

Committee Handbook



Town of Lyme, NH

April 25, 2018

**GENERAL PROCEDURES FOR ALL COMMISSION, BOARD AND
COMMITTEE MEMBERS**

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General Commission, Board and Committee Policies

This booklet 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 all comply with the basic requirements of State legislation. The main State law covering this is RSA 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 to take effect July 1, 2008. It now has some very specific requirements respecting electronic communication. If you are in doubt, you should refer directly to this law for resolution of any specific question.* Please be very conscious that these requirements are equally applicable to sub-committees.

It also covers the Town’s standard routine to be followed in publishing minutes.

In this document, ‘committee’ is used as an encompassing word to cover all the different groups of official town government organizations and ‘email’ is a similar encompassing word covering all forms of electronic communication including, amongst others, 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 RSA 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 in public. The exceptions are covered in RSA 91-A:3. It must also be properly warned in advance. In general, warning is done by posting on the town notice boards (front hall at Town Offices, Lyme Post Office) and on the town web site <http://www.lymenh.gov>. Those committees that have regular meetings are warned by virtue of standard notices posted on the notice boards specifying a regular day, time and location. These are also noted on the last page of this booklet. Committees that have irregular meetings MUST ensure that date, time and location are given to Selectboard staff in sufficient time that the staff may properly warn the meeting. Unless this is an emergency, staff should be given 5 working days to publish the notices.

Emergency meetings may be held with shorter notice, but the chair of the committee must ensure that it is a genuine emergency and must ensure that as much notice as possible is given. In such a circumstance, means other than the regular notice boards may also be used to notify the public. Emergency meetings may be undertaken electronically, but the law is very strong on the need for it to be a true emergency to justify this procedure.

There is also a difference between meetings and public hearings, which generally require more specific notices, and which may include town or district-wide mailings. At public hearings members of the public are permitted to speak, but at public meetings the public may only contribute if specifically asked.

At public meetings or hearings anyone may use any form of recording device.

If one or more members of a committee cannot physically be present, then, providing a quorum of the members is physically present, they may participate electronically. However, such participation must be in a manner that the remote person can communicate with everyone physically present at the meeting. Thus there is a requirement either for a speaker phone or if email/instant messaging is used, this must be on a screen large enough for everyone present to be able to view it. This member must participate in the entire meeting.

Non-Public Session Meetings

If you consider that you must have a non-public session, then specify under which section of RSA 91-A:3 you need to hold it and the applicable reason(s). There must be a motion to enter NPS with a majority roll-call vote. The significant permissible reasons are:

- **91-A:3 II(a)** Dismissal, promotion, compensation, disciplining, investigation or hiring of any public employee
- **91-A:3 II(b)** Hiring of any public employee
- **91-A:3 II(c)** Matters that would adversely affect the reputation of a non-board member
- **91-A:3 II(d)** Buying, selling or leasing property if public discussion would give someone an unfair advantage over the town
- **91-A:3 II(e)** Lawsuits either filed or threatened in writing against the town.
- **91-A:3 II(g)** Preparation and carrying out of emergency functions

Generally, the minutes of Non-Public sessions have to be made available within 72 hours of the meeting. This does have an impact on the procedures for publishing minutes (see below).

Under most cases actions taken during an NPS should be included in the public session minutes.

The minutes of an NPS session may be sealed (not available to the public) but only with a two-thirds majority roll-call vote. You have to have very specific reasons for sealing the minutes. These minutes must come to the staff member to be filed appropriately.

Communication between Committee Members

There is no prohibition on chance or social meetings. However, you do have to be very careful not to take decisions (or be thought to be taking decisions) in such encounters, when there is a quorum present.

You may originate information and send it to all members of the committee. Individual members may respond to you, but must not do a 'reply all'. Nor should you add notes to the information and then forward it to anyone else. In effect, this means that there is very little that can be communicated electronically other than confirmation of an agenda, attendance at a meeting and draft documents to be reviewed at the meeting.

One specific item that every member should be aware of is that there is an explicit ban on conventions to circumvent the requirements of the law. Thus, A writing an email to B with the explicit (or implicit) proposal of B adding their comments to the email and forwarding it to C is outlawed. Again, this is an area where the quorum restrictions have to be very carefully observed.

The town cannot emphasize too strongly that the risks involved in ignoring this law are very high. At the very minimum, an aggrieved party can, under the law, demand copies of emails, but if an issue develops to the point that there is a strong suspicion

of unauthorized communication, then the courts may demand that users' computers be seized for inspection.

Communication with Legal Counsel

The Selectboard are ultimately responsible for any legal issues affecting the Town. As such, they are initially responsible for all contact with Town Counsel. Any Board or Committee needing to obtain legal advice must first obtain authorization from the Selectboard via their Selectboard representative. The Administrative Assistant, Zoning Administrator and Chair of the Selectboard are authorized by virtue of their positions to consult 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 and committee members. In the past, legal advice on filed or threatened lawsuits could be reported to board or committee members, without counsel being present. The new ruling requires that, in such circumstances, Counsel must be present, either in person or by speaker phone.

Communication from Boards and Committees

Email announcements from officials, boards, and committees should be sent out by the official @lymenh.gov email address for that official or committee. The announcement should also include the standard email footnote referencing the inability of the town, official or committee to enter into email discussion of the subject;

This message is posted as a service to Lyme residents. Formal town information is posted on the town website www.lymenh.gov, where residents may also sign up to receive direct email notification of such postings.

The town has taken the position that, under the NH 'right-to-know' laws and the requirement to hold open, public meetings, town officials, committee members and employees may not discuss town business on this or other electronic forums.

Meeting Minutes

The requirements for making meeting minutes public has now 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 NPS minutes. The difference is in the time limits within which minutes must be made available. For regular sessions, the minutes must be available within five business days, for NPS minutes they must be available within seventy-two hours.

It is assumed that, nowadays, all minutes are written on computer and it is requested that these are submitted in Word format. Please do not submit minutes as emails; this requires additional work to re-format. Draft minutes should be circulated to the committee members within three days. The committee members should then review them and respond. Such responses may be by email and are explicitly permitted under RSA 91-A:2(d) providing they are formalizing the decisions taken at the meeting. Thus you may make a correction, and all members of the committee may see the correction, to a draft.

After three days, you should then circulate the revised copy to the committee. At the same time, send a copy of the finalized draft or approved minutes to assessing@lymenh.gov. Approved minutes will be posted to the Town web site. A paper copy of both the public and non-public session minutes will also be on file in the Select board office. Please have all changes made to your minutes, staff members will not make changes or corrections.

The town asks that all minute-takers sign the minutes. We now accept either /s/ or a scanned copy of your signature inserted in the finalized minutes. If you wish, you may sign and submit a

hard copy, but please ensure that the electronic copy is always submitted to the clerk.

Lyme ListServ

Apart from the formal tools for noticing meetings and the use of mailings to provide additional information, there is an unofficial on-line mailing service/discussion group, the *Lyme Listserv*. This has approximately 600 subscribers and enables subscribers to post general community notices and have email conversations of general issues.

The town does use the *Listserv* to disseminate information, but there are constraints on town use which are not necessarily apparent to the public. Because of the issues regarding the 'Right-to-Know' law, officials or board and committee members should not join in any *Listserv* discussion of issues relating to their specific areas of responsibility.

The Town will continue to use *Listserv* to publish information to residents, as appropriate. However, this will only be in the form of a simple notification. Officials and committee members should not respond to any comments made about their areas of responsibility on the Listserv, nor should they elaborate on published notices. It is recognized that this can be very frustrating, when a subject relevant to a specific committee is discussed. The balance between free speech and openness to all is very hard to maintain and in an environment where technology is continually ahead of the law, we all have to be aware of the inevitable constraints.

Town Website Email Notification

You may subscribe to the 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 250 subscribers to this town email service and we would encourage all committee members to subscribe to this service.

Because we also endeavor to send such notices to the *Listserv*, it is likely that you will get duplicate copies of town notices; this is not an error, it is to ensure that information is disseminated as widely as possible. You should be aware that the Town Website notification is the official notice, the Listserv posting is a courtesy to residents.

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 e-mail accounts' ending in lymenh.gov this is the e-mail to be used for list serve postings and official communications. If your department, commission, committee or board does not have a lymenh.gov e-mail address please send your official message to assessing@lymenh.gov and it will be posted on the web site and sent on the list se