# TOWN OF ABINGTON

# TOWN GOVERNMENT COMMITTEE HANDBOOK

This handbook provides a description of the duties and responsibilities of members of the town government's committees and boards. These duties and responsibilities may be well known to some, but are less familiar to others. Many citizens have served the Town of Abington since its incorporation in 1712. Their commitment to Abington and their thoughtful consideration of the many issues confronting the Town are greatly appreciated. Through your service as a member of a government committee or board you will have a great opportunity to get to know the workings of the Town and to have a positive influence on Abington's present and future. There is no doubt that your service will prove to be a rewarding experience and the citizens of Abington are fortunate to have you step forward.

The Selectmen, in carrying out their duties as the appointing authority to various town committees and boards, expend considerable time and effort to make appointments to these committees. The Selectmen strive to appoint qualified and interested Abington residents who are representative of the Town. During your time of service, you will be working with many new people who, like you, have volunteered to serve the Town.

It is important to strongly consider the best interests of the Town of Abington when you are acting as a committee member. It is also important to remember that you represent the entire Town and not just one neighborhood, area or group. The Selectmen have great confidence that you will keep these principles in mind during your term.

The Annual Town Reports, Town of Abington General By-laws and Town of Abington Charter are excellent sources of information to help you familiarize yourself with town government. These items are all available at the Town Clerk's office or on the Town's official web-site, www.Abington.gov.

The Board of Selectmen thanks you for volunteering your time and energies to serve our community.

## 1.0 INTRODUCTION TO THE TOWN GOVERNMENT COMMITTEE HANDBOOK

1.1 Purpose

The Selectmen have provided this Town Government Committee Handbook (hereafter, "Handbook') to assist the Town of Abington's many appointed boards, commissions, and committees (hereafter, "committee" or "committees"). The Handbook provides a brief description of procedures which may be well known to many but are less familiar to others. It also provides information about important state statues, such as the Open Meeting Law and the Conflict of Interest/Ethics Law.

1.2 Additional Publications

The Town of Abington Annual Report provides a summary of committee activities as well as other details of Town activities for each fiscal year (July – June). Several years of Annual Reports are available on the Town website: www.abingtonma.gov, with hardcopies of previous years available in both the Selectmen's office and in the Abington Public Library.

## 2.0 FORMATION OF COMMITTEES AND MEMBERSHIP

2.1 Committee Formation

The appointing authorities (the Selectmen, Town Manager, and Town Meeting Moderator) appoint the Town's committees. State statutes outline the powers and duties of many; the Town's general bylaws, which are adopted by Town Meeting, further define the work of some. Town Meeting may also request the appointment of a committee by approving an article for that purpose. The appointing authority prepares the charge detailing the function, composition, appointing body and more and receives the reports and recommendations of the committee. If appropriate, the committee may also report to Town Meeting.

2.2 Citizen Volunteer Forms

The appointing authorities publicize vacancies on committees on the Town's website, the Town Office Bulletin Board and on local cable access television. Individuals interested in being considered for appointment should complete a separate Citizen Volunteer Form for each committee on which he or she would like to serve. The Citizen Volunteer Form is on the Town's website (www.abingtonma.gov) and may be completed online. Applicants, who do not have access to a computer, may call the Selectmen's office at 781-982-2100 to request a form. The completed form should be returned to the Selectmen's office. Applicants should explain on the form any potential for or appearance of conflict of interest (See Section 2.4, Conflict of Interest. Citizens are encouraged to attend meetings of their committee of interest to learn about the committee's role in the community.

2.3 Appointment

The goal of the appointing authorities is to appoint qualified and interested Abington residents who are broadly representative of the Town. The appointing authorities carefully consider applications and suggestions from many sources, including but not limited to Citizen Volunteer Forms, verbal expressions of interest, and recommendations by committees. Selections are based on current committee composition, qualifications, experience, recommendations, available space and on attendance records and previous

performance, when available. Generally, if a person is serving a first term, they are given preference for a second. The general policy is to appoint an individual to no more than two permanent committees at a time. Non-residents may serve on committees when the appointing authority deems it in the best interest of the committee and the Town. All appointees receive written notification of appointment and a Certificate of Appointment signed by the appointing authority and must be sworn in by the Town Clerk prior to attending a committee meeting as an official member. The Town Clerk gives committee members information about the Open Meeting Law (M.G.L. c. 30A, §§ 18-25) as state statutes require; members must sign a written acknowledgment of receipt.

Additionally, appointees are required to take the State Ethics Commission Introductory On-Line Training Program. The training program is provided through the State Ethics Commission website www.mass.gov/ethics The program provides a short summary of the key provisions of the conflict of interest law and follows up with questions to further an appointee's understanding of these provisions. It is important to keep in mind that information provided in the online training program is general in nature and is not an exhaustive review of the conflict of interest law. At the conclusion of the on-line training program the appointee will be provided with a certificate of completion. This certificate should be filed with the Town Clerk. For new appointees, the training program must be completed within 30 days of appointment. All appointees must take the training program and submit their certificate of completion every two years.

2.4 Conflict of Interest Statute as It Applies to Committee Appointees
M.G.L. Chapter 268A, see also the State Ethics Commission Website: www.mass.gov/ethics

2.4.1 Persons the Conflict of Interest Statute Governs
The conflict law regulates the conduct of public officials and employees (referred to collectively in the law as 'employees') at the state, county and municipal levels of government. The term 'employee' at each level is defined expansively. You are considered a municipal employee if you hold any office, position, employment or membership in any municipal agency. It does not matter whether you are paid or unpaid or whether you serve full-time or part-time. Please be aware that as a member of an appointed governmental committee, you are considered an employee for the purposes of the Conflict of Interest laws even though you don't receive compensation. People who work as consultants or on an intermittent basis are generally covered, as well. For example, unpaid members of local town or city boards or commissions are municipal employees, as are private citizens serving on *a special advisory committee* (emphasis added) appointed by the mayor or board of selectmen to make recommendations on a specific issue.

Special Municipal Employees: Special Municipal Employee status may be assigned to certain municipal positions by a vote of the Board of Selectmen. Please see EXHIBIT A of this handbook for a more detailed explanation on Special Municipal Employees and EXHIBIT B for the Selectmen's policy regarding granting Special Municipal Employee status. Two sections of the conflict law apply less restrictively to Special Municipal Employees. You are eligible to be designated as a Special Municipal Employee provided that: (1) you are not paid; or (2) you hold a part-time position which allows you to work at another job during normal working hours; or (3) you were not paid by the city or town for

more than 800 working hours (approximately 20 weeks full-time) during the preceding 365 days.
It is the municipal position which is designated as having special status, not the individual. Therefore, all employees holding the same office or position must have the same classification as Special Municipal Employees if the status is granted. For instance, one member of a school committee may not be classified as a special unless all members are similarly classified.

2.4.2 Purpose
According to *A Practical Guide to the Conflict of Interest Law for Municipal Employees* (2001) published by the State Ethics Commission, the "purpose of the conflict law is to ensure that public employees' private financial interests and personal relationships do not conflict with their public obligations. The law is broadly written to prevent a public employee from becoming involved in a situation which could result in a conflict or give the appearance of a conflict."
"The law restricts what a public employee may do: (1) on the job; (2) after hours (or 'on the side'); and (3) after leaving public service."

2.4.3 Provisions
The law prohibits a variety of actions, including bribery, extra pay, receipt of gifts or privileges because of a committee member's official actions, and acting as an agent or attorney for anyone in a claim against or doing business with the Town. The law prohibits all municipal employees from participating in a particular matter in which committee members or any of the following have a financial interest:

- Immediate family.
- Partner or business associates.
- A business organization in which the committee member serves as an officer, director, trustee, partner or employee (Including a non-profit organization).
- Any person or organization with whom the committee member is negotiating or has any arrangement concerning prospective employment.

If committee members have a conflict of interest or an appearance of conflict in any matter before the board or committee, they should not be counted in the quorum nor participate in or be present for any pertinent discussions or votes. The law provides for the legal determination of conflict of interest status for any employee submitting a request to the appointing authority or State Ethics Commission. The law also provides for continued service in certain circumstances if full disclosure is made or a special exemption is granted by the appointing authority. If committee members have any questions about their activities, they should file a written request with the Town Manager. The answer to the request will be in writing and become a matter of public record.

**All members of a committee should familiarize himself/herself with the state Conflict of Interest Law, Massachusetts General Laws Chapter 268A, and if he/she has a question regarding the law should contact the Town Manager for guidance, and if the Town Manager authorizes it, the opinion of Town Counsel.**

2.5 Reappointment

Reappointment is based on an evaluation by the appointing authority of the committee member's contribution to the committee, including attendance, the desirability of widespread involvement, and the changing needs of the committee and the Town. Although there is no fixed limit on length of service, the length of service may be limited to two (2) terms, three (3) years in length. In cases where special training or expertise is required, longer periods of service may be appropriate. A committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to offer reappointment.

2.6 Resignation

A committee member who is no longer able to serve should resign promptly so that the vacancy may be filled. A written resignation must be submitted to the appointing authority and the Chair of the committee.

2.7 Other Terminations

In rare circumstances such as continued, unexplained absences or conflict of interest, the appointing authority may ask for a member's resignation or, if necessary, revoke the appointment, pursuant to the Town of Abington Charter, Article VII, Sections 7-14, 7-15 and 7-16. If such an action is taken, written notice of such action will be given to the committee member and the committee member will be entitled to a public hearing, if requested by the committee member. Also, the appointment of a committee member who fails to attend four consecutive meetings may be terminated by a majority vote of the membership of the committee on which he/she is serving, pursuant to the Town of Abington Charter, Article VII, section 7-16. Written notification to the committee member will be given in the event of such action. Generally, before such action is required, the appointing authority should contact the member to see if the problem can be corrected.

2.8 Associate Members

From time to time, a committee may find it useful to appoint associate members to assist the committee in the successful completion of its charge. Appointments of associate members are made by the appointing authority, provided the committee submits written substantiation of the need for associate members. Associate members are appointed for terms of one year. Generally, associate members are non-voting members and are not counted as a member of a committee for the purposes of establishing a quorum.

2.9 Charge and Plan of Action

The committee should review the charge prepared by the appointing authority at an early meeting and periodically thereafter in order to keep its work focused and moving toward its goals. When the committee is established because of Town Meeting action, the appointing authority usually incorporates the purpose of the article within the charge. However, the Town Meeting vote is advisory and not legally binding.

The committee, with advice from staff and the appointing authority, should develop a plan of action to accomplish the objectives. The plan should include major reporting milestones so that the committee and the appointing authority may assess committee progress.

## 3.0 OFFICERS

3.1 Elections
Committees elect a Chair, Vice-Chair and a Secretary annually on or before May 15 (with the exception of the Finance Committee), according to the Town of Abington By-Laws, Article II, Section 17.3. It is the responsibility of the Chair to notify the appointing authority, the Town Clerk and the Town Manger of the changes in officers.

3.2 Chair
The Chair's primary responsibility is the fair facilitation of meetings. The Chair presides at all meetings, decides questions of order, calls special meetings, and signs official documents that require the Chair's signature. The Chair has the same rights as other members to offer resolutions, make or second motions, discuss questions, and vote thereon. However, the Chair must be mindful in offering amendments to motions and in discussing resolutions of the Chair's role in facilitating a full range of opinion from the committee and, in a public hearing, from the Public.

The duties the Chair typically performs include:
a. preparing agendas
b. assuring needed materials will be available to the committee
c. assuring the lists of topics is posted in accordance with Open Meeting Law
d. establishing the calendar
e. reserving the meeting space
f. notifying the appointing authority of important changes in the committee
g. submitting the annual report

Depending on the committee, however, some duties may be performed by the Chair or by other elected officials of the committee or in some cases, by the staff liaison. He or she would:

1. Prepare agendas and other materials: Ideally, the tentative agenda for the next meeting, the minutes of the previous meeting and other necessary documents should be e-mailed or mailed to committee members, at least several days before a meeting. The detailed agenda, including a list of topics expected to be discussed, the meeting time and location, needs to be submitted to the Town Clerk two or more business days (a full 48 hours, excluding Saturday and Sunday and holidays) prior to the meeting. The information will then be included in the events calendar and on electronic bulletin boards.

2. Reserve meeting rooms with the Selectmen's Office at least 72 hours prior to meeting (see Section 4.6) and post meetings with the Town Clerk (at least 48 hours prior to meeting, excluding Saturdays, Sundays and holidays) before meeting times.

3.3 Vice-Chair
The Vice-Chair serves as the Chair whenever the latter is absent from meetings and performs other necessary duties.

3.4 Secretary/Clerk
If the committee has a Secretary, he or she is responsible for taking and transcribing the committee's minutes, recording any amendments, posting the approved minutes in

accordance with the Town of Abington Charter, Article VII, Section 7-12-2 (in a place convenient to the public and a copy at the Town Library).

3.5 Rotating Secretary
A committee may choose to have a rotating Secretary. The responsibilities of the rotating Secretary are identical to those of a Secretary.

## 4.0 MEETINGS

4.1 Definition
A quorum is necessary for conducting official business (Zoning Board of Appeals is a special case, requiring all members of a three-member panel to be present for a hearing; regular quorum rules apply for ZBA administrative meetings). A quorum consists of greater than 50% of the full membership: i.e., quorum for a 6-member committee is 4; quorum for a 7-member committee is also 4.

A meeting occurs at any time a quorum of the committee's (or subcommittee's) members get together to discuss or consider any public business or policy over which the committee has some jurisdiction or advisory power.

4.2 Open Meeting Law
Massachusetts General Laws Chapter 30A, §§ 18-25
www.mass.gov/ago/government-resources/open-meeting-law

4.2.1 General Information
The Massachusetts Open Meeting requires that all meetings of elected or appointed boards, committees or subcommittees be open to the public except in ten specific situations where Executive Session is permitted. The Open Meeting Law does not contravene other laws, such as the Privacy Act. If clarification is needed, particularly concerning Executive Session and the rights of individuals, the Committee Chair may request that the Town Manager obtain advice on specific questions from legal counsel.

4.2.2 Recordings
Any person may record a meeting (with the exception of Executive Session) with audio and/or video equipment provided there is no active interference with the conduct of the meeting. The manner in which this right is to be exercised is subject to the reasonable direction of the Chair.

4.3 General Guidelines
A committee may adopt formal rules of order, such as Robert's Rule of Parliamentary Procedure. Although most small committee discussions may seem too casual to be called debate, it is advisable for the committee to observe a minimum of generally accepted procedures. Attentive guidance by the Chair and adherence to adopted procedures can increase efficiency as well as maintain objectivity.

Committees discuss the merits of issues; personal comments are considered out of order. Visitors may be allowed to participate if recognized by the Chair; time constraints and agendas often require brevity (Open Meeting Law Section 20 (f)). It may be advisable for the

Chair to remind speakers of time and repetition limits. No one may speak at a committee meeting without permission of the Chair. If a speaker refuses to be silent after a warning from the Chair, the Chair has the authority to order the speaker removed from the meeting by the police. Nevertheless, all committee members represent and serve the Town. They should treat all visitors and other committee members with courtesy, respect, and consideration. It is strongly recommended to permit public participation in some form, such as a short period reserved for comment at each meeting or on a particular issue on the agenda. Public participation is expected during scheduled public hearings.

4.4 Executive Session

An Executive Session is closed to the public, but the committee must first convene in an Open Session for which notice and the purpose of the Executive Session have been properly posted. A majority of the members must vote, by roll-call vote entered into the minutes, in favor of a motion to go into Executive Session. The motion must specify the reason and state whether or not the Open Session will reconvene following Executive Session. All votes taken in Executive Session are recorded by roll call and become a part of the record of that session. Topics discussed in Executive Session are confidential. Attendees do not discuss these matters with anyone. Accurate records/minutes of the executive session must be maintained pursuant to Section 23 of the Open Meeting Law (Complaints and Remedies) and must be released to the public only when the purpose for the Executive Session no longer exists.

**Executive session may be held only for the purposes described in section 21a of the Open Meeting Law—please see EXHIBIT C for the text of the Open Meeting Law regarding executive session.**

4.5 Meeting Schedule

The frequency of meetings depends on a committee's workload. Most meetings are commonly held weekly, bimonthly or monthly. The Chair calls each meeting except for the first one, which is called by the appointing authority. When possible, a regular meeting day, hour, and location should be established. Except in cases of emergency, committees do not meet on major religious or official holidays or if Town Hall is closed due to snow. They meet only rarely on weekends.

4.6 Meeting Location

Meetings must be held in a place which is open to the public and accessible to the handicapped. The Selectmen strongly recommends that committees meet in a Town building because meetings held in private homes or restaurants may give the appearance of being secret and discourage the public from attending. A committee may reserve a room in a Town building (Town Hall, Libraries, Police Department, Schools) by contacting the following:

Town Hall: 781-982-2100 (Selectman's Office)
Senior Center: 781-982-2145
Public Library: 781-982-2139
Police Community Room: 781-982-2111
School Department 781-982-2150 (Superintendent's Office)

4.7 Posting

It is the responsibility of the committee (the Chair, Secretary or staff liaison) two (2) full days (48 hours) or more prior to the meeting to give notice to the Town Clerk so that she can post the committee's meetings with time, date place and a list of topics to be discussed. Except for emergency meetings, meetings must be posted 48 hours in advance by the Town Clerk; Saturdays, Sundays or legal holidays cannot be included in the 48 hour period (Open Meeting Law Section 20 b). In the case of emergency meetings (sudden, unexpected occasions which require immediate action by the body), the 48-hour posting requirement is waived; however, the Town Clerk must be informed and the meeting posted as soon as possible. Meetings are also posted on the Town website through the Selectman's Office.

4.8 Remote Participation

The Board of Selectmen have authorized remote participation in meetings pursuant to the Open Meeting Law and the Massachusetts Attorney General's regulations (940CMR29.10). If a committee member wishes to use remote participation he/she must notify the committee Chair as far in advance as possible. The Chair should then notify the Town Manager to work out the logistics and technical aspects of the participation so that compliance with the Open Meeting Law is adhered to.

4.9 Recordkeeping

Committees should strive for transparency, posting minutes no later than 60 days of acceptance as provided for in the Town Charter. State law requires that a committee keep accurate records of its public meetings. The committee must vote to accept all minutes. These records are public information, the approved minutes in accordance with the Town of Abington Charter, Article VII, Section 7-12-2 (in a place convenient to the public and a copy at the Town Library). See EXHIBIT D for the text of the Open Meeting law regarding recordkeeping.

4.10 Public Records Law

The Massachusetts Public Records Law – Massachusetts General Laws Chapter 4, Section 7(26) and any amendments 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. The minutes, informational data, memoranda and circulating materials of any Town board or committee are mostly all public information. The committee should consult the Town Manager if questions arise concerning freedom of information.

## 5.0 BUDGETS

5.1 Committee Budgets

In general, an individual committee does not have a budget unless one is authorized by Town Meeting 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 Manager; or, if funds are needed during a fiscal year, it can make a request to the Finance Committee for a transfer from the Reserve Fund. Such a request is subject to a review and evaluation of need and the availability of funds.

5.2 Disbursements
As bills are incurred by the committee, the committee's Chair or secretary submits invoices to the Accounting Office, attaching all appropriate receipts, paperwork, etc. The Accounting Office prepares the accounts payable warrant and forwards to the Town Manager for review and approval.

5.3 Purchases
Purchase orders (obtainable from the Accounting office) must be completed for all purchases over $250, signed by the committee Chair, and submitted to the Accounting Office. The Accounting Office completes its portion of the purchase order, and forwards to the Town Manager for review and approval.
Purchases in excess of $5,000 must go through the bid process and comply with M.G.L. Chapter 30B, the Uniform Procurement Act. For more information, contact the Town Accountant.

## 6.0 FUNDRAISING

6.1 Background Information
From time to time, Town Meeting may authorize the formation of a committee the task of which is to raise funds for a specific purchase or purpose. The provisions of Massachusetts General Laws Chapter 44, Section 53A enable a Town committee to raise and disburse funds according to specific procedures.

6.2 Procedures
6.2.1 Donations
All funds received by the committee go into the General Fund and may not be dispersed by the committee on its own without special arrangements. Sometimes donations are made to the Town for deposit to a separate, designated account for specified purposes. A Receipt for a Restricted Gift form to record the donation is available from the Selectmen's office. The committee's designee completes a turnover form for contributions received and transmits this document and funds to the Town Treasurer.

## 7.0 CODE OF ETHICS AND CONDUCT FOR MEMBERS OF BOARDS, COMMITTEES AND COMMISSIONS

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 individuals 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, Commissions whether elected or appointed "Regular" or "Special Municipal Employees" as defined under Massachusetts General Laws, Chapter 268A.

7.1 Community Responsibility
A member of any Board, Committee or Commission in relation to his/her community shall:

a. Realize that his/her basic function is to make policy not administer it, unless otherwise empowered by the laws of the Commonwealth of Massachusetts or the Charter of the Town of Abington.

b. Realize that he/she is one of a team and should abide by, and carry out, all board decisions once they are made.

c. Be well informed concerning the duties of a board member on both local and state levels.

d. Remember that he/she represents the entire community at all times.

e. Accept the appointment as a means of unselfish service, not benefit personally or politically from his/her activities.

f. In making all decisions relative to individual appointments, he or she shall avoid political patronage by judging candidates on merit, experience and qualifications.

g. Before any vote, he/she shall refuse (shall not) vote on any matter involving an immediate family member (spouse, mother, father, sister, brother) or in which he he/she has a financial interest.

7.2 Responsibility to Municipal Administration
A member of any Board, Committee or Commission, in his/her relations with administrative officers of the Town shall:

a. Endeavor to establish sound, clearly defined policies that will direct and support the administration for the benefit of the people and businesses of the community.

b. Recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administration.

c. Give the Town Manager full responsibility for discharging his/her disposition and solution. Therefore, all Boards, Commissions and Committees shall:

i. Direct all problems or conflicts which cannot be solved in-house to the attention of the Town Manager.

ii. Direct all legal questions or requests to Town Counsel through the Town Manager or person designated by the Town Manager.

iii. Direct all questions or concerns to the Town Manager. Letters may also be addressed to the Board of Selectmen. However, an initial letter to the Town Manager 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 Manager and

Board of Selectmen do not have control over issues dealing with other elected officials or committees/individuals appointed by the Town Moderator.

7.3 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:

a. Recognize that action at official legal meetings is binding and that he/she alone cannot bind the board outside of such meeting.

b. 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 issues during a board meeting.

c. Make decisions only after all facts and questions have been presented and discussed.

d. Uphold the intent of Executive Session and respect the privileged communication that exists in Executive Session.

e. Treat with respect the rights of all members of the board, despite differences of opinion.

7.4 Prohibited Conduct

A member of any Board, Committee, or Commission, in accordance with Massachusetts General Laws, Chapter 268A, shall;

a. Not accept employment which will impair his/her independence of judgment in the exercise of his/her official duties.

b. Not accept employment or engage in any business or professional activity which will require him/her to disclosed confidential information which he/she has gained by reason of his/her official position or authority.

c. 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.

d. Not use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.

e. 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.

f. 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 a violation of his/her trust.

g. Not be improperly influenced in his/her performance of any official act or any act within his/her official responsibility.

h. 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 federal, state, county or municipal agency.

i. Not be induced to do or omit to do any acts in violation of his/her official duty.

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

## 8.0 REPORTING PROCEURES

8.1 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.

A committee may request inclusion of an article in the Town Meeting warrant by a letter to the Selectman's Office from the committee if a majority of the committee consents to the submission. Articles may be reworded by the Selectmen's Office upon advice of Town Counsel. All articles should be submitted to the Selectmen's Office by the deadlines established by the Selectmen. Committee members sometimes find that they wish to discuss and consider making recommendations on other articles at their meetings. In such cases, the Selectmen suggest that the committee send written notice of the scheduled discussion to the sponsors of the article.

8.2 Annual Town Report

All appointed committees must 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. A request for Committee reports is issued each year.

EXHIBIT A

SPECIAL MUNICIPAL EMPLOYEE STATUS

Designation of Committee members as "Special" Municipal Employees
The Selectmen may vote to designate committees' members as "Special" Municipal Employees based on the committee requesting such designation. State law gives broad discretion to the Board of Selectmen 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 interests 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 may be assigned to certain municipal positions by a vote of the Board of Selectmen. The designation is made by a formal vote at any time. Once a position is designated as having "special" status, it remains a "Special Municipal Employee" position unless and until the classification is rescinded by a vote of the Board of Selectmen. The Board of Selectmen may rescind the classification at any time for any reason.

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 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 municipal employees holding the same office or position must have the same classification as "Special Municipal Employees." For instance, one member of the school committee cannot be classified as "Special" unless all members are classified.

Abington's Board of Selectmen is not eligible to receive "Special Municipal Employee" status due to state law.

The Massachusetts 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 as "Special Municipal Employees" and do not need to have local authorities approve their designations as "Special."

A list of all "Special Municipal Employee" positions is on file with the Town Clerk and with the Town Manager's office. The list is also filed with the state Ethics Commission. The Selectmen review the list on an annual basis.

The state Conflict of Interest Law (Massachusetts General Laws Chapter 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 "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 or 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 has been granted Special Municipal Employee status 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 he/she works, provided he/she files a disclosure of his/her interest in the contract with the town clerk. A "Special Municipal Employee" may even have a financial interest in a contract with his/her own department (or with a department that has overlapping jurisdiction with his/her department), provided he/she files a disclosure of his/her interest in the contract with the town clerk and the Board of Selectmen vote to grant him/her an exemption to Section 20.

EXHIBIT B

# BOARD OF SELECTMENT'S POLICY RELATING TO GRATNING OF SPECIAL MUNICIPAL EMPLOYEE STATUS TO POSITONS, COMMITTEES AND BOARDS PURSUANT TO MGL Ch. 268A

RATIONALE:

In general, the provisions of Massachusetts General Laws Chapter 268A, Section 17 prohibit a municipal employee from receiving compensation from or acting as agent or attorney for anyone other than the Town in a matter in which the Town has a direct and substantial interest. The Board is aware of the fact that the State Ethics Commission defines "municipal employee" as any person that provides services to the Town, regardless of how that person was hired, elected or appointed, or whether the person receives compensation for his/her services. The Board understands that the State Ethics Commission would find that virtually any matter which comes before a particular board or official which requires official action is a matter in which the Town has a direct and substantial interest. The provisions of Massachusetts General Laws Chapter 268A, Section 17 are intended to prevent divided loyalties and any appearance of unfair or special advantage.

As the State Ethics Commission states, cities and towns are entitled to undivided loyalty by their municipal employees. The Board of Selectmen strongly believes that in order to promote public confidence in the administration of the town government a municipal employee's loyalty must lie first with the Town and that Special Municipal Employee status should be granted only in very limited circumstances. The Board is of the opinion that in general, positions, committees, and boards that set public policy, have regulatory authority or have appointing authority should not be granted Special Municipal Employee status.

The Board of Selectmen also believes that there are occasional circumstances that can arise where a position, board or committee may benefit from a person's expertise or knowledge in a particular field or profession. In those limited circumstances Special Municipal Employee status *may* be warranted.

Under Massachusetts General Laws Chapter 268A, the Board of Selectmen may grant Special Municipal Employee status to a position, board or committee at any time and the Board may also revoke that status at any time. It is the municipal position that is designated as having Special Municipal Employee status, not the person holding the position. Therefore, all members of a board or committee holding the same office are considered Special Municipal Employees if the designation is granted by the Board of Selectmen.

POLICY:

1. Any person(s) holding an elected or appointed position or serving as a member of an elected or appointed committee or board may file a written request with the Board of

Selectmen seeking designation of such position, committee or board as a Special Municipal Employee(s).

2. Any such request shall be made a part of the agenda of a regularly scheduled meeting of the Board of Selectmen.

3. The person(s) making such a request shall appear at the scheduled meeting of the Board of Selectmen to present such request. The person(s) making the request shall present to the Board of Selectmen the rationale for such request. The presentation shall include a demonstration of the need the position, committee or board has for the skills or professional knowledge that the person making the request possesses. Additionally, the presentation shall include how those skills or professional knowledge will benefit the position, committee or board as well as benefit the overall interests of the Town.

4. The Board of Selectmen shall consider the request and a vote shall be taken on the request. The granting of such status shall be by a majority vote of the Board.

5. Requests for Special Municipal Employee status will be voted upon individually for each position, committee or board requesting such status, expressly naming the position, committee or board being designated.

6. If Special Municipal Employee Status is granted to the position, committee or board, then annually, no later than May 25, any person intending to retain such status for the position, committee or board, shall resubmit a request to the Board of Selectmen for Special Municipal Employee status. The Board shall review and act upon the request in accordance with Paragraph 2 through Paragraph 5 of this policy at its first meeting in June. Additionally, at the first meeting of the Board of Selectmen in June, the Board shall review the list of positions, committees and boards granted Special Municipal Employee status to ensure compliance with this policy. A list of Special Municipal Employees shall be forwarded to the Town Clerk and the State Ethics Commission any time Special Municipal Employee status is granted or revoked by the Board and at least annually.

Adopted: Abington Board of Selectmen
October 15, 2012

EXHIBIT C

EXECUTIVE SESSION

NOTE: Purpose (1) above for meeting in executive session should be used with great caution and should ordinarily be discussed in advance with the Town Manager or, if he/she authorizes it, with Town Counsel.

**OPEN MEETNG LAW SECTION 21a. [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."

EXHIBIT D

RECORD KEEPING

The Open Meeting Law, Section 22 states:

"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" AND "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 except in certain personnel evaluations."

Minutes must include (see Open Meeting Law, Section 22):

- ☐ 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.

• 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 should be maintained as part of the official record of the session.

Minutes should include:

☐ names of additional participants (not press or observers).

☐ name of recorder.

☐ time convened, and time adjourned.

Minutes may include:

☐ a schedule of future meeting(s).

Minutes do not need to include:

☐ who moved and seconded motions.