

COMMITTEE TO REVIEW TOWN COUNCIL RULES AND TOWN CODE
Selectmen's Conference Room 2nd Floor Town Hall Building
367 Main Street Hyannis, MA 02601

June 25, 2024
5:00pm

Councilor Kris Clark (Chair)
Councilor Kristin Terkelsen
Councilor Seth Burdick
Vice President of the Council Craig Tamash
Councilor Betty Ludtke

MEETING MINUTES

The Chair of the Committee, Councilor Kris Clark was absent for this meeting, Councilor Betty Ludtke opened the meeting of the Committee to Review Town Council Rules and Town Code in the Selectmen's Conference Room at 2:00pm and made the following announcement:

This meeting is being recorded and will be rebroadcast on the Town of Barnstable's Government Access Channel. In accordance with Massachusetts General Laws Chapter 30A, Section 20, the Administrator must inquire whether anyone else is recording this meeting and, if so, please make their presence known. This meeting will be replayed via Xfinity Channel 8 or high-definition Channel 1072. It may also be accessed via the Government Access Channel live video on demand archives on the Town of Barnstable's website: <https://streaming85.townofbarnstable.us/CablecastPublicSite/?channel=1>

The Administrator to the Town Council took a Roll call, all members present in the Selectmen's Conference Room with the exception of Councilor Clark.

Also in Attendance was Karen Nober, Town Attorney and Allison Cogliano, Assistant Town Attorney

The Chair of Committee asked for public comment via the Zoom link provided to the Public.

All just listening: Mr. Bob Schulte (submitted his comments in writing to the members of the Committee); Mr. Larry Morin is going to put together some documents for the Committee to look at regarding the Town Council Rules and the Charter, he had tried to send some documents through email, but they were never received by the Administrator to distribute, Administrator asked that he bring the documents he created and copies would be made for the Committee members to review.

Vice President Tamash mentioned that this Committee is looking at just the Town Code and the Town Council Rules, that there will be no discussion on the Charter or proposed changes to the Charter, this will have to be a separate Ad Hoc Committee to look at the Charter, that is not what this Committee is charged with at this time.

The following document was shared by Karen Nober, Town Attorney, highlighting her concerns and areas that need to be fixed so that it matches up with the Town Code.

Councilor Terkelsen had circulated other Town Council Rules from various towns and cities in the Commonwealth with the same form of government we have, Attorney Nober briefly looked at those and mentioned that there are no new rules put into this document that may have come from any of those, these are just suggested edits and clean up on language and spelling in the current Town Council Rules.

The Committee members decided to go section by section to discuss the proposed sections that need attention:

Councilor Ludtke raised concerns about the nominations taking place in one meeting instead of two meetings, Vice President Tamash echoed the same concerns, Attorney Nober led a review of the town council's rules and proposed several changes to improve transparency, efficiency, and public participation in the nomination and voting process, as well as the roles of the Council President and ad

hoc committees. The Committee members would like the wording to be the elections **will take place at the next regular scheduled Town Council meeting.**

TOWN COUNCIL RULES (Updated ~~KLN 06/21/2024~~10/3/19)

RULE 1 COUNCIL OFFICERS

The first Town Council meeting in December shall be an organizational meeting. At that time, ~~Councilors~~~~the Council~~ shall nominate a President and a Vice President, election of which shall take place ~~at or~~ before the next regular meeting. At the meeting at which the election takes place, time shall~~ould~~ be allotted for ~~nomination~~ speeches by each candidate, which would be limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each ~~C~~ouncilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

RULE 2 ROLE OF COUNCIL PRESIDENT

The President shall serve as a non-voting ex-officio member of all Council Committees. The President may also be designated by the Council to be its representative to all boards and commissions. The President may delegate that responsibility in whole or in part to any member or members of the Council, subject to the approval of the Council. The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes, and may designate other councilors to serve in this ceremonial capacity. ~~(See also~~In accordance with Rule 11B,

The Committee members discussed changes to the rules concerning the roles of the Council President and ad hoc committees. It was suggested that the President, as a non-voting ex officio member, should not have the same interest in every committee and recommended that they play a non-voting role in the new ad hoc committees. Committee members also raised concerns about the approval process for liaison positions, suggesting they should not be subject to Council approval. The clarification of the role of a liaison in the context of committees and councils and discussed the roles of the President and the Vice President, emphasizing that these roles could be delegated in case of absence. Lastly, the members addressed the rules of order for the council, focusing on the roles of the President and the process for maintaining decorum. Attorney Nober will take the suggested edits and present the changes at the next meeting.

RULE 3 PRESIDING OFFICER

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a Councilor to serve as presiding ~~officer~~chair in rotating precinct order. ~~In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, the Council shall elect a new Vice President from among its members before two regular meetings have passed. No office of the Council shall remain vacant for more than two regular meetings.~~

RULE 4 DUTIES OF THE PRESIDING OFFICER

The presiding officer shall take the chair at the hour at which the Council is to meet; and call the meeting~~members~~ to order.

-The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: "Shall the decision of the chair stand as the judgment of the Council?" The vote shall be a roll call and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the chair, without further debate upon the question, shall require a roll call vote. No ~~vote shall take place~~~~decision shall be declared~~ unless a quorum of the Council is present (abstentions count toward the quorum, but are not considered votes; recusals do not count towards the quorum)~~shall have voted.~~

The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto.

-The presiding officer may state facts, ask questions (without commenting or giving an opinion) and give opinions upon questions of order without leaving the chair. The presiding officer also may explain his or her vote. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding chair in rotating precinct order.

RULE 5 MEETINGS

The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings (see Chapter 220 of the Town Code).

Committee members discussed the scheduled times above and the need for flexibility in scheduling meetings to accommodate holidays and other unforeseen events. Attorney Nober mentioned that the meeting start time was suspended for 6 months to trial a change, which is due to be reevaluated soon. Councilor Ludtke also highlighted that the Council has moved meetings when they occur on solemn or legal holidays, and school vacations and proposed that a vote should be taken to change the meeting schedule if needed. Lastly, she clarified the notice requirements for special meetings and left the question of whether notices should be delivered to each counselor open for discussion. The committee members discussed the challenges of delivering meeting communications electronically and the need for a more efficient meeting schedule. It was suggested the possibility of having a third meeting each month to better distribute the workload of discussions, it was noted that we often go late into the night even though we started at 6pm an hour earlier, and it still does not help the late evening hours. Councilor Ludtke also discussed the importance of possibly a proposed a two-thirds vote for any meeting extending past 11 pm. However, it was also noted the need to balance this with the public's right to comment and participate in meetings in a timely manner.

RULE 5A MEETING REQUIREMENTS

DEFINITIONS Regular meetings of the Town Council shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once monthly. No regular meeting shall be scheduled on a solemn or legal holiday. (See Rule 5B – Meeting Schedule, and Chapter 220 of the Town Code.)

The Committee members discussed the word solemn, and what that meant.

-Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. ~~[online code reads 220-2Special meetings.~~

~~Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any four or more members, by written notice. Said notice shall include agenda items and pertinent documents pertaining to those items which will be delivered to the Town Clerk and to each Councilor at least 48 hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday.~~

Said notice will include the meeting agenda, including relevant all agenda items and supporting pertinent documents, pertaining to those items which will be delivered to the Town Clerk and to each Councilor's residence at least forty-eight (48) hours in advance of the time set. No special meeting shall be scheduled on a solemn or legal holiday.

Open Meeting Law: All meetings of the Town Council and of Town Council committees are subject to the state Open Meeting Law, M.G.L. c. 30A, sections 18-25, and the Open Meeting Law regulations, 940 CMR 29.00.

Executive Session: -The Council may enter Executive Session may be entered only after the Council has first convened in Public open Session, provided that for which notice of the Executive Session has been appropriately posted (unless an emergency exception applies). The presiding officer makes the motion to go into Executive Session, citing the reason for going into Executive Session and stating whether the Council will or will not return to Public Session after the Executive Session. The vote to go into Executive Session is a roll call vote, and all votes taken in Executive Session are roll call votes. The reason(s) for going into Executive Session must be a reason permitted under the Open Meeting Law, and calls for a roll call vote of the Council. The vote of each member is entered into the minutes, with a majority necessary to initiate an executive session.

Purposes Warranting Executive Session:

~~1. To discuss the reputation, character, physical condition, or mental health, rather than professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least 48 hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:~~

~~(a) To be present at such executive session during discussions or considerations which involving that individual.~~

~~(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.~~

~~(c) To speak in his own behalf.~~

~~2. To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty-eight~~

hours prior to the proposed executive session. Notification may be 4 of 15 Amended TC Rules 11/06/14 cap waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) To be present at such executive session during discussions or considerations involving that individual.

(b) To have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.

(c) To speak in his own behalf. 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 governmental body, to conduct strategy sessions in preparation for negotiations with nonunion personnel, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.

4. To discuss the deployment of security personnel or devices.

5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

6. To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.

7. To comply with the provisions of any general or special law or federal grant in aid requirements.

8. To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if 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 or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.

9. To meet or confer with a mediator, as defined in section twenty three C of chapter two hundred and thirty three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that:

9(a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice may be required in this section.

(Adopted by TC Item 96-061, 1/4/96) (The above rules are extracted from MGL Chapter 39 Section 23B.)

RULE 5B REGULAR MEETING SCHEDULE

The Barnstable Town Council shall meet on the first and third Thursdays of each month, except in the months of July and August when meetings will be held on the third Thursday only. Meetings shall conclude at 11:00 P.M., ~~except that if~~ ~~the subject at hand~~ ~~may~~ ~~be~~ ~~finished~~ ~~if~~ ~~it~~ ~~was~~ ~~ongoing~~ ~~at~~ ~~11:00~~ ~~P.M.~~ ~~Thereafter,~~ ~~and~~ ~~the~~ ~~meeting~~ ~~may~~ ~~be~~ ~~continued~~ ~~after~~ ~~11:00~~ ~~P.M.~~ with a ~~two-thirds~~^{2/3's} vote of the ~~Councilors present and voting~~^{council after 11 P.M.} If a regular meeting date falls on a solemn or legal holiday, the president shall make every effort to reschedule such meeting to the Thursday of the following week, but may choose another day if warranted by the circumstances. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

Councilor Ludtke would like the Council to finish the Item they are working on when the time gets close to 11pm, and not stop the discussion, but finish the Item, then vote to go past 11pm. Attorney Nober stated the Council can finish the Item, then vote to go past 11pm.

Councilor Ludtke had concerns about the need to streamline administrative processes and make meetings more efficient. She would like to look at the Items and information being put on the agendas, if there is not an immediate time crunch for the vote of the Council, then we should split these into two Agendas, so we are not going to late into the night. She proposed limiting regular meetings to three per month and suggested the possibility of having special meetings as needed. She emphasized the importance of having robust debates on topics but expressed concern that the current meeting structure is not always conducive to this. She suggested that amendments to the town's ordinance might be necessary to accommodate these changes. Councilor Burdick mentioned that going too late into the night is unproductive not only to Councilors, but the public that sits until 11pm to comment on the Item, it becomes a disservice to our residents.

Vice President Tamash even mentioned that the Town Managers Report is recorded, and we should not be spending a lot of time on it at the meetings, if a Councilor has a question about it, they should email him with their questions, and not take the time at the meeting to have him come up to the podium to address his entire report again.

Committee members discussed some of the reasons as to why the meetings go so late after we start an hour earlier, Councilor Burdick suggested there is more public involvement and more concerns facing the Town, that adds to a robust conversation with the Council members and the Public.

Attorney Nober would need to discuss these ideas further with President Penn and other members of the council.

RULE 5C INTRODUCTION OF COUNCIL BUSINESS

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the ~~Town Charter~~^{home rule charter or the} ~~General Laws of the Commonwealth~~. Every measure or non-measure, appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

MEASURES: A "measure" is any All-matters-to-coming before the Council that ~~is~~^{are} inherently legislative in nature, including, but not limited to, ordinances, charter amendments, appropriations, loan orders, lease approvals, certain contract approvals (e.g., contracts which are required by law to be approved by the Council), and eminent domain authorizations.

Measures require 2 readings.

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Attorney Nober discussed the process of getting items onto the council's agenda. Attorney Nober highlighted that the current system, which allows for last-minute additions and a fast-paced schedule, is causing issues. Attorney Nober proposed slowing down the process to make it more responsive, suggesting a 7-day lead time for agenda items. However, she also expressed concern about the rules requiring the same process for all items, which could potentially be detrimental to the staff. Attorney Nober suggested considering whether certain processes should be staff-specific instead of council-specific, and emphasized the need for clarity about how items get onto the agenda.

~~and public hearings are required for budget items, Capital Improvement Plan items, supplemental budget/appropriation items and ordinances.~~

NON-MEASURES: ~~A n~~Non-Measures shall include ~~any~~ matters to come before the ~~C~~council which ~~is~~ not specified to be a "measure" under the Charter, ~~s~~ such as any matter which is executive, administrative or ministerial, or quasi-judicial in nature, including, but not limited to~~without limitation~~, appointments, resolutions, proclamations, tax classification votes, ~~contract approvals~~, and petitions to the General Court.

Attorney Nober explained the differences between measures and non-measures, also clarifying the definition of measures and non-measures and their respective treatment in council proceedings, and the need for a sponsor for any item introduced as an agenda.

RULE 5D FILING DEADLINES FOR REGULAR MEETINGS (need to further revise this section)

Any of the ~~above~~ items of business to be presented to the Town Council at its regular meeting for action shall be submitted in writing to ~~the Town Attorney and Director of Finance no later than [insert] and upon their approval, submitted to the Town Council~~ Administrative Assistant no later than ~~[insert] 10:00 am, seven days, exclusive of Saturday and Sunday~~ preceding the regular council meeting. The Council President and/or the Town Manager may in case of necessity, approve any additional items for inclusion in the agenda after said deadlines. The Council President, ~~after~~ ~~in~~ consultation with the sponsoring councilor, ~~Council Administrative Assistant~~ and Town Manager, shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council agenda, including the Town Manager's Communication, complete with documentation shall be delivered to the Town Councilors no later than 48 hours prior to the regular meeting of the Council.

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RULE 5E ORDER OF BUSINESS

At every regular meeting of the Town Council, the order of business as set forth on the agenda shall be as follows: provided that matters may be taken out of order at the meeting at the discretion of the presiding officer:

1. Roll Call

2. Pledge of Allegiance
3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager Communications (which may be pre-recorded)
7. Act on Public Session Minutes (Includes Executive Sessions)
8. Communications from Elected Officials, Boards, Committees and Commissions, ~~and~~ Staff, Correspondence and; Announcements and Committee Reports
9. Orders of the Day
 - A. Old Business
 - B. New Business
10. Adjournment

(Adopted by Town Council Item 2006-010, 08/18/05)

(Adopted by Town Council 2007-067, 02/01/07)

(Adopted by the Town Council 2015-027, 11/06/14)

RULE 5F PUBLIC COMMENT (need to further revise this section – not how we do it)

At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public desiring to address the Council may reserve a place on the agenda with the Council Administrative Assistant by 4:30 p.m. on the day of the Council meeting (Removed at the meeting). Each person on the public comment docket shall be recognized by the chair, and shall state his/her name and, if a resident of Barnstable, the village in which they reside (if not a resident of Barnstable, they shall state their town of residence)~~address~~ for the record. Other members of the public may also be heard at this time. Time allowed for public comment will be at the discretion of the chair. For the most part, public comment will be limited to three minutes for each individual speaking. All remarks and questions shall be addressed to the Council as a whole, through the chair, and not to any member thereof. With the permission of the presiding officer, No person other than members of the Council and the person having the floor may~~shall~~ enter into discussion either directly. No other persons may speak during public comment unless invited to do so by the presiding officer, or through a member of the Council without permission of the presiding officer. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (see Open Meeting Law in accordance with MGL CH. 39, S. 23C).

The Town Council Administrator suggested to Town Attorney Nober that any language stating Administrative Assistant be changed to Administrator since there is not an Assistant. Attorney Nober expressed her views on the rules of public comment during meetings. It was suggested that public comment should be limited to 3 minutes per speaker, with the chair having the discretion to allow

additional time if needed. Attorney Nober emphasized that direct responses to public comment should only occur with the permission of the presiding officer to avoid potential conflicts and maintain the meeting's structure. Attorney Nober's advice was based on her past experiences, and she believed that giving the chair discretion would make the meetings run more smoothly. Attorney Nober stated that the Town Council President runs the Council meetings, but if the Council body does not agree they can take a vote to overrule the President.

RULE 6 PARLIAMENTARY GUIDELINES

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity, and efficiency, in that order. In determining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on Mason's Manual of Legislative Procedure, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

RULE 6A QUORUM

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member Council shall be ~~nine~~ (9).

RULE 6B ORDER OF SPEAKING; LENGTH OF SPEAKING

When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than twice until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

Assistant Town Attorney Cogliano had a chance to look at some of the other Town's reports sent by Councilor Terkelsen, and she said some had table of contents, preambles, and pictures added for a cover of the Town Council Rules, she was particularly fond of Longmeadow's document, but will continue to look further at them all.

The Committee members decided to schedule the next meeting on July 23rd at 5pm to continue reviewing the rules.

Town Council Vice President, Craig Tamash asked for a motion to adjourn, Councilor Terkelsen made the motion, Councilor Burdick seconded the motion, all members present voted in favor of adjournment.

ADJOURN: 6:52 pm