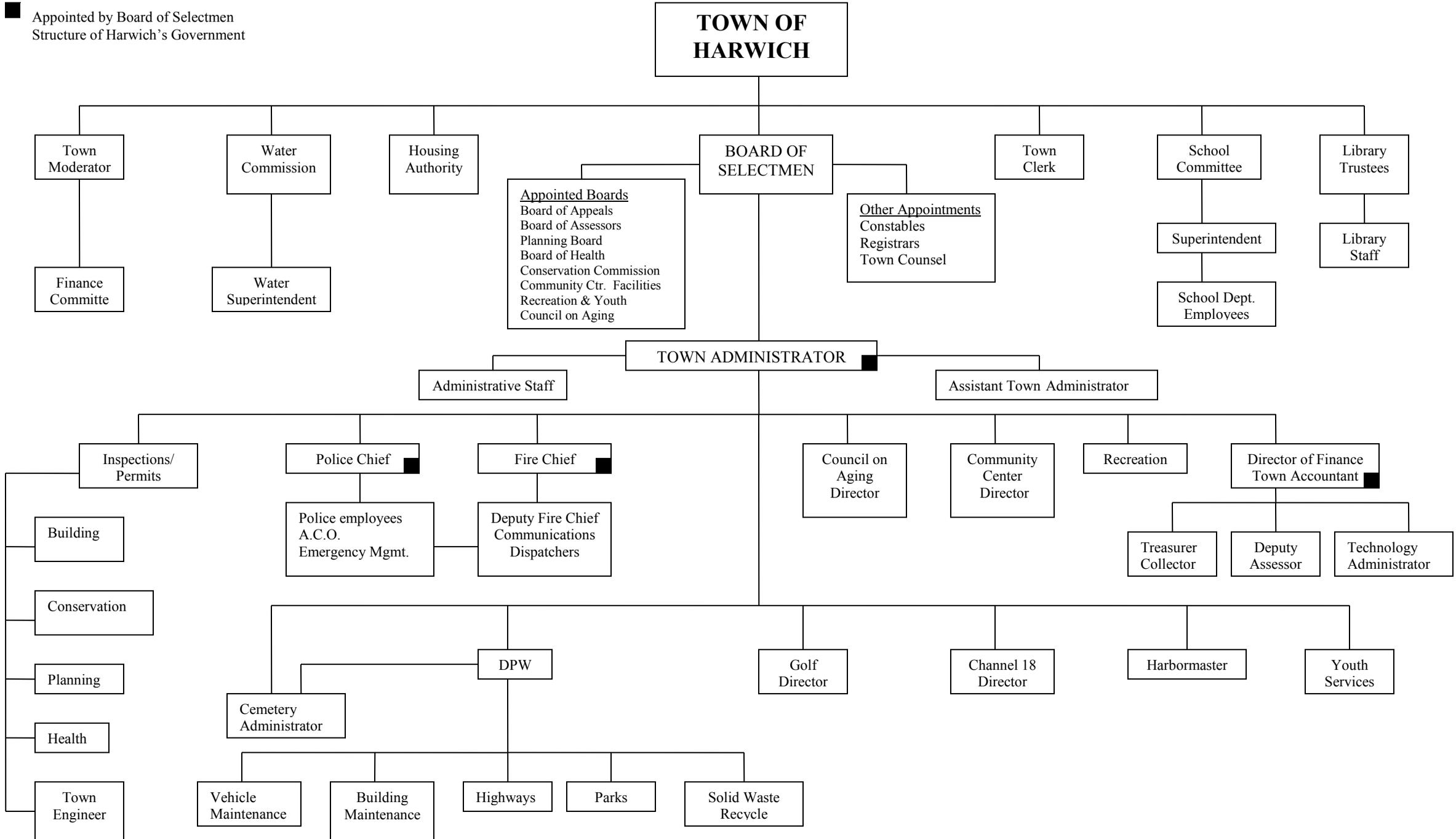
TOWN MEETING

If a relevant article is on the warrant or if the committee's charge specifies a report to Town Meeting, the committee should prepare information for Town Meeting. The committee should make these reports clear, concise and brief, keeping in mind the large number of articles Town Meeting deals with.

A committee may request inclusion of an article in the Town Meeting Warrant by petition to the Selectmen if a majority of the committee consents to the submission. However, if there is a proposed article that might affect another Board, Committee or Commission, the two bodies should meet and be in agreement with the proposed article before submission for inclusion in the Warrant. Articles may be reworded upon advice of Town Counsel. All articles should be submitted in accordance with established deadlines and on proper forms available in the Selectmen's Office. The committee or its chair will be asked to meet with the Town Administrator, Board of Selectmen and Finance Committee prior to Town Meeting to discuss the proposed article. Justification, background information and estimated cost should be submitted with the article when presented. Articles for a Special Town Meeting are to be submitted in the same manner *immediately* after a Special Town Meeting is called. Early submission of *all* articles is desired.

ANNUAL TOWN REPORT

All appointed committees should file an annual report of committee activities for the Annual Town Report. The Chair or other designated member should detail committee membership, including changes, and a one-to-three paragraph explanation of major accomplishments and future plans of the committee. A request for committee reports is issued each year, but are due in the Selectmen's Office no later than the first Friday in January for inclusion in the Annual Town Report.



**APPENDIX B GENERAL PROVISIONS OF HARWICH HOME RULE CHARTER,
CHAPTER 7, SECTION 2, WHICH APPLY TO ALL APPOINTED BOARDS**

- 7-2-1 Multi-member bodies established by this charter shall possess and exercise all powers given to them under the Constitution and laws of the Commonwealth, and shall have and exercise such additional powers and duties as may be authorized by this charter, bylaw or vote of the Town Meeting.
- 7-2-2 All boards, committees and commissions of the Town shall: (a) organize annually; (b) elect necessary officers; (c) establish a quorum requirement (d) adopt rules of procedure and voting; (e) maintain minutes and records of attendance, copies of which shall be public record and regularly filed with the Town Clerk; and (f) nominate prospective employee (s) of their choice who shall then be considered for appointment by the Town Administrator, as provided in clause 4-4-2.
- 7-2-3 All such boards shall meet with the Board of Selectmen at least once in each year.
- 7-2-4 All such boards shall conduct their meetings in accordance with the open meeting provisions of the open meeting law.
- 7-2-5 Members of boards established under this charter may receive such compensation for their services as may be authorized by the Town Meeting, but during the term for which a member is appointed and for one year following expiration of such term, no member of any appointed board shall be eligible to accept any paid position under any such board.
- 7-2-6 Any person duly appointed to any such board shall take up the duties of his/her office immediately

APPENDIX C DESCRIPTIONS OF BOARDS/COMMITTEES/COMMISSIONS

AGRICULTURAL COMMITTEE

ARCHITECTURAL ADVISORY COMMITTEE

BIKEWAYS COMMITTEE

BOARD OF ASSESSORS

BOARD OF HEALTH

The Harwich Board of Health, authority of the Board of Selectmen is vested with the charge of protecting, monitoring and safeguarding the health, safety and welfare of its citizens. The Board of Selectmen appoints members to the Board of Health for a term of three years. Monthly meeting require several hours of preparation as well as several hours in meeting activities. Variables in time commitment are, for example, the nature and the complexity of the issues to be resolved as well as the individual time requirements necessary to produce desired result. Most issues are straight forward.

BOARD OF WATER COMMISSIONERS (elected)

BROOKS ACADEMY MUSEUM COMMISSION

BROOKS FREE LIBRARY BOARD OF TRUSTEES (elected)

Established in 1880, Brooks Free Library was the first free public library in Harwich. It is governed by a seven member elected Board of Trustees. The Trustees' three year terms are staggered, with several positions up for election each year. The Board of Trustees exercises the power and authority and assumes the responsibilities delegated to it under Ch. 78 Sec. 11 of Mass. General Law and the Harwich Home Rule Charter. Section 6.7.2 of the Charter states the Trustees are "responsible for the administration and operation of the Brooks Free Library, including appointment of library staff, acquisitions of books, journals, periodicals, and other materials relating to the library function, and the promulgation of library rules and regulations."

The Board of Trustees acts as an agent of public trust governing the Library and, through the creation of a long range plan, ensures that library services are prioritized to meet the needs of the community. They also advocate for the Library to ensure that sufficient resources are provided to enable the Library to provide those services and meet the needs of community. The Trustees set policy for the Library and they appoint and evaluate the Library Director. The Library Director exercises professional judgment to implement the goals, objectives and policies of the Board and he/she directs the staff and manages daily operations. The Board of Trustees meets monthly, normally on the second Wednesday evening of the month. More information, including the Trustees' By-Laws, the Long Range Plan and the Agenda, Minutes and Report packets for prior meetings can be found on the Trustee section of the Library webpage, www.brooksfreelibrary.org/trustees.asp.

BY-LAW CHARTER REVIEW COMMITTEE

CAPITAL OUTLAY COMMITTEE

The role of the Capital Outlay Committee is to assist the Town Administrator in the effort to develop an annual seven-year capital plan. This plan includes all expenditures of \$50,000 or more, excluding acquisition of land for conservation, open space or watershed protection. The Committee meets monthly, all meetings are open to the public with due notice and the minutes are regularly filed with the Town Clerk. In addition, regular participants include the Town Administrator, the Town Finance Director and a liaison from the Board of Selectmen. Membership of the Committee consists of seven members. Two are appointed by the Board of Selectmen, two by the Town Administrator, one by the Planning and two by the Finance Committee with three-year overlapping terms. All members are actively involved in discussing and addressing the financial issues impacting the Town of Harwich. Committee membership and participation remains strong and stable. By charter, the Town Administrator presents the “Seven-Year Capital Outlay Plan” to the Board of Selectmen and the Finance Committee each December, followed by an advertised public hearing, all subject to ultimate Town Meeting action.

CEMETERY COMMISSION

COMMUNITY CENTER FACILITIES COMMITTEE

The Community Center Facilities Committee is made up of five members appointed for three – year staggered terms, one from the Council on Aging, one from the Youth and Recreation Commission and three at large charged to:

- (1) Establish communications with the Council on Aging, the Recreation and Youth Commission and other community groups and organizations to determine the potential demand for use of the Community Center.
- (2) Develop, implement, and oversee policies and procedures for the use of shared areas of the Community Center and for the general operation of the buildings and grounds, including, but not limited to, procedures for providing balances access to various shared areas; distribution of information as needed to community groups and citizens with respect to those policies; development of procedures for dispute resolution. Adoption of any such policies, including additions or amendments to existing policies, shall be subject to the prior approval of the Board of Selectmen.
- (3) Develop and submit to the Town Administrator, in accordance with established practice, an annual budget for the maintenance and operation of the facility.
- (4) Undertake such other responsibilities relative to the use and maintenance of the facility as the Board of Selectmen may from time to time direct or charge.

- (5) Periodically update the Board of Selectmen as to status of its operations and current or potential problems.
- (6) Meet no less than once per month and maintain minutes of all meetings and file copies of those minutes in a timely fashion with the Town Clerk and the Board of Selectmen.
- (7) No later than December 31st of each year, submit to the Board of Selectmen an annual report suitable for inclusion in the Town Report.
- (8) Observe the requirements of the Open Meeting Law, the Charter of the Town of Harwich, and Roberts Rules of Order in the conducts of its business.
- (9) Refrain from entering into any negotiations, contracts or other discussions or activities which might be perceived as a commitment of an obligation on the part of the Town without prior consultation with and an affirmative vote of the Board of Selectmen.

COMMUNITY PRESERVATION COMMITTEE

Establish communications with the Council on Aging, The Recreation and Youth Commission and other community groups and organizations in order to determine the potential demand for use of the Community Center.

Develop, implement and oversee policies and procedures for the use of the shared areas of the Community Center and for the general operation of the building and grounds, but not limited to, procedures for providing balanced access to the various shared areas; distribution of information as needed to community groups and citizens with respect to those policies; and development of procedures for dispute resolution. Continually look to enhance the building and the publics experience utilizing the facility

CONSERVATION COMMISSION

COUNCIL ON AGING

The Council on Aging Board provides comprehensive support for Harwich's senior population, including services for socialization, information and referral, entertainment, health promotion and education. Through these services and as an advocate for seniors in the community and beyond, the BCOA enhances the quality of life for the town's seniors and their caregivers. Membership to The Board is by appointment by The Harwich Board of Selectmen. There will be 7 members appointed for three year terms. The Board meets at 9:30 AM, the first Wednesday of each month at The COA office located at the Harwich Community Center.

CULTURAL COUNCIL

The Harwich Cultural Council (HCC) works to promote excellence, access, education and diversity in the arts, humanities and interpretive sciences in order to improve the quality of life for our citizens and to contribute to the economic vitality of the community. The council pursues

this mission through a combination of grant programs, partnerships and services for non-profit cultural organizations, schools and artists. The HCC meets regularly on the second Thursday of the month at 4:30 pm in the Thornton Room of the Brooks Free Library.

DISABILITY RIGHTS COMMITTEE

FINANCE COMMITTEE

The Finance Committee (Fincom) is responsible for providing budget and expenditure oversight, including capital expenditures. It also comments on and makes recommendations for all articles in the Annual and Special Town Meeting warrants. The nine members are appointed by the Town Moderator for three year terms (see Town Charter for details). Meetings are held monthly except during budget season (December through April) when they meet considerably more often and for longer. Residents who spend most of the winter here are most helpful to the Finance Committee's mission.

GOLF COMMITTEE

HARWICH HOUSING COMMITTEE

The Harwich Housing Committee is appointed by the Board of Selectmen and is charged by that Board to work toward diverse solutions in addressing the Town's affordable housing shortage as Harwich continues to make progress toward the 10% goal recommended by the Commonwealth of Massachusetts and adopted by the Town. The Housing Committee coordinates with the Harwich Housing Authority and other local and county housing entities in the development of affordable housing initiatives for the Town.

HARWICH HOUSING AUTHORITY (elected)

The Harwich Housing Authority was organized and exists pursuant to Massachusetts General Laws, Chapter 121B, Section 3, and is composed of a five-member Board of Commissioners responsible for policy making and general administration of the Authority. Four members are elected by Town voters and the fifth is appointed by the Commonwealth. The Harwich Housing Authority has a Management Agreement with the Chatham Housing Authority (CHA) to be jointly operated by the CHA staff and operates out of the CHA office at 240 Crowell Road in Chatham. The Harwich Housing Authority's mission is to build, maintain and administer affordable community housing to residents, with particular attention to the elderly, disabled and families. We assist those not only in Harwich but across the Commonwealth who have difficulty in finding affordable, safe and adequate housing to rent or buy.

HISTORIC DISTRICT/HISTORICAL COMMISSION

PLANNING BOARD

The Planning Board, as authorized and established in accordance with Chapter 7, Section 5 of the Town Charter, and in accordance with Chapter 41, Section 81A of the Massachusetts General Laws has been established to adopt a Master Plan and Official Map for the Town of Harwich. In

addition it studies and makes recommendations to the Town Administrator and to the Board of Selectmen on matters concerning the physical, economic, and environmental development of the town. The Planning Board has further regulatory responsibilities delegated under the state Subdivision Control Act (M.G.L. Ch. 41, Sections 81K-81GG) including the review of subdivisions plans. In addition it serves as a special permit granting authority. The Planning Board is comprised of seven full members and two alternate members, all appointed by the Board of Selectmen for 3-year overlapping terms. Officers include a Chair and a Vice Chair/Clerk. The Planning Board generally meets twice a month with one meeting focusing on regulatory reviews and one meeting reserved for general planning business. From time-to-time, subcommittees of the Planning Board are created or a series of working sessions are established to provide a more detailed look at an important planning issue.

REAL ESTATE AND OPEN SPACE COMMITTEE

RECREATION AND YOUTH COMMISSION

The Recreation and Youth Commission for the Town of Harwich is a 7-member Commission whose primary responsibilities are setting policy and fees, as well as, the oversight of the Recreation and Youth Department Annual Budget. Oversight includes Town Parks, Fields, Beaches and Memorial Squares. Members of the Recreation and Youth Commission are appointed by the Harwich Board of Selectmen to 3-year terms.

SAQUATUCKET HARBOR DEVELOPMENT COMMITTEE

TRAILS COMMITTEE

TRAFFIC COMMITTEE

TREASURE CHEST COMMITTEE

UTILITY & ENERGY CONSERVATION COMMISSION

This Commission consists of five individuals appointed by the Board of Selectmen for overlapping three year terms. The commission is an advisory group for the selectmen. No budget has been established. The mission of the commission is to consider all energy related issues which could affect the town and its residents. They have evaluated energy conservation potential for all town departments and have met with various departments, interfacing with the board of selectmen as required. Any recommendation for action which affects the town are forwarded for approval by the board. Members of the commission have also served as representatives to both the Cape Light Compact and the Cape and Vineyard Electric Coop. Areas recently active for this commission are Energy Conservation, Alternate Energy sources, wind power, solar installations. This commission interacts with the Town Administrator, providing him/her technical support and recommendations for action by the board.

VOTER INFORMATION COMMITTEE

The Committee's purpose is to inform and prepare voters on issues to be addressed at Annual and Special town meetings and the local annual election and to encourage voter registration and participation. The number of members appointed by the Selectmen is eight; the term is for three years. Members remain neutral when acting on behalf of the Town. Meetings are held monthly from September to June. Additional meetings may be held for planning purpose-related programs.

WASTE WATER IMPLEMENTATION COMMITTEE

WATERWAYS COMMITTEE

The Harwich Waterways Committee consists of 7 members and 2 alternates that are appointed by the Board of Selectmen for 3-year overlapping terms and shall be an advisory committee for the BOS. The Committee shall be responsible for the development of regulations for all waterways, ramps, docks, piers, moorings and aquaculture as specified in the Harwich Harbor Management Plan.

YOUTH SERVICES

The Harwich Youth Services Committee consists of 5 members and 1 alternate that are appointed by the Board of Selectmen for 3-year overlapping terms and shall be an advisory committee for the Harwich Youth & Family Counselor. The Committee shall support the work of the Youth & Family Counselor, as well as collaborating with community and regional organizations to support healthy choices for Harwich teens. Input from Harwich youth is welcome and teenagers are welcome to apply for junior membership status.

ZONING BOARD OF APPEALS

The Harwich Zoning Board of Appeals in accordance with the Town of Harwich By-Laws hears and decides zoning appeals, applications for special permits and petitions for variances. The Board consists of 5 regular members and 5 associate members. The Board annually elects a Chair and one regular member who serves as the Clerk. The Board meets year round on the last Wednesday each month at 7PM. The files for hearings are distributed ahead of the meetings for review by its members.

APPENDIX D POLICY ON APPOINTMENTS AND REAPPOINTMENTS TO COMMITTEES/COMMISSIONS/BOARDS as Adopted at a Public Meeting of the Board of Selectmen on January 30, 2012

A subcommittee of two (2) members of the Board of Selectmen (BOS) will conduct interviews and make recommendations to the full BOS for appointments to the various boards, committees and commissions (BCC) for which they are given the appointment responsibility. The members of the two person interview committee will be voted during the annual reorganization of the BOS.

The Interview Committee (IC) may, at its discretion, discuss position requirements or specific candidates with the appropriate BCC Chair. A BCC Chair could also participate in the interview process if the IC considers this beneficial. The IC shall interview the candidates seeking the appointment to the specific BCC.

Upon completion of the interview process, all applicants will be notified of the results of the interviews and the date that the IC will make its recommendation to the full BOS. If after the discussion, the BOS is not in agreement by majority vote with any one of the recommended appointees, the IC or the full board can re-interview candidates, seek new candidates or request additional candidates.

Upon appointment by the full board, the appointee will be notified in writing by the Town Administrator's office of the appointment to the BCC and the term of the appointment. The appointee will also be instructed to be sworn in by the Town Clerk before taking any action at a meeting of the BCC.

It should be noted that, from the Town of Harwich Committee Handbook, Section III C, that "a committee member is under no obligation to accept reappointment nor is the appointing authority obligated to offer reappointment"

Attendance

As BCC members have routine meeting nights, members are expected to give high priority to attending and participating in scheduled meetings. Members are expected to notify the Chair of their BCC if they will not be in attendance. Chairs are expected to maintain attendance records. Individual attendance history will be considered by the IC when assessing reappointments.

In the case of extended or numerous absences, the BCC Chair will:

1. Notify the IC of members who have had 4 or more consecutive unexcused absences
2. The IC shall determine whether there was good cause for the absences by contacting the individual directly, in writing.
3. After such a review is completed, the results will be sent, in writing, to the individual, the BCC Chair and to the BOS. If the review indicates that the position has been essentially vacated, written notice will be sent by the IC to the individual and the process to fill a vacancy will be followed.

Appointment to Fill Vacancy

Upon written notification to the BOS that an appointed position on a BCC has been determined to be vacant, the following shall be initiated:

1. Notice of vacancy to be posted for a minimum of seven (7) days.
2. Posting to be made on town website, through press release, and on the public bulletin board at Town Hall.
3. Interested parties will be required to complete and submit to the Town Administrator's Office the Citizens Activity Record Form.
4. The IC will then follow the process as listed above, under appointments/reappointments.

Code of Conduct of Appointed BCC Members

All appointed BCC members will be given a copy of the Committee Handbook by the Town Clerk upon being sworn in as a BCC member. The appointee is required to review this handbook and be familiar with the responsibilities and conduct expected of a member of a BCC of the Town of Harwich.

Any concerns regarding a BCC member's ability to meet the responsibilities or conduct as outlined in the Committee Handbook will be referred to the IC for review. The results of this assessment will be reviewed with the member. The IC will then report to the BOS as appropriate. A recommendation of removal is warranted if the IC finds that the member has not performed the responsibilities of the position for a sustained period or that his/her conduct has not been consistently within the bounds of the standards as outlined in the Committee Handbook. If a recommendation to remove is made, the member will be notified in writing prior to the report to the full BOS.



**CITIZENS ACTIVITY RECORD FORM
ACT NOW -- SERVE YOUR COMMUNITY**

Town government needs citizens who are willing to give time in the service of their community. The Citizens Activity Record program was adopted by the Selectmen as a means of compiling names of interested citizens to serve, on a voluntary basis, on Boards and Committees.

Activity records are being updated to include categories consistent with the changing needs of the Town. Indicate your order of preference and return this form to:

**CITIZENS ACTIVITY RECORD PROGRAM
BOARD OF SELECTMEN
732 Main Street, Harwich, MA 02645**

Name _____ Street/P.O. Box _____ Town _____ Zip _____

Occupation _____ Email _____ Telephone _____

(LIST IN ORDER OF PREFERENCE)

PLANNING AND PRESERVATION

- Agricultural Commission
- Architectural Advisory Committee
- ***Board of Appeals**
- Brooks Academy Museum Commission
- Building Code Board of Appeals
- By-law/Charter Review Committee
- Community Preservation Committee
- ***Conservation Commission**
- Cultural Council
- Historical/Historic District Commission
- Middle School Repurpose Committee
- ***Planning Board**
- Real Estate, Open Space & Land Bank Committee
- Town Forest Committee
- Traffic Safety Committee
- Trail Committee
- Utility & Energy Conservation Commission
- OTHER _____

OTHER

- ***Board of Assessors**
- ***Board of Health**
- Capital Outlay Committee
- Cemetery Commission
- Community Center Facilities Committee
- Constable
- Council on Aging
- Disability Rights Committee
- Finance Committee
- Harwich Housing Committee
- Herring Supervisor (Voluntary)
- Saquatucket Development Committee
- Shellfish Constable (Voluntary)
- Treasure Chest Volunteers
- Wastewater Implementation Committee
- Youth Services Committee
- Voter Information Committee

RECREATION

- Bikeways Committee
- Golf Committee
- Recreation & Youth Commission
- Waterways Committee

*please include resume

EDUCATIONAL BACKGROUND:

RELEVANT SKILLS:

REASONS FOR INTEREST IN COMMITTEE/COMMISSION/BOARD:

APPENDIX E GOVERNMENTAL CALENDAR

Massachusetts General Laws, Harwich Home Rule Charter, Harwich By-Laws and tradition are all factors in the fiscal calendar of governmental events in Harwich. The following is a guideline for your committee and its plans.

OCTOBER

1

Town Administrator presents Board of Selectmen with the current financial assessment of the Town including the latest estimated revenues for the ensuing year.

1st Tuesday

Board of Selectmen, after consulting with the Town Administrator, issues a general policy statement to guide the Town Administrator in developing budget requests for the ensuing year.

NOVEMBER

1

Capital Outlay Committee submits 5-year capital plan to Town Administrator.

1st Friday

All departments, committees, commissions and boards shall submit budget requests for the ensuing year to the Town Administrator.

DECEMBER

1ST Monday

Town Administrator submits Capital Plan to the Board of Selectmen/Finance Committee.

JANUARY

Board of Selectmen submits Capital Outlay Plan to Finance Committee.

1st Friday

Yearly departmental reports are due in the Selectmen's Office for inclusion in the Annual Town Report. All reports submitted should be typewritten and ready for printer for publication and distribution at the end of April.

2nd Friday

Board of Selectmen and Finance Committee meet jointly on Capital Plan.

2nd Tuesday

Town Administrator submits to Board of Selectmen a comprehensive budget for all Town functions for the ensuing fiscal year and shall submit a budget message.

3rd Friday

Deadline for submission of Warrant articles. Submission forms available at the Selectmen's Office. Exact verbiage and estimated cost, if any, should be submitted at this time. All items to be bid must have specifications in Town Administrator's Office no later than February 15th to be assured of bid figures for Town Meeting.

JANUARY &

Departmental budget hearings with Board of Selectmen and Finance

FEBRUARY

Committee.

MARCH

1st Tuesday

Selectmen submit to Finance Committee a budget which has been approved with or without amendments to the Town Administrator's proposed budget.

During March, Finance Committee conducts hearing on budget and issues written recommendation on warrant/budget.

APRIL

Last Week

Annual Town Reports and Warrants available in Town Administrator's Office.

MAY

1st Week

Annual Town Meeting

3rd Week

Annual Town Election

JUNE

Annual appointments/re-appointments for most Committees begins.

APPENDIX F INSTRUCTIONS ON POSTING MEETING AGENDAS, MINUTES AND NOTICES TO THE TOWN WEBSITE FOR OFFICIAL RECOGNITION

By law, it is the responsibility of the committee to give notice to the Public at least forty-eight hours (excluding Saturdays, Sundays and Holidays) prior to the committee's meeting with time, date and place and the agenda... All meetings should be posted in compliance with the Open Meeting Law. It is important to include with the agenda, minutes of the last meeting and any supporting documents or information relating to agenda items.

The Board of Selectmen has adopted a policy requiring meeting notices and agendas to be **submitted at the latest by noon on Thursday the week preceding the meeting**. This will allow for a more timely distribution and in some cases be required to meet the 48 hour requirement.

The office of the Town Clerk is responsible for maintaining a current listing of all posted meetings on the bulletin board at Town Hall as well as maintaining the official minutes and all other formal records for the Town of Harwich. After a set of minutes is approved by the Board, Committee or Commission, a copy shall be delivered to the office of the Town Clerk, complete with an original signature as approval for the minutes.

Posting Instructions for Official Recognition

Note that a copy of these emails are sent directly to the staff at Channel 18, Technology Administrator and office of the Town Clerk.

Agendas may be emailed to agenda@town.harwich.ma.us.

Minutes may be emailed to minutes@town.harwich.ma.us

A board, committee or commission may also opt to post their notices themselves directly to the Town website by obtaining a user name and password from the Technology Administrator at Town Hall.

APPENDIX G PROCEDURE FOR REMOTE PARTICIPATION as Adopted at a Public Meeting of the Board of Selectmen on January 9, 2012

Remote Meeting Participation is authorized by amended Open Meeting Law regulation and is available to all municipal Boards, Committees and Commissions in accordance with the Attorney General's CMR 29.10 issued on November 11, 2011 (see attached) and approved by a vote of the Board of Selectmen on December 12, 2011. The Board of Selectmen on January 9, 2012 further adopted these local procedures for remote participation so long as a quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location.

1. The Town of Harwich will limit remote participation to audio communication only.
2. A member of a Board, Committee or Commission who cannot attend a meeting for one or more of the five permissible reasons, must notify the chair/ acting chair that they qualify for and wish to participate remotely, or acting chair if the chair is seeking remote participation, and the chair /acting chair shall notify the Information Technology Director for set up of the tele-conference machine in a meeting room with a phone jack at least 24 hours prior to the scheduled meeting. (A cell phone with speaker phone or voice skype is an acceptable alternative technology but must be clearly audible to one another).
3. Chair or Acting Chair shall identify for the record any or all remote participants at the start of the meeting.
4. To assure accurate votes taken during the meeting, the Chair shall specifically ask for the remote participant's vote.
5. The meeting minutes shall reflect the member who participated by remote access.
6. Members are allowed to participate remotely up to three times per calendar year. If circumstances warrant an extension longer than three remote participations per year, the Board of Selectmen must vote to grant such extension.
7. Remote participation shall be limited to two (2) members at any meeting.
8. Cost of remote participation shall be borne by the remotely participating member.

The five permissible reasons allowed for remote participation are:

1. Personal illness;
2. Personal disability;
3. Emergency;
4. Military service; or
5. Geographic distance

APPENDIX H EXECUTIVE SESSION

Procedures for Convening an Executive Session

1. Executive Session must be convened in open meeting and prior public notice given. Cannot convene into Executive Session unless properly noticed or there is a clear emergency situation, for example, a threat to the health and welfare of the public.
2. The public notice must contain the specific time that the session will begin and the specific time that the Committee will reconvene in open session. Suggestion: schedule executive sessions either at the beginning of the meeting or at the end, for the convenience of the public.
3. Chair announces the specific purpose of the Executive Session. Note that the specific purpose of the Executive Session must be on the public meeting notice.
4. Majority present must vote in recorded roll call for Executive Session.
5. Chair announces, prior to entering into Executive Session, whether the meeting will reconvene in open session.
6. Votes taken to enter, during and to exit Executive Session must be recorded roll call votes.
7. If Committee, during Executive Session, takes final action on an item, must announce that action in the public session. For example, signing of a contract.
8. The Chair may or may not allow other people to be present for the Executive Session. These allowed attendees are bound to hold the proceedings of the Executive Session in confidence.

Reasons for Convening Executive Session - (M.G.L. ch 39, § 23B)

1. To discuss the reputation, character, physical condition or mental health – rather than professional competence – of an individual. (See Rights of Individuals).
2. To consider the discipline or dismissal of, or to hear complaints or charges brought against a public officer, employee, staff member or individual. (See Rights of Individuals).
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the government's bargaining or litigating position. Also, to conduct strategy sessions in preparation for negotiations with non-union personnel; to actually conduct collective bargaining and contract negotiations with non-union personnel.
4. To discuss the deployment of security personnel or devices, e.g., a sting operation.
5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.
6. To consider the purchase, exchange, taking, lease, or value of real property if such discussion may have a detrimental effect on the negotiating position of the governmental body.
7. To comply with the provisions of any general or special law or federal grant-in-aid requirements (generally privacy).
8. To hold an initial screening, (including interviews if they are part of the initial screening process) of candidates for employment if an open meeting would have a detrimental effect in obtaining qualified candidates.

Suggested Language for the public meeting notice

These are examples for the notice to the public to be included directly on the agenda as posted. If additional guidance is needed, please contact the Town Administrator. This wording should also be used for the motion to enter into Executive Session.

Pursuant to M/G.L. Ch.30A, Sec 21(a)(6) to discuss the purchase, exchange ,lease or value of real property if an open meeting may have a detrimental effect on the negotiating position of the Committee and the Chair so declares-*(enter the name of the property or the project here)*

Pursuant to M.G.L. Ch. 30A, Sec 21(3) to discuss strategy with respect to potential litigation if an open meeting may have a detrimental effect on the litigating position of the public body and the Chair so declares-*(enter the name of the litigant here)*

Pursuant to M.G.L. Ch..30A Sec1(3) to discuss strategy with respect to collective bargaining if an open meeting may have a detrimental effect on the bargaining position of the Committee and the Chair so declares-*(the name of the bargaining unit here)*

Rights of Individuals

1. When a governmental body wishes to discuss the reputation, discipline or dismissal of an individual, it must notify that person in writing at least 48 hours in advance of meeting.
2. The individual may request that the meeting be held in the open.
3. If an Executive Session is held, the individual has the right to be present during discussion that pertains to him or her, to have counsel or a representative of choice present, and to speak on his or her own behalf.
4. Any individual may tape-record, or videotape from one or more designated locations determined by the governmental body, as long as there is no active interference with the meeting. This right does not apply to Executive Sessions.

Board of Selectmen Policy on release of executive session minutes, as approved by the Board of Selectmen August 29, 2011

It shall be the policy of the Board of Selectmen that minutes from Executive Sessions for all Town committees, commissions and boards shall be made public in accordance with the following guidelines:

General Rule

Minutes from an Executive Session must be made public when the reason or basis upon which the Executive Session was held no longer exists. When this occurs, there is an obligation on the part of the committee, commission or board which commenced the Executive Session to release the minutes.

Protocol for Releasing Executive Session Minutes

In order to comply with the General Rule, the board of Selectmen has adopted the following procedure:

1. A master list of all Executive Sessions should be maintained by each committee, commission or board, which should include the date and a short description of the reason(s) for commencing the session (i.e. litigation, contract negotiation, etc.)
2. Each month, the list should be reviewed by the appropriate administrative staff and by Town Counsel if judged necessary. Those minutes which appear to qualify for release under the General Rule shall then be placed on the next meeting agenda of that committee, commission or board in Executive Session to take action on the issue of releasing same. If the committee, commission or board votes to release, the minutes will be made public following that meeting.
3. Bi-annually, the master list of Executive Sessions should be presented to the committee, commission or board for their review and disposition.
4. Specific requests for release of Executive Session minutes from third parties should be responded to by the appropriate administrative staff after input from the members of that committee, commission or board and Town Counsel if judged necessary.

APPENDIX I CONVENING/CONDUCTING PUBLIC HEARINGS

Those serving on the Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, or the Board of Health, occasionally will be required to hold a public hearing in accordance with Massachusetts General Laws. Hearings are held for the purpose of gathering information from which to draw a conclusion and a decision reached. Approved meeting minutes will be posted on the Town web site in a timely manner.

Written notices, the initiation of the hearing, and the written conclusions of a hearing may have strict legal time limitations that vary with the nature of the hearing and the Board. Several procedures are common to all hearings. The chair or other designated person should run the hearing. All questions should be directed to the chair who, in turn, may ask for a response from the floor. If a member of the Committee is not present for the public hearing and the hearing is continued, that member may vote at the continuance meeting by watching the tape of the hearing, reading the minute notes and reviewing other pertinent documentation.

An important aspect of the hearing process is that a decision must be based on the testimony and evidence submitted at the hearing or, if written, entered into the record at the hearing. The decision must be based on facts and cannot be arbitrary. Hearsay and emotions are not evidential.

Public hearing notice must be published in an area newspaper. Must include date, time, place and clear purpose of the Public Hearing. (Appendix or section note). Please check with the staff in the office of the Town Administrator for specific procedures.

Chair opens the public hearing at the appointed time by reading the notice to the public (some committees have another member of the committee read the notice). Chair state the guidelines for giving testimony and states time allowance if restricted before any testimony is given.

There is generally a presentation as to the purpose of the hearing, pertinent information, and issues to be addressed.

The question are asked first by the Committee, and then by the Public.

When there are no further questions or comments, the Chair requests a motion to close the Public Hearing. Motion needs to be seconded and voted by the Committee.

Committee discusses the information and issues concerning the purpose of the Public Hearing.

The Committee may decide to:

1. Vote to take a specific action.

Or

2. Request additional information- in which case there would be a motion to continue the Public Hearing. If the motion is to continue the Hearing to a specific date (known as the Date Certain), then there is no requirement to re advertise the continuance.

APPENDIX J GUIDELINES FOR SUBMISSION OF AN ARTICLE FOR TOWN MEETING

In order to create a consistent process, the Board of Selectmen hereby adopts this set of instructions and format for the submission of articles to be considered for inclusion in the authorized warrant for regular town meeting or for special town meeting, including private petition articles. This policy does not alter the existing requirements to include an article in a published and authorized warrant, including but not limited to public hearings and committee support. These instructions only outline the information to be presented for the submission of the proposed article.

Since the Community Preservation Committee and the Capital Outlay Committee have established separate submission procedures for projects to be considered for funding, that submission packet will meet these requirements.

The Town Administrator will be available in advance of submission for a review of the draft information, so that your concept will be clear and will be more able to pass legal review by town counsel.

Format/Information for Submission of Article

1. Title of Article
2. Sponsored by: person's name, and town department/committee/commission/board or external organization
3. Contact information: telephone and/or email address
4. Date Submitted
5. Text of Article (may require rewording based on review by Town Counsel)
6. Funding Requested, how calculated
7. Proposed Source(s) of Funding
8. Discussion of purpose of Article. Include anticipated benefits to Community and other rationale for the article, including what you hope to accomplish.
9. Will article require changes to existing by-laws or zoning or town charter or any other existing regulation, by vote of town meeting, home rule petition or town wide ballot?
 - a. No___ Yes___ please explain.
10. Will Article require a public hearing? No___ Yes___ If yes, date scheduled
11. Will passage of this Article create on-going operating expenses such as maintenance and/or repairs? No___ Yes___ If yes, how will these expenses be funded?
12. Is this required to be included in the capital outlay recommendations? If so, is it?_____

13. Attachments as needed to support the article. Including but not limited to maps, charts, deeds, cost estimates, budgets, income estimates to offset expenses, professional assessments, reports from town committees/commissions/boards as appropriate
14. If a private petition article, attach the completed signature page, with signatures of 10 registered voters for Annual Town Meeting and 100 for Special Town Meeting.

For Town Meeting/Special Town Meeting of _____

Title of Article: _____

Sponsored by: _____
Person's name

Town department/committee/commission/board or other organization as necessary:

Contact information:

Telephone number: _____

Email: _____

Date Submitted: _____

Text of Article (attach on separate sheet if more space necessary)

Funding Requested, how calculated

Proposed Source(s) of Funding

Discussion of purpose of Article. Include anticipated benefits to Community and other rationale for the article, including what you hope to accomplish.

Will article require changes to existing by-laws or zoning or town charter or any other existing regulation, by town meeting vote, home rule petition or town wide ballot?
No___ Yes___ please explain

Will Article require a public hearing? No___ Yes___ If yes, date scheduled

Will passage of this Article create on-going operating expenses such as maintenance and/or repairs? No___ Yes___ If yes, how will these expenses be funded?

Is this required to be included in the capital outlay recommendations? If so, is it?

APPENDIX K. THE OPEN MEETING LAW

THE COMMONWEALTH OF MASSACHUSETTS OPEN MEETING LAW, G.L. c. 30A, §18-25

* * *

Chapter 28 of the Acts of 2009, sections 17–20, repealed the existing state Open Meeting Law, G.L. c. 30A, §§ 11A, 11A-1/2, county Open Meeting Law, G.L. c. 34, §9F, 9G, and municipal Open Meeting Law, G.L. c. 39, §§ 23A, 23B, and 23C, and replaced them with a single Open Meeting Law covering all public bodies, G.L. c. 30A, §§ 18-25, enforced by the Attorney General.

* * *

SECTION 18: [DEFINITIONS]

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“**Deliberation**”, an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

“**Emergency**”, a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

“**Executive session**”, any part of a meeting of a public body closed to the public for deliberation of certain matters.

“**Intentional violation**”, an act or omission by a public body or a member thereof, in knowing by violating the open meeting law.

“**Meeting**”, a deliberation by a public body with respect to any matter within the body’s jurisdiction; provided, however, “meeting” shall not include: (a) an on-site inspection of a project or program, so long as the members do not deliberate; (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate; (c) 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; (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or (e) a session of a town meeting convened under section 10 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

“**Minutes**”, the written report of a meeting created by a public body required by subsection (a) of section 23 and section 5A of chapter 66.

“**Open meeting law**”, sections 18 to 25, inclusive.

“**Post notice**”, to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

“**Preliminary screening**”, the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview. “**Public body**”, a multiple-

member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

“**Quorum**”, a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

SECTION 19. [DIVISION OF OPEN GOVERNMENT AND ADVISORY COMMISSION]

(a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor. (b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in: (1) the general background of the legal requirements for the open meeting law; (2) applicability of sections 18 to 25, inclusive, to governmental bodies; (3) the role of the attorney general in enforcing the open meeting law; and (4) penalties and other consequences for failure to comply with this chapter. (c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee. The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate. (d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

- (1) the number of open meeting law complaints received by the attorney general;
- (2) the number of hearings convened as the result of open meeting law complaints by the attorney general;
- (3) a summary of the determinations of violations made by the attorney general;
- (4) a summary of the

orders issued as the result of the determination of an open meeting law violation by the attorney general; (5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions; (6) the number of actions filed in superior court seeking relief from an order of the attorney general; and (7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

SECTION 20. [NOTICE, REMOTE PARTICIPATION, PUBLIC PARTICIPATION, CERTIFICATION]

(a) Except as provided in section 21, all meetings of a public body shall be open to the public. (b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. (c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located. For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose. For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose. The attorney general shall have the authority to prescribe or approve alternative methods of notice where the attorney general determines such alternative will afford more effective notice to the public. (d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39. (e) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings. (f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting. (g) Within 2 weeks of

qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

SECTION 21. [EXECUTIVE SESSIONS]

(a) A public body may meet in executive session only for the following purposes: (1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights: i. to be present at such executive session during deliberations which involve that individual; ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session; iii. to speak on his own behalf; and iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense. The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual. 2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel; 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares; 4. To discuss the deployment of security personnel or devices, or strategies with respect thereto; 5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints; 6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body; 7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements; 8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening; 9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that: (i) any decision to participate in mediation shall be made in an open session and the parties,

issues involved and purpose of the mediation shall be disclosed; and (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or 10. to discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy. (b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that: 1. the body has first convened in an open session pursuant to section 21; 2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes; 3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called; 4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and 5. accurate records of the executive session shall be maintained pursuant to section 23.

SECTION 22. [MINUTES, RECORDS]

(a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes. (b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes. (c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days. (d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session. (e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt. (f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the

executive session was held in compliance with section 21. When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure. For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure. (g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting. (2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

SECTION 23. [COMPLAINTS, REMEDIES]

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law. (b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension. (c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to: (1) compel immediate and future compliance with the open meeting law; (2) compel attendance at a training session authorized by the attorney general; (3) nullify in whole or in part any action taken at the meeting; (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation; (5)

reinstate an employee without loss of compensation, seniority, tenure or other benefits; (6) compel that minutes, records or other materials be made public; or (7) prescribe other appropriate action. (d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review. (e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance. (f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law. Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (b). In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law. (g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel. (h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

SECTION 24. [INVESTIGATIONS, HEARINGS]

(a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the

person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county. (b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination. (c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business. (d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying. (e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth. (f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court. (g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

SECTION 25. [REGULATIONS, LETTER RULINGS, ADVISORY OPINIONS]

- (a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law. (b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

APPENDIX L CONFLICT OF INTEREST - M. G. L. Chapter 268A AND MANDATORY TRAINING REQUIREMENTS

In General:

- You may *not* ask for anything or accept anything (regardless of its value), if it is offered in exchange for your agreeing to perform or *not* perform an official act.
- You may *not* ask for or accept anything worth \$50 or more from anyone with whom you have official dealings. Examples of regulated “gifts” include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes and complimentary tickets to charitable events. If a prohibited gift is offered: you may refuse or return it; you may donate it to a non-profit organization, provided you do *not* take the tax write-off; you may pay the giver the full value of the gift; or in the case of certain types of gifts, it may be considered a “gift to your public employer”, provided it remains in the office and does *not* ever go home with you. You may *not* accept honoraria for a speech that is in any way related to your official duties, unless you are a state legislator.
- You may *not* hire, promote, supervise or otherwise participate in the employment of your immediate family or your spouse’s immediate family.
- You may *not* take any type of official action which will affect the financial interests of your immediate family or your spouse’s immediate family. For instance: you may *not* participate in licensing or inspection processes involving a family member’s business.
- You may *not* take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director or trustee. For instance: you may *not* take any official action regarding an “after hours” employer, or its geographic competitors; you may *not* participate in licensing, inspection, zoning or other issues that affect a company you own, or its competitors; if you serve on the Board of a non-profit organization, you may *not* take any official action which would impact that organization, or its competitors.
- Unless you qualify for an exemption, you may *not* have more than one job with the same municipality or county, or more than one job with the state.
- Except under special circumstances, you may *not* have a financial interest in a contract with your public employer. For instance: if you are a town employee, a company you own may

not be a vendor to that town unless you meet specific criteria, the contract is awarded by a bid process, and you publicly disclose your financial interest.

- You may *not* represent anyone but your public employer in any matter in which your public employer has an interest. For instance: you may *not* contact other government agencies on behalf of a company, an association, a friend, or even a charitable organization.
- You may *not* ever disclose confidential information, data or material which you gained or learned as a public employee.
- Unless you make a proper, public disclosure – including all the relevant facts – you may *not* take any action that could create an appearance of impropriety, or could cause an impartial observer to believe your official actions are tainted with bias or favoritism.
- You may *not* use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance: you may *not* approach your subordinates, vendors whose contracts you oversee, or people who are subject to your official authority to propose private business dealings.
- You may *not* use public resources for political or private purposes. Examples of “public resources” include: office computers, phones, fax machines, postage machines, copiers, official cars, staff time, sick time, uniforms, and official seals.
- You may *not*, after leaving public service, take a job involving public contracts or any other particular matter in which you participated as a public employee.

MANDATORY TRAINING REQUIREMENTS

Mandatory educational requirements under the Ethics Reform Bill

Summary of the Conflict of Interest Law for Municipal Employees

By December 28, 2009, and on an annual basis thereafter, all current municipal employees must be provided with this summary of the conflict of interest law. Municipal employees hired after December 28, 2009, should be provided with the summary within 30 days of the date on which they commence employment, and on an annual basis thereafter. Every municipal employee is required to sign a written acknowledgment that he has been provided with the summary.

Online Training Program

www.mass.gov/ethics - Under Education & Training Resources

By 12/28/09, and every 2 years thereafter, all current state, county and municipal employees must complete this training. Public employees hired after 12/28/09 must complete this training within 30 days of beginning public service, and every 2 years thereafter. This training is

designed primarily for state employees. County and municipal employees should also use this training until it is revised with one tailored to them. Upon completing the program, employees should print out the completion certificate and keep a copy for themselves. Employees will be required to provide a copy of the completion certificate to the Town or City Clerk (municipal employees), their employing agency (appointed state and county employees), or to the Ethics Commission (elected state and county employees). Completing the single program will be considered by the Commission as meeting the Bill's training requirements until a second program is added. When multiple users attempt to complete the current training program using the same computer they may experience a problem accessing the beginning of the program. The user will need to open their internet browser, click on "Tools", then "Internet Options", select "Delete Cookies", then click "OK". The user will be able to click back on the Online Training module on the Commission's website and start at the beginning.

After you have completed the Online Training PRINT OUT the “State Ethics Commission Receipt”, and return with the receipt to the Town Clerk as proof that you have participated in the training

MASSACHUSETTS GENERAL LAWS, CHAPTER 268A CONDUCT OF PUBLIC OFFICIALS (CONFLICT OF INTEREST LAW)

Whoever, directly or indirectly, corruptly gives, offers or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person or any other person as a witness upon a trial, or other proceedings before any court, any committee of either house or both houses of the general court, or any agency, commission or officer authorized by the laws of the Commonwealth to hear evidence or take testimony, or with intent to influence such witness to absent himself/herself there from; or

Whoever, directly or indirectly, corruptly asks, demands, exacts, solicits, seeks, accepts, receives, or agrees to receive anything of value for himself/herself or for any other person or entity in return for influence upon the testimony or under oath or affirmation of himself/herself or any other person as a witness upon any such trial, hearing or other proceeding, or in return for the absence of himself/herself or any other person there from; shall be punished by a fine of not more than five thousand dollars or by imprisonment in the state prison for not more than two and one half years, or by both such fine and imprisonment in a jail or house of correction; and in the event of final conviction shall be incapable of holding any officer of honor, trust or profit under the Commonwealth or under any state, county or municipal agency.

APPENDIX M SPECIAL MUNICIPAL EMPLOYEE

State law gives broad discretion to municipalities to determine which positions should be designated as special municipal employees. The Massachusetts State Ethics Commission advises municipalities to carefully consider this decision which balances the municipality's interest in obtaining the expertise needed for its boards, commissions and other part-time or unpaid positions with the lesser restrictions that apply to special municipal employees.

“Special municipal employee” status can be assigned to certain municipal positions by a vote of the Board of Selectmen, board of aldermen, town council or city council. The designation may be made by a formal vote at any time. Votes should be taken individually for each board or position being designated – expressly naming the position being designated. Once a position is designated as having “special” status, it remains a “special municipal employee” position unless and until the classification is rescinded.

A position is eligible to be designated as a “special municipal employee” position provided that the municipal employee:

- Is not paid; or
- holds a part-time position that allows him or her to work at another job during normal working hours; or
- Was not paid by the city or town for more than 800 working hours (approximately twenty weeks full-time) during the preceding 365 days.

It is the municipal position that is designated as having “special” status, not the person holding the position. Therefore, all employees holding the same office or position must have the same classification as “special municipal employees”. For instance, one member of a school committee cannot be classified as a “special” unless all members are similarly classified.

Under no circumstances may a mayor, city councilor, town councilor, alderman or selectman in a town with a population of more than 10,000 be designated as a “special.” In towns of 10,000 or less, however, the selectmen are automatically considered “special” employees.

The legislature may also designate certain positions to have “special municipal employee” status. For example, board members and certain part-time employees of local housing and redevelopment authorities are defined by law as “special municipal employees” and do not need to have local authorities approve their designation as “specials” (see M.G.L. Ch. 121B, Sect. 7).

A list of all “special municipal employee” positions in a municipality should be on file at the town or city clerk's office. This list should also be filed with the Ethics Commission.

The conflict of interest law (M.G.L. Ch. 268A) covers all municipal officials and employees, whether elected or appointed, paid or unpaid, full-time or part-time, but two sections of the conflict of interest law apply less restrictively to those part-time or unpaid municipal officials who have been designated as “special municipal employees”.

Chapter 268A, Section 17, generally prohibits employees from representing a private party before any municipal boards or departments. It also prohibits municipal employees from acting as agent (or attorney) for a private party in connection with any matter of direct and substantial interest to their city or town. Finally, it prohibits municipal employees from accepting pay or other compensation in connection with any matter of direct and substantial interest to their municipality.

The prohibitions of Section 17 for special municipal employees are less restrictive and only apply to matters that are before their own board or agency or are subject to their official responsibility. For example, a full-time school department employee would be prohibited from representing anyone before any town board or agency; in contrast, a school committee member who qualifies as and is designated a special municipal employee would be able to represent clients before boards other than the school department or any agency that falls under the responsibility of the school department.

Chapter 268A, Section 20, generally prohibits municipal employees from having a direct or indirect financial interest in a contract with their city or town. There are, however, many exemptions in this section, and the prohibitions for special municipal employees are less restrictive. For example, a special municipal employee may have a financial interest in a contract with a department which is completely independent of the one where she works, provided that she files a disclosure of her interest in the contract with the city or town clerk. A special municipal employee may even have a financial interest in a contract with her own department (or with a department that has overlapping jurisdiction with her department), provided that she files a disclosure of her interest in the contract with the city or town clerk and the Board of Selectmen, board of aldermen, town council, or city council vote to grant her an exemption to Section 20.