

# How to Run Legal and Effective Public Meetings



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Webinar

# Speaker:

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# Disclaimer

This presentation contains educational material that provides only a general overview. This presentation and materials do not constitute legal advice. Please contact us if you would like specific legal advice.

# Public Meetings

- To be effective, public meetings must:
  - Be Legal (FOIA and other rules or statutes)
  - Follow Proper Procedure (Robert's Rules)
  - Treat Everyone Equally and Fairly
  - Avoid Disruption



The logo for the Freedom of Information Act. It features the words "Freedom OF Information" in a large, dark blue, serif font. The word "OF" is smaller and positioned between "Freedom" and "Information". Below "Information" is the word "ACT" in a similar serif font, flanked by two horizontal lines. The background of the logo is a textured, reddish-brown surface, possibly a brick wall.

# Freedom OF Information —ACT—

# FREEDOM OF INFORMATION ACT: Gen. Stat. 1-200 et seq.

- **PURPOSES OF FOIA**

- FOIA provides the public the right to **attend “meetings”** of and obtain “public records” from all “public agencies” with certain enumerated exceptions.

- Promotes open government.



# Public Agency

- “Any executive, administrative or legislative office of the state or any political subdivision of the state and any state or town agency, any department, institution, bureau, board, commission, authority or official of the state or of any city, town, borough, municipal corporation, school district, regional district or other district or other political subdivision of the state, including any committee of, or created by, any such office, subdivision, agency, department, institution, bureau, board, commission, authority or official, and also includes any judicial office, official, or body or committee thereof but only with respect to its or their administrative functions.”

VERY BROAD – generally any person or group that serves a public function

# Open Meeting Requirements

- FOIA provides the public the right to receive information about and to attend meetings of public agencies.
- Meetings: means any hearing or other proceeding of a public agency, any convening or assembly of a quorum of a multimember public agency, and any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has supervision, control, jurisdiction or advisory power.



# Meetings Defined

- The assembly or convening of a quorum of a public agency; and/or
- Communications to or from a quorum of a public agency when the purpose is to
- Discuss or act upon any matter over which the public agency has supervision, control, jurisdiction or advisory power

# What is a QUORUM?

- In general, it is a majority of the members of a given public agency.
- May be defined differently by your Charter or Ordinances



- Note: The requirement of a quorum stems from the desire that no decisions of substance be made by an unrepresentatively small number of members.

# QUORUM REQUIREMENTS

- No substantive action may be taken at any meeting absent a quorum.
  - \*Can set the time and place for the next meeting
- If you lose your quorum, any substantive business must cease.
- Can resume business only when enough members return to have a quorum.



# Meetings

- Meetings can occur anywhere – intentionally or otherwise:
- Town Hall
- Your home
- Dairy Queen
- Telephone
- Email
- Text message, skype, internet chat, etc.



# PUBLIC MEETING EXCEPTIONS

Sometimes a quorum is not a meeting:

- Any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business;
- A personnel search committee for executive level employment candidates;
- Strategy or negotiations with respect to collective bargaining; or
- A caucus of members of a single political party.

# Other Exceptions

- Communications to or from a quorum about the time and place of a meeting.
- Communications about the published agenda.
- Attendance by a quorum at a noticed meeting of another public agency.
- Administrative or staff meetings of a single-member public agency.

# Caucusing

- Members of a single political party may meet to discuss party strategy, even if the meeting would otherwise constitute a quorum.
- The presence of third parties can negate the caucus.



# Access to Meetings

Per FOIA, Access to Public Meetings Requires;

- Public notice of the meeting
- Public notice of the agenda
- Access to meeting minutes
- Right to attend and observe the meeting
- No registration requirements at meetings
- Right to record, photograph and broadcast



THERE IS NO RIGHT TO SPEAK OR BE HEARD

If you allow public comment, must allow all to speak



# Types of Public Meetings

- Regular Meetings
- Special Meetings
- Emergency Meetings



# Regular Meeting

- **Notice:** Filed with the Town Clerk by Jan. 31 of each calendar year.
- **Agenda:** 24 hours prior to the meeting.
- **Other business:** Added by a separate, 2/3 vote of those present.
- **Minutes:** Within 7 days

# Special Meeting

- **Notice:** Filed with the Town Clerk at least 24 hours prior to the meeting.
- **Agenda:** 24 hours prior to the meeting.
- **Other business:** Cannot be added.
- **Minutes:** Within 7 days.

# Emergency Meeting

- **Notice:** None. Must be a bona fide emergency such that 24 hours notice is impossible.
- **Agenda:** None.
- **Other business:** None.
- **Minutes:** Within 72 hours.
  - Must describe the nature of the emergency.

# Moving & Rescheduling

- Relocating a meeting:
  - 30 days advance notice to Town Clerk if possible.
  - Post notice on door at time & place.
  - Last minute changes due to large crowds or facility problems.

# Agendas and Minutes

- All notices, agendas and minutes should be posted on the Town's website, if available.
- **Agendas:** Adequate to give notice to members of the public of the business that is planned to be transacted at a given meeting



# Agendas and Minutes

- Minutes:
  - Time & Place
  - Members Present
  - Business transacted
    - *Including any votes by member*
  - Executive session
    - *Including reason, but exclude detail of discussion.*
  - Time adjourned

# Notice of Votes

- Separate from the minutes requirements, notice of votes must be written and available for public inspection within 48 hours of any meeting



# Executive Sessions

- Exclude the public for specified reasons only
- 2/3 majority must vote in open session to enter executive session.
- Must state applicable basis
- Can invite others into executive session to provide information only. Must be excused once relevant participation concludes



# Bases For Executive Sessions

1. Appointment, employment, performance, evaluation, health or dismissal of a public officer or employee.
  - *Officer or employee can require open session.*
2. Strategy or negotiations with respect to pending claims or pending litigation.
  - *Not general legal advice*
3. Security strategy or the deployment of security personnel.
4. The selection of real estate for purchase, sale or lease.
  - *Where public disclosure is likely to affect price.*
5. Discussion which would result in the disclosure of exempt public records

# Executive Session

- Third parties may be present to provide information or opinion.
  - *Must be limited to time period necessary.*
- Cannot vote in executive session.
- Minutes must provide notice of basis for executive session, but need not disclose protected information

# CONDUCTING A PUBLIC MEETING



"This had better be good."

# RULES OF ORDER

- Purpose for having Rules of Order:
  - Maintain order
  - Ensures everyone has chance to participate
  - Ensures that all necessary business is properly addressed

# Types of Rules

- Town policy or procedure
- Parliamentary procedure
- Robert's Rules
- Consensus



# PRELIMINARY CONSIDERATIONS

- Running an effective meeting requires advance planning
- Give your agenda appropriate attention
- Disseminate relevant information in advance

# Getting Started

- Run your meetings on time
- Follow the meeting rules





# ORDER OF BUSINESS / AGENDA

- The chair guides the meeting through the order of business. A typical order of business might be:
- 1. Call to Order
- 2. Roll call; seating of alternates
- 3. Reading of the minutes of the previous meeting, amendment and approval;
- 4. Hearing the reports of standing committees;
- 5. Hearing of the reports of select committees;
- 6. Consideration of unfinished business;
- 7. Consideration of new business;
- 8. Approval of bills for payment;
- 9. Setting the time and place for the next meeting;
- 10. Setting the preliminary agenda for the next meeting; and
- 11. Adjournment.

# Alternates

- Seating Alternates

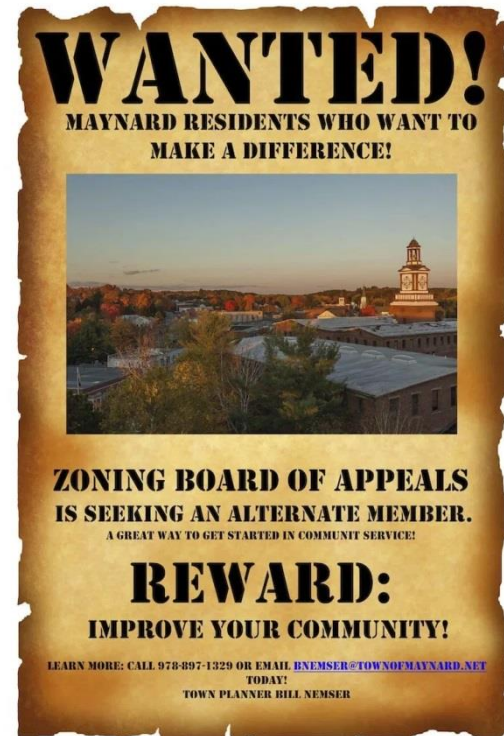
Who chooses? – Ordinance? Other law?

- Alternate Participation

- \*Meetings

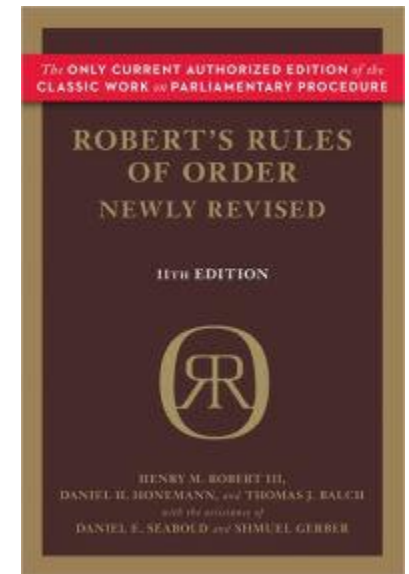
- \*Public Hearings

- \*Deliberations



# ROBERT'S RULES OF ORDER

- Typical parliamentary procedure
- Used by many towns, boards and commissions
- Business is conducted through the use of formal motions



# Four Basic Types of Motions

1. **Main Motions**: The purpose of a main motion is to introduce items to the membership for their consideration. They cannot be made when any other motion is on the floor, and must yield to privileged, subsidiary, and incidental motions.
2. **Subsidiary Motions**: Their purpose is to change or affect how a main motion is handled, and is voted on before a main motion.
3. **Privileged Motions**: Their purpose is to bring up items that are urgent about special or important matters unrelated to pending business.
4. **Incidental Motions**: Their purpose is to provide a means of questioning procedure concerning other motions and must be considered before the other motion.

# How are Motions Handled?

- Motions are always addressed to and handled by the Chairman
- Motions Should be stated in the affirmative, e.g. "I move that we ..." rather than, "I move that we do not ...".
- Motions must be seconded before discussed. Unless volunteered, the chair calls for a second. If there is no second, the motion is lost.
- If the Motion is seconded, deliberation ensues
- After deliberation, the chair “puts” the question to the board:  
  
“The question is on the adoption of the motion to.....(state the motion exactly)”

# Example

- On the agenda is the board's consideration of whether to accept a proposed road ("Park Place") in a subdivision as a public road.
- The chairman "Susan" calls the agenda item.
- The developer or town staff presents the proposal to the board
- Board member "Joe": "I move that we accept Park Place as a town road."
- Board member "Mary": "I second"
- Susan: Is there discussion?
  - Board member discussion of the proposal ensues or, if not further discussion, the motion is put to a vote

# Closing the Debate

- Motion for the Previous Question
- Requires 2/3 vote



# Voting on a Motion

The method of vote on any motion depends on the situation and the by-laws of policy of your organization. There are three methods used to vote in most public meetings:

**1.By Voice:** The Chairman asks those in favor to say, "aye", those opposed to say "no". Any member may move for an exact count.

**2.By Roll Call:** Each member answers "yes" or "no" as his name is called. This method is used when a record of each person's vote is required.

**3.By General Consent:** When a motion is not likely to be opposed, the Chairman says, "if there is no objection ..." The membership shows agreement by their silence, however if one member says, "I object," the item must be put to a vote.



# Consent Agendas

- Appointment of commission/board members
- Resignation of commission/board members
- Tax refunds



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# Vote Requirements

- Majority – majority of those voting.  
Example: 9 members  
    2 abstain from voting  
    Only 4 affirmative votes required to adopt the motion.
  - Two-Thirds Vote – of those voting
    - Suspend the Rules
    - Limit or extend debate
    - Amend agenda
  - Majority of Membership – Majority of Entire Board regardless of vote
    - Motions to Rescind or Amend previously adopted motion.
- \*Note – the number of votes necessary to affirm or deny a motion may be defined differently by your rules or state law.**

# Vote Requirements

- Policy
- State Law
  - FOIA
  - Land Use
  - Overturning ZEO Order
  - Zoning Amendment upon Petition



# Who Can Vote?

- Every Member whose right to vote has not been formally suspended
- Chair only votes by ballot or when her or his vote will change the outcome of the vote.
  - Example: All other member votes results in tie. Chair casts the final vote.
  - Example:  $2/3$  vote required, if one less than  $2/3$  votes in favor, chair may vote to pass the motion. Conversely, if one less than  $2/3$  votes in the negative, chair may cast negative vote to defeat the motion
- Should not vote if you have a conflict of interest

# Amending a Motion

- Make a motion to amend.
- Amendment must be **GERMANE**
- Must be seconded.
- Read the amended question.
- Vote on the amendment
- If the amendment passes, the question becomes whether to adopt the original question as amended.  
If not, the original question remains pending.



"All those in favor say 'Aye' -  
all those opposed say 'Nay'."

# Example

- Motion pending on whether to accept Park Place as a public road.
- Board Member “Ron”: “I move that we amend the Motion to only accept Park Place upon the posting of an appropriate bond by the developer to ensure its proper construction.”
- VERSUS
- Board Member “Ron”: “I move that we amend the Motion to accept Park Place but oppose any proposed mill rate increase.”

# Changing the Vote

- Finality – Out of order to address the same matter over and over.
- Motion to reconsider – Can only be made by a member who voted IN FAVOR of the original motion if it was adopted or by a member who voted AGAINST if the motion was defeated.
- Must be made at the same meeting.
- Must be seconded.
- If Motion to Reconsider is granted, the original motion is again on the table for consideration.



# After-the Fact Changes

- Motion to Rescind or Motion to Amend
- Can be made at any subsequent meeting
- If no prior notice of the intent to make such motion, then adoption of such motion requires: 2/3 vote, or the vote of a majority of the entire membership of the voting body.

Whichever number is smaller at the time.

- If prior notice is given (i.e. placed on the agenda) then a simple majority is all that is required to adopt the motion.





# Enforcing the Rules

- Duty of the chair to enforce the rules
- Point of order!
- Chair rules on the point of order
- Claimant can appeal chair's decision to the entire board
  
- Motion to Suspend the Rules
  - Requires 2/3 vote



# Dealing with Disruptive or Inappropriate Behavior

**DEAL PROPERLY AND PROMPTLY WITH DISRUPTIVE BEHAVIOR.**



# The Unruly Public

- Announce the Ground Rules at the outset.
  - Examples – time limits on speaking and subject matter limitations.
- Time limits on speaking.
  - Must enforce fairly
- Request that speakers not repeat information/positions already provided.
- Make sure your rules provide grounds for ejection from the meeting, whether the disruption is caused by the member of the public or a fellow board member

# Discipline of Fellow Board Member

- *Call the member to order*
- *Name the offender*
- *Seek penalties*
  - *A motion that the member must apologize*
  - *A motion that the member must leave the hall during the remainder of the meeting*
  - *A motion to censure the member – public reprimand*



# Other Parliamentary Considerations

## **CONTROL THE FLOOR.**

- All speakers should be recognized by the Chair before speaking
- All concerns, considerations and questions from or to the public should be presented through the Chair.

## **FOLLOW YOUR AGENDA**

## **STICK TO YOUR RULES OF PROCEDURE**

## **TREAT EVERYONE EQUALLY WELL**

# ADJOURNED!





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