

Town of Lyme, NH

June 2023

GENERAL PROCEDURES FOR ALL BOARD, COMMISSION AND COMMITTEE
MEMBERS



Committee Handbook

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General Policies for all Boards, Commissions and Committees

This Committee Handbook is for the use of all Town committee chairs and members. It sets out the basic requirements of how meetings and discussions between members may be conducted. It is not, in any way, intended to be an alternative to “Roberts Rules of Order” or any other protocol established by a specific committee. Rather, it is to ensure that town governmental committees comply with the basic requirements of State legislation. The main State law covering this is New Hampshire Revised Statute 91-A, generally known as the ‘Right-to-Know’ law <http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-VI-91-A.htm>. This law was revised effective July 1, 2008. It now has some very specific requirements with respect to electronic communications. If you are in doubt, you should refer directly to the law for resolution of any specific question.* Please note that these requirements also apply to sub-committees.

The Committee Handbook also covers the Town’s standards to be followed in publishing minutes.

In this document, ‘committee’ is used as an all-encompassing word to cover all the different groups of official town government organizations and ‘email’ is a similar all-encompassing word covering all forms of electronic communication including telephone, fax, email, instant messaging, text messaging, twitter, web pages and blogs.

As a general rule the State’s RSA website lags behind the legislation and is generally not updated until October each year. If checking the website for a specific statute please ensure that there have not been revisions in the current legislative session.

Public Meetings

With a few specific exceptions, every committee meeting must be held in public. The exceptions are covered in New Hampshire Revised Statute Section 91-A:3. All meetings, including non-public sessions must be properly warned in advance by posting on the town notice boards (the front hall at the Town Offices, and the Lyme Post Office) and on the Town web site <http://www.lymenh.gov>. Those committees that have regular meetings are generally warned by virtue of standard notices posted on the notice boards specifying a regular day, time and location. These regularly scheduled meetings are also noted on the last page of this handbook. Committees that have irregular meetings MUST ensure that the date, time and location of all proposed meetings are given to Selectboard staff with sufficient advance notice so that the staff may properly warn the meeting. Unless there is an emergency, staff should be given 5 working days to publish the notices.

Emergency meetings may be held with shorter warning notice, but the chair of the committee must ensure that it is a genuine emergency as defined by New Hampshire Revised Statute Section 91-A and must take care to give as much notice as possible. In such a circumstance, means other than the regular notice boards may also be used to notify the public.

There is a difference between meetings and public hearings. Hearings generally require more specific notices, and may include town-wide or district-wide mailings. At public hearings all members of the public are allowed to speak. At public meetings, the public may only speak when recognized by the Chair of the Board, Commission or Committee.

Recording devices are allowed at both meetings and public hearings. It is a courtesy to advise the meeting Chair of the intent to record.

If one or more members of a Board, Commission or Committee cannot physically be present at the meeting, they may participate electronically provided a quorum of the members are present at the meeting; and provided that the remote person can communicate with everyone physically present at the meeting. The remote member(s) must participate in the entire meeting.

Non-Public Meetings

All meetings are public unless authorized by one of the reasons set forth in New Hampshire Revised Statute Section 91-A:3 II. Committees or Boards may go into a non-public session for any of the reasons set forth in New Hampshire Revised Statute Section 91-A:3 II by making a motion that is seconded and voted in the affirmative by majority roll call vote. The applicable basis for non-public session must be stated in the motion to go into non-public session and the discussion must be limited to the reason specified. A summary of some of the permissible reasons for holding a non-public session follows:

- **91-A:3 II(a)** Dismissal, promotion, compensation, disciplining, or investigation of any public employee
- **91-A:3 II(b)** Hiring of any public employee
- **91-A:3 II(c)** Matters that would likely adversely affect the reputation of a non-board member
- **91-A:3 II(d)** Buying, selling or leasing property if public discussion would likely benefit a party whose interests are adverse to those of the general community
- **91-A:3 II(e)** Consideration or negotiation of lawsuits either filed by or filed or threatened in writing against the town or any town representative.
- **91-A:3 II(i)** Preparation and carrying out of emergency functions intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life
- **91-A:3 II(l)** Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present

** (The full text of New Hampshire Revised Statute Section 91-A:3 as of the date June, 2023 is provided in the final section of this Committee Handbook.)*

Minutes of Non-Public sessions must be kept, and the record of all actions in non-public sessions shall be promptly made available for public inspection unless a vote to seal such minutes is passed in public session by 2/3 of the members present for one of three reasons set forth in New Hampshire Revised Statute Section 91-A:3 III. Non-public session

minutes must record all actions in non-public session and include the vote of all members on any votes taken. Minutes and decisions reached in non-public session not subject to seal must be made available to the public within 72 hours of the meeting. Two-thirds of the members present may vote to seal minutes of any non-public session for one of three reasons set forth in New Hampshire Revised Statute Section 91-A:3 III which are: 1) divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself; or 2) disclosure would render the proposed action ineffective or 3) the minutes pertain to terrorism. A list of sealed minutes or decisions must be kept that includes identification of the public body and the date and time of the meeting in non-public as well as the exemption relied upon for going into non-public session as well as the date of the decision to seal and the date of any subsequent decision (if any) to unseal. The list must be made available for public disclosure as soon as practical. Sealed minutes may be sealed until, in the opinion of a majority of members, the circumstance for sealing no longer applies.

Sealed minutes must be delivered to the Board Administrator to be filed appropriately.

Meeting Minutes

The requirements for making meeting minutes public have changed and, with these changes, the town has revised its method for ensuring the minutes are available to the public in a timely fashion. This procedure is applicable to both Public and Non-Public Session minutes. The difference is in the time limits within which minutes must be made available. For regular public meeting sessions, the draft minutes must be available within five business days; for Non-Public session meeting minutes, they must be available within seventy-two hours.

For conformity, all minutes should be submitted to the Board Administrator electronically in Word format. Please do not submit minutes embedded in an email; this requires additional work to re-format.

Draft minutes should be reviewed and approved at the next regularly scheduled meeting of the Board, Commission or Committee. A motion

to approve minutes should include any proposed amendments.

Prior to the five-day minute submission deadline, the secretary should send a copy of the approved minutes to assessing@lymenh.gov. Approved minutes will be posted on the Town web site. A paper copy of both the public and non-public session minutes will also be kept on file in the Select Board office.

The Town asks that all minute-takers sign the minutes. We now accept either a /s/ or a scanned copy of your signature inserted in the finalized minutes. If you wish, you may physically sign and submit a hard copy, but please also make sure that a final electronic copy is always submitted to the Clerk.

Communication between Committee Members

All public matters must be discussed and deliberated in public unless subject to an exemption under 91-A:3 allowing for a non-public meeting. Chance meetings or social gatherings of members are allowed provided no discussion of public matters before that Board or Committee occurs. However, when there is a quorum of members together, be very careful not to make decisions, or be perceived by others to be making decisions.

You may originate information and send it to all members of the Board, Commission or Committee. Individual members may respond back to you only, but must not do a 'reply all'. You should not add notes to the information and forward it to anyone else. In effect, this means that there is very little that is permissible to be communicated electronically between members other than setting a meeting. Confirmation of emails limited to setting or confirming attendance at a meeting are permissible. The Board Administrator may facilitate these discussions and forward any documents to be reviewed at the meeting.

Warning! Every member needs to be aware that there is an explicit ban on any effort to circumvent the requirements of the law providing public access to the deliberations and decisions of public officials. Discussions of public matters held in private, including email between members on

matters before the Board, violate this legal requirement. Penalties for public officials that violate New Hampshire Statute Section 91-A can be severe.

Communication with Legal Counsel

The Select Board is ultimately responsible for any legal issues affecting the Town. As such, they are initially responsible for all contact with Town Counsel. Any Board, Commission or Committee needing to obtain legal advice must first obtain authorization from the Select Board via their Select Board representative. The Board Administrator, Planning and Zoning Administrator and Chair of the Select Board are authorized by virtue of their positions to consult with Town Counsel at any time. Note that a recent ruling of the NH Supreme Court impacts how information from Town Counsel may be imparted to Town Officials and Board, Commission and Committee members. In the past, legal advice on threatened or filed lawsuits could be reported to Board, Commission or Committee members, without counsel being present. The new ruling requires that Counsel be present, either in person or by speaker phone, for legal advice to the Board, Commission or Committee.

Communication from Boards, Commissions and Committees

Email announcements and notices from officials, Boards, Commissions and Committees should be sent out on the official “@lymenh.gov” email address. Send your public notices to assessing@lymenh.gov and the clerk will post them for you.

Lyme ListServ

Apart from the formal tools for noticing meetings and the use of mailings to provide additional information to the public, there is a private, unofficial on-line email service/discussion group, the *Lyme Listserv* that

is operated and maintained by a private party. This is not an official Town listserv.

Lyme Listserv: As of June 2023, the Listserv has 1,715 subscriptions. There are more subscriptions than residents of Lyme because there are a few (less than 100) subscriptions from outside of Lyme and some individuals subscribe both from their personal and their business email addresses.

Individual board, commission and/or Committee members that are members of the Lyme Listserv are able to use the Lyme Listserv at their discretion but only as private citizens and must take care to specify that they are speaking as private citizens and not in their official capacities. In addition, neither the Listserv nor any other unofficial electronic communication should be used by Board, Commission or Committee members to discuss matters that are under consideration by or pending decision before their Board, Commission or Committee; all such discussions must occur in properly warned public or (where appropriate) non-public meetings.

Official notices and announcements must be sent to the Selectmen's office at assessing@lymenh.gov for posting. These notices and announcements may also be sent to the Lyme Listserv in addition to the official posting on the Town website through assessing@lymenh.gov on matters of public interest in order to reach a broader audience.

Town Website Email Notification

You may subscribe to the Town email facility whereby you receive notices and public agendas by completing the form under the *Email Subscriber* option of the Town's home page. This is a read-only option. Out of a population of some 1700, there are approximately 403 subscribers to the Town email service. We encourage all committee members to subscribe to this free service. This email service is maintained by the Town.

Any and all communications sent out in e-mail form from Departments, Committees, Commissions and Boards must be made through an official

e-mail address account. The Town has email accounts ending in lymenh.gov . This is the e-mail to be used for Listserv postings and official communications. If your department, Commission, Committee or Board does not have a lymenh.gov email address, please send your official message to assessing@lymenh.gov and it will be posted on the web site and sent to the Listserv.

**Board, Committee, Commission and
Trustees meeting information**

- **Budget Committee:** October thru March-Meetings will be posted
- **Cemetery Trustees:** Check the web page calendar for meeting information
- **Conservation Commission:** First Monday of the month located at the Lyme Center Academy Building
- **Energy Committee:** Check the web page calendar for meeting information
- **Heritage Commission:** Check the web page calendar for meeting information
- **Lyme Electric Aggregation Committee:** Check the web page calendar for meeting information
- **Planning Board:** 2nd and 4th Thursday at 7:00PM located at the Town Office conference room.
- **Recreation Commission:** 4th Monday of the month 6:00PM located at the Town office conference room
- **Select Board:** Every other Thursday 9:00AM located at the Town Office conference room.

- **Trustees of the Trust Funds:** Check the web page calendar for meeting information
- **Zoning Board of Adjustment:** 3rd Thursday at 7:30PM located at the Town Office conference room.

*** 91-A:3 Nonpublic Sessions. –**

I. (a) Public bodies shall not meet in nonpublic session, except for one of the purposes set out in paragraph II. No session at which evidence, information, or testimony in any form is received shall be closed to the public, except as provided in paragraph II. No public body may enter nonpublic session, except pursuant to a motion properly made and seconded.

(b) Any motion to enter nonpublic session shall state on its face the specific exemption under paragraph II which is relied upon as foundation for the nonpublic session. The vote on any such motion shall be by roll call, and shall require the affirmative vote of the majority of members present.

(c) All discussions held and decisions made during nonpublic session shall be confined to the matters set out in the motion.

II. Only the following matters shall be considered or acted upon in nonpublic session:

(a) The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.

(b) The hiring of any person as a public employee.

(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.

(d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed by or against the public body or any subdivision thereof, or by or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with

any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.

(f) [Repealed.]

(g) Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the county or state correctional facilities by county correctional superintendents or the commissioner of the department of corrections, or their designees.

(h) Consideration of applications by the business finance authority under RSA 162-A:7-10 and 162-A:13, where consideration of an application in public session would cause harm to the applicant or would inhibit full discussion of the application.

(i) Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

(j) Consideration of confidential, commercial, or financial information that is exempt from public disclosure under RSA 91-A:5, IV in an adjudicative proceeding pursuant to RSA 541 or RSA 541-A.

(k) Consideration by a school board of entering into a student or pupil tuition contract authorized by RSA 194 or RSA 195-A, which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general public or the school district that is considering a contract, including any meeting between the school boards, or committees thereof, involved in the negotiations. A contract negotiated by a school board shall be made public prior to its consideration for approval by a school district, together with minutes of all meetings held in nonpublic session, any proposals or records related to the contract, and any proposal or records involving a school district that did not become a party to the contract, shall be made public. Approval of a contract by a school district shall occur only at a meeting open to the public at which, or after which, the public has had an opportunity to participate.

(l) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.

(m) Consideration of whether to disclose minutes of a nonpublic session due to a change in circumstances under paragraph III. However, any vote on whether to disclose minutes shall take place in public session.

III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes of such sessions shall record all actions in

such a manner that the vote of each member is ascertained and recorded. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply. For all meetings held in nonpublic session, where the minutes or decisions were determined to not be subject to full public disclosure, a list of such minutes or decisions shall be kept and this list shall be made available as soon as practicable for public disclosure. This list shall identify the public body and include the date and time of the meeting in nonpublic session, the specific exemption under paragraph II on its face which is relied upon as foundation for the nonpublic session, the date of the decision to withhold the minutes or decisions from public disclosure, and the date of any subsequent decision, if any, to make the minutes or decisions available for public disclosure. Minutes related to a discussion held in nonpublic session under subparagraph II(d) shall be made available to the public as soon as practicable after the transaction has closed or the public body has decided not to proceed with the transaction.