TOWN OF FRANKLIN
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Town Council
Rules of Procedure Ad-Hoc Subcommittee
February 14, 2018
Room 205
355 East Central Street
Franklin, MA
Minutes

Attendance: Town Councilor Tom Mercer, Town Councilor Peter Padula, Town Councilor Deb Pellegri, Jeff Nutting Town Administrator, Jamie Hellen Deputy Town Administrator , Town Attorney Mark Cerel.

The Chair called the meeting and workshop to order at 5:30 PM.

The Chair opened the meeting where the subcommittee had left off at its previous meeting, at Article XVI of the current Rules of Procedure manual. The Committee walked through the remaining sections of the current manual and had a discussion with the town staff about potential changes to the document.

The committee members suggested the Town Attorney work on a "red-line" version draft that includes all of the discussion points from the two meeting the committee has held. They suggested once a thorough draft has been developed, the group will reconvene to review that draft.

The Rules of Procedure subcommittee adjourned at 6:35 PM.

ROLE OF THE
TOWN COUNCIL

1. **A member of the Council, in relation to his/her community should:**
   A. Realize that his/her basic function is to make policy, with administration delegated to the Administrator.
   B. Realize that he/she is one of a team and should abide by, and carry out, all Council decisions once they are made.
   C. Be well-informed concerning the duties of a Council member on both local and state levels.
   D. Remember that he/she represents the entire community at all times.
   E. Accept the office as a means of unselfish service, not benefit personally or politically from his/her Council activities.
   F. In all appointments, avoid political patronage by judging all candidates on merit, experience, and qualifications only.
   G. Abide by the ethics established by the State and not use the position to obtain inside information on matters which may benefit someone personally.

2. **A member of the Council, in his/her relations with administrative officers of the Town, should:**
   A. Endeavor to establish sound, clearly defined policies that will direct and support the administration for the benefit of the people 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 Administrator full responsibility for discharging the duties of his/her office.

3. **A member of the Council, in his/her relations with fellow Council members, should:**
   A. Recognize that action at official legal meetings is binding and that he/she alone cannot bind the Council outside of such meetings.
   B. Not make statements or promises of how he/she will vote on matters that will come before the Council until he/she has had an opportunity to hear the pros and cons of the issue during a Council meeting.
   C. Uphold the intent of executive session and respect the privileged communication that exists in executive session.
   D. Make decisions only after all facts on a question have been presented and discussed.
   E. Treat with respect the rights of all members of the Council despite differences of opinion.

PROCEDURES MANUAL OF THE FRANKLIN TOWN COUNCIL

I. PARLIAMENTARY PROCEDURE

The Council shall be governed by Robert's Rules of Order Revised in all questions of parliamentary practice not provided for by special rules or orders.

II. COUNCIL MEETINGS

Regular meetings of the Council shall be held in the Council Chamber (Municipal Building) on the first and third Wednesday of each month, or as otherwise voted by the Council, commencing at 7:00 PM. [See also Charter: 2-5-1].

III. QUORUM

A quorum of the Town Council shall consist of a majority of its members [Charter: 2-5-2]. If at any time a meeting is called to order, or, if during a meeting a roll call shows less than a quorum present, the Chairman shall declare a recess of not more than ten minutes, after which time, if a quorum is not present, the meeting shall be adjourned. Any member may call for a roll call on the question of the presence of a quorum.

IV. PUBLIC POSTINGS

By law, public notices of all Council meetings, except in emergencies, must be posted with the Town Clerk a minimum of 48 hours before any meeting. The Town Clerk will insure that the notice is posted on the Town Hall bulletin board. Meeting notice forms emanate from the Town Clerk's office and will include the name of the committee and the date, time, and place of the meeting.

V. MINUTES

A written record of each council meeting is required by law and becomes part of the public record. Minutes must contain the date, time and place of the meeting, members present or absent, the names of the makers and seconds of all motions, all formal votes of the Council, and a reasonable summary of discussion. Minutes must be formally accepted by the Council. Minutes of all Council meetings must be placed on file in the office of the Town Clerk where they will be available for public inspection upon request. Video recordings of council meetings will be kept on file at the Franklin Public Library and will be considered part of the official minutes of any meeting of the Council. Video recordings shall be kept for the shelf life of the media, and best available technology shall be pursued to preserve them indefinitely.

VI. THE CHAIRMAN -- POWERS AND DUTIES

The Chairman, or Vice Chairman in the absence of the Chairman, shall take the Chair at the hour appointed for the Council to meet and shall immediately call the members to order. In the absence of the Chairman, the Vice Chairman shall assume the role of Chairman pro tem. The Clerk will designate a presiding Chair by seniority in the event both the Chairman and Vice Chairman are absent.

VII. PRESERVATION OF DECORUM AND ORDER AND APPEALS FROM DECISION OF THE CHAIR.

The Chairman shall preserve decorum and order, may speak to points of order in preference to other members, shall decide all questions of order, subject to an appeal to the Council, regularly seconded, and no other business shall be in order until the question on the appeal shall have been decided. The question shall

be put as follows: "Shall the decision of the Chair stand as the judgment of the Council?" The vote shall be by roll call, and it shall be decided in the affirmative unless a majority of the Councilors present and voting vote to the contrary.

VIII. VIVA VOCE AND RAISED HANDS

All questions shall be stated and put by the Chairman. In case of a roll call vote, the Chairman shall declare the result, after the Clerk has announced the number voting on each side. The results of viva voce votes shall be declared by the Chairman without reference to the Clerk. Where a raised hand vote is taken, the Chairman shall count and announce the result. Where the result of a viva voce vote is in doubt, the Chairman may, and on demand of any member, shall call for a division of the Council, which shall be taken by a show of hands, or by a roll call if requested by any Councilor. It shall not be in order for members to explain their votes during the call of the roll.

IX. THROUGH CHAIR

All remarks and questions shall be addressed to the Council as a whole through the Chair and not to any member thereof. No person other than members of the Council and the person having the floor shall enter into discussion either directly or through a member of the Council without permission of the Chairman.

X. RECESS

The Chairman may at any time, during debate or otherwise, declare a recess for not more than ten minutes, and such action shall not be subject to appeal, nor shall any motions apply thereto.

XI. ADDRESSING THE CHAIR

Every member speaking to a question or making a motion shall address the Chair as "Mr./Madame Chairman," who shall thereupon pronounce the name of the member entitled to the floor. Members addressing the Council shall confine themselves to the question under debate and avoid personalities; nor shall there be any conversation among the members while a question is being stated, while a member is speaking, or a paper is being read. If a member is speaking or otherwise transgresses the rules of the Council, any other member may call the offending member to order by addressing the Chair.

XII. CHAIR MAY SPEAK

The Chairman may speak in favor of, or in opposition to, any motion and will be bound by the same rules as those which are applied to other speakers; i.e., speaking once for no more than three minutes, and not to speak again until all others who wish to speak have spoken once.

XIII. CITIZENS COMMENTS

The Franklin Town Council encourages citizens to attend its meetings and welcomes their views on pertinent subjects. Anyone may comment at this time for up to five minutes. The Council will not engage in dialogue with the audience. However, the Council will give your remarks appropriate consideration.

Citizens present who wish to speak on an agenda item may do so after all Councilors who wish to speak on the item have spoken. Those citizens who wish to speak shall be limited to one three-minute response. [SEE ALSO CHARTER: 2-5-3].

XIV. POINT OF ORDER

Any Councilor on being called to a point of order shall cease debate until the point of order is decided,

unless allowed by the Chairman to explain.

XV. ELECTION OF OFFICERS

A majority of all members elected to the Council (5) shall be required to elect a Chairman, Vice Chairman, and Clerk.

XVI. VOTE REQUIREMENTS

All votes on by-laws shall be by roll call [Charter: 2-6-5].

For other actions requiring a by-law [see Charter: 2-7-1].

All action taken by the Town Council requiring a vote will be by a simple majority (majority of Councilors present and voting) unless otherwise provided for in the Massachusetts General Laws, Home Rule Charter, By-laws, or by Rules set forth in the Procedures Manual of the Franklin Town Council.

Resolutions require a simple majority.

In case of a tie in votes on any proposal, the proposal shall be considered lost.

A Town By-law requires a majority vote of the full Council (5). Vote is by roll call [Charter: 2-6-4 and 2-6-5].

A Zoning By-law requires two-thirds vote of the full Council (6). Vote is by roll call [MGL Ch. 40A, Sec.5].

A properly protested* Zoning By-law requires a three-quarters vote (7) of the full Council. Vote is by roll call. [*Properly protested = written protest filed by owners of at least 20% of affected land area; or, of adjacent land 300 feet therefrom: [MGL Ch. 40A, Sec. 5].

An Emergency By-law requires a two-thirds vote of the full Council (6). Vote is by roll call [Charter: 2-6-3]. Two votes are needed: One on the emergency [2/3 vote of the full Council (6)], and one on the By-law [2/3 vote of the full Council (6)].

To take money from the Stabilization Fund for any municipal expenditure requires a two-thirds vote of the Council membership (6) [MGL Ch. 40, Sec. 5b].

Unpaid bills require 2/3 vote (Councilors present and voting) [MGL Ch. 44, Sec. 64].

Other business may be conducted if the Council has a quorum, and may be passed by a majority of the quorum [Charter: 2-5-2].

Any Rule, Regulation, or other local legislation which provides for the imposition of any fine or penalty shall be provided for by the adoption of a By-law.

In order to expedite the Council's deliberations when considering lengthy proposed By-laws, when the reading of said proposed By-laws has been waived, and yet not to deprive the public of the nub of the matter at hand, a brief summary of the substance of the proposed By-law will be attached to it for reading by the Clerk of the Council.

The Chair may require that a vote be taken on any item before the Council if failure to do so would make the item illegal to adopt because of the expiration of a federal or state mandated time limit or similar

circumstance.

XVII. READINGS

Every By-law, unless rejected, shall have two separate readings and shall be voted only after two separate readings; the second of said readings and votes will not be less than fourteen days after the first, except in cases in which a shorter period is authorized by law. Any order rescinding or amending a By-law shall require the same number of readings and of votes as was required for the passage of the original By-law.

XVIII. RESUBMISSION

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for resubmission, unless resubmission is approved by a majority of the Council present, or as otherwise provided by the Charter or Massachusetts General Law.

A zoning by-law which is voted down may not be reconsidered within two years unless the Planning Board makes a recommendation to do so, [MGL Ch. 40A, Sec. 5].

XIX. SPONSOR ABSENCE

In the event that the sponsoring member of any order, resolution, or other matter is not present when the Clerk reads said matter, the Chairman shall instruct the Clerk to withdraw said matter from consideration at that meeting.

XX. MOTIONS

The order of precedence of motions shall be as follows:

1. Motion to recess
2. Raise a question of privilege
3. Lay on the table
4. Suspend the rules (two-thirds vote)
5. Previous question (two-thirds vote)
6. Limit or extend limits of debate (two-thirds vote)
7. Postpone to a certain time
8. Commit or refer
9. Amend
10. Postpone indefinitely
11. Main Motion

The highest in rank being at the head of the list and the lowest in rank at the last of the list. When any one of them is immediately pending, the motions before it on the said list are in order and shall be acted upon first, and those below are out of order.

The following motions shall be non-debatable:

1. To adjourn
2. To recess (when privileged)
3. To raise a question of privilege
4. To lay on the table
5. To suspend the rules

6. Previous question (two-thirds vote)
7. To limit or to extend limits of debate (two-thirds vote)

The following motions only can be amended:

1. To recess
2. To postpone to a certain time
3. To commit or refer
4. To amend
5. Main motion

A motion to adjourn shall be in order at any time except upon immediate repetition.

XXI. WRITTEN PROPOSALS

All proposed By-laws, Orders, and Resolutions shall be in writing and shall bear the name of the sponsor. [Adopted 9-2-98]

XXII. PERSONAL PRIVILEGE

The right of a member to address the Council on a question of personal privilege shall be limited to cases in which his or her integrity, character, or motives are assailed, questioned, or impugned.

XXIII. ORDER OF BUSINESS AND AGENDA

At every meeting of the Council the standard order of business shall be as follows:

A. Approval of Minutes
B. Announcements from the Chair
C. Proclamations
D. Citizen Comments
E. Appointments
F. Hearings
G. License Transactions
H. Presentations/Discussions
I. Subcommittee Reports
J. Legislation for Action
K. Town Administrator's Report
L. Old Business
M. New Business
N. Council Comments
O. Executive Session
P. Adjourn

Only privileged motions (to adjourn; to recess; personal privilege; or orders of the day) shall be made during "Council Comments".

During "New Business," the Council shall consider only those matters that relate to or concern potential legislation. If a "simple majority as required by charter " of the Councilors present during "New Business" so determine, such matters will be included on a future agenda for consideration by the Council. Debate

during "New Business" shall be limited to whether the matter raised shall be included on an agenda in the future and each Councilor shall be limited to three minutes.

The above order shall not be changed except by a vote of a majority of all the members of the Council; and upon the motion to change the order, no debate shall be allowed. Additions to this order may be made by the Chairman and/or Town Administrator when setting the agenda (Example: Committee Reports).

All items for the agenda, including any relevant communications and reports from the Town Administrator, other town officers and town boards, shall be submitted to the Town Administrator's office no later than 10:00 AM on Thursday preceding the regular Council meeting.

Copies of said reports and agenda shall be delivered to the Town Council members no later than Friday preceding the regular Council meeting. Late items require a two-thirds vote of the members of the Council to be allowed at the Council meeting.

The agenda will be prepared by the Town Administrator with input from and approval by the Council Chairman, or, in his absence, the Vice Chairman of the Council, and then prepared for presentation by the Town Administrator's office staff.

XXIV. HEARINGS

The time devoted to public hearings at any meeting of the Town Council shall not be more than three (3) hours at any one sitting. Any hearing not completed within the specified time may be continued to another meeting. Hearings which are authorized by the order of the Council shall have precedence and shall be followed by public presentations. In all hearings before the Council, the case of the petitioner shall be first submitted, except where the Chairman of the Council rules otherwise.

Public hearing format (after petitioner's presentation):

1. General questions from public
2. Public speaking in favor
3. Public speaking in opposition
4. Questions from Town Councilors

Debates on the merits of the petition shall be reserved until and if there is a motion duly made and seconded at the appropriate time and date following the hearing.

This format shall not apply during public hearings to consider the annual budget, when normal Council budget format is followed.

XXV. COMMITTEES

Committees shall be authorized by majority vote of the Council. Appointments to committees of the Council are made by the Chairman in concert with Town Administrator. Appointed individuals shall receive notification of their appointment from the Chairman prior to the public announcement of the makeup of the committee. Notice of all committee meetings must adhere to MGL C 39 § 23 A & B (Open Meeting Law)

XXVI. COMMITTEE MEETINGS

A committee shall meet on the call of the Committee Chairman, or a majority of its members.

XXVII. COMMITTEE QUORUM

A majority of the members of a committee shall constitute a quorum.

XXVIII. COMMITTEE REPORTS

The Chairman of the Council, upon receipt of the Committee Report, shall call for the vote on the motion, petition, or order as introduced by the Committee, so that the vote would be on that motion, petition, or order, and not on the Committee Report itself.

When debate centers around committee reports, committee members may be recognized beyond the time limit to answer questions.

Documents referred to in committee shall be returned with the report.

Nothing in this rule shall be construed to prohibit the introduction of minority reports.

XXIX. RELIEVING FROM FURTHER CONSIDERATION

Upon motion, the Council may, by a majority vote of all members of the Council, relieve a committee of further consideration of a matter referred to it and order the same placed on the agenda.

XXX. MOTIONS FOR RECONSIDERATION

After a motion has been passed or defeated, any member voting with the prevailing side may move for reconsideration, which shall be open to debate. A motion to reconsider a vote shall be in order at the same or the regular meeting next succeeding that at which the vote was passed, provided a motion "to reconsider and enter into the minutes" is made at the meeting at which the vote was taken. No more than one motion for reconsideration of any vote shall be entertained. In the case of a question decided by a tie vote, the prevailing side shall be considered to be the one in whose favor the question was decided.

XXXI. DEBATE DECORUM

Every member when about to speak shall address the Chair and wait until recognized by the Chairman. No member shall be recognized if not seated. In speaking, the member shall be confined to the question, shall not use unbecoming, abusive, or unparliamentary language, and shall avoid personalities. Any member who, in debate, Council related correspondence or otherwise, indulges in personalities or makes charges reflecting upon the character of another member, or of citizens, shall make an apology in open session at the meeting at which the offense is committed or at the next succeeding regular meeting and, failing to do so, shall be named by the Chair or held in contempt and suspended from further participation in debate until said apology is made.

XXXII. DEBATE LIMITATION

No member shall speak more than once on a question when another member who has not spoken claims the floor, and no member speaking shall, without his consent, be interrupted by another, except on a point of order. A member may speak upon a matter for no more than three (3) minutes at a time. A councilor may yield all or part of his or her time to another councilor. A member who has not spoken on a matter shall have priority and recognition by the Chair.

The Clerk of the Council shall inform the Chairman whenever a member has spoken longer than three minutes.

XXXIII. CONFLICTS OF INTEREST

No member shall vote on any matters, or serve on any committee, where the member's private or family interest will conflict with the public's interest in a way that is violative of the Conflict of Interest Law,

MGL. Ch. 268A.

XXXIV. OPEN MEETING LAW

The Open Meeting Law gives the public and the press a legal right to attend all meetings of regional and municipal boards and committees, except when the board or committee votes to go into Executive Session.

Before the Executive Session can be called, the following procedure must be followed:

1. An open session, for which notice has been posted, must first convene.
2. The Chairman must cite the purpose for the Executive Session, give an estimate of the length of the Executive Session, and state whether or not the Council will reconvene thereafter in open session.
3. A majority of Council members must vote, by roll call, to go into Executive Session, and the vote must be recorded in the Council minutes.

Executive Sessions can be held only when the following matters are discussed or considered:

1. The reputation and character, physical condition or mental health, rather than the professional competence of an individual; individuals involved must receive written notice, forty-eight (48) hours in advance of a proposed Executive Session, unless such notice is waived;
2. Discipline or dismissal or the hearing of complaints or charges against an individual; individuals involved must receive written notice forty-eight (48) hours in advance of a proposed Executive Session, unless such notice is waived;
3. Strategy for collective bargaining, contract negotiations with non-union personnel, or litigation, where open discussion of the same may have a detrimental effect;
4. Collective Bargaining and contract negotiations with non-union personnel may be conducted in Executive Session;
5. Deployment of security personnel or devices;
6. Allegations of criminal misconduct;
7. Transactions in real property, where open discussion may have a detrimental effect on such transactions;
8. Matters required by statute or other law to be kept private;
9. Interviews by preliminary screening committees with applicants for employment if public interviews will have detrimental effect on obtaining qualified applicants.
10. Mediation concerning litigation or public business decisions provided that (a) the decision to do so is made publicly, and (b) decisions on mediation issues are made publicly.

Votes and proceedings in Executive Session may be kept private, as long as privacy will serve the purpose for which the Executive Session was called.

All votes taken in Executive Session must be by roll call [MGL. Ch. 39, Sec. 23B].

XXXV. SPECTATOR DECORUM

Guests will be allowed in the gallery of the Council chamber when the Council is in session. No demonstrations of approval or disapproval from guests shall be permitted, and if such demonstrations are made, the gallery may be cleared by the Chairman.

XXXVI. REMOTE PARTICIPATION POLICY

Remote Participation Shall:

1. Be limited to one member per meeting, on a first come first serve basis;
2. Require a four hour notice be given to the Chair and Town Administrator's Office;
3. Be limited to use in the Council Chambers;
4. Shall not be allowed by subcommittees;
5. Shall not be allowed during executive sessions.

If technical problems interrupt the call, the chair will wait up to three minutes to allow for the reconnection prior to resuming the meeting. If the member is disconnected, the fact and time shall be noted in the minutes. If the party reconnects, the fact and time shall be noted in the minutes.

XXXVII. AMENDMENT AND REPEAL

None of the foregoing rules and orders shall be amended or repealed at any meeting unless a simple majority of those members present and voting consent thereto and a motion for that purpose shall not be made and acted upon at the same meeting.