

SELECT BOARD MINUTES – DETAILED GUIDANCE

Public Session Minutes

The Recording Secretary will initiate the draft minutes from in-person attendance or from the Chelmsford Telemedia recording (or equivalent) of the public Select Board meetings.

The draft minutes will be forwarded to the Support Services Coordinator who will distribute the draft minutes to the Select Board Members.

The Select Board will be expected to review and provide edits back to the Support Services Coordinator in track changes one week from distribution of the draft minutes.

The Support Services Coordinator will consolidate all edits into one document while maintaining traceability of changes. When possible, the time point in the Telemedia recording of the meeting related to the proposed edit(s) should be provided to improve the verification and editing process. Duplicate edits (if any) will be edited out.

If clarification etc. is required, this will be coordinated with the Select Board Clerk or designee. In the Clerks absence, this can be accomplished with the Select Board Chair.

The final document with edits will be maintained and a final version will be prepared for inclusion into the next Select Board Meeting packet for review and approval.

If the Support Services Coordinator does not receive edits after a week has passed, it will be assumed that no edits are forthcoming. When vacations or other personal situations arise, a Select Board member may request a time-bound extension to complete the review process. We ask that those situations be infrequent and coordinated in advance of the deadline with the Support Services Coordinator.

The goal is to have minutes completed, approved, and releasability determined within the requirement of 30 days or three Select Board Meetings, whichever is later unless the public body can show good cause for further delay.

Executive Session Minutes

For each Select Board Executive Session, minutes will be drafted by the Clerk or designee. If multiple topics are addressed during a session, the topics will be broken out into segments which will create separate documents for each segment. Minutes / Segments must accurately include the date, start

time, place of the meeting, and a list of the members present or absent and a notation of any participants that may have attended remotely. Minutes / Segments will also include the specific agenda topic posted, a summary of the discussion, as well as an accounting of the motions made, and votes taken.

Draft Executive Session minutes will be included in the next Select Board Executive Session meeting packet, prepared by the Support Services Coordinator. In certain circumstances, the Clerk or designee may distribute draft minutes to Select Board members directly and communicate such to the Support Services Coordinator.

Note: Draft executive session minutes should not be distributed to a Select Board member that has recused themselves from a subject contained in the draft minutes.

The minutes shall clearly document the purpose for the Executive Session meeting or segment (see Appendix 1). During the review of the draft minutes during Executive Session, the Clerk will gather edits (if required) and amend the changes into the minutes as agreed to by the Select Board. A motion to approve the minutes as well as roll call votes shall be taken and recorded at the end of the original minutes / segment with a statement that reflects the date of the vote, the motion, and the votes taken. This section of the record documenting the minutes approval will be confirmed by the Chair and Clerk for accuracy. The Select Board will then determine if the Executive Session minutes / segment will be released for public disclosure or held. Once a determination has been made by the Select Board, the motion(s) and vote(s) on approval and releasability of Executive Session Minutes will be noted at the end of the original approved minutes / segment with a statement that reflects the date of the vote, the motion, and votes taken. This section of the record documenting releasability will be confirmed by the Select Board Chair and Clerk for accuracy.

After minutes are completed and approved, determinations of releasability for each approved set of minutes / segments will be communicated to the Support Services Coordinator by the Chair or Clerk. Based on the Select Board determination for releasability, the final minutes / segment will either be distributed to the Support Services Coordinator for public release or to be held. When certain sensitive issues (such as certain personnel matters) require distribution to a secure box to maintain a higher level of confidentiality, the Select Board Clerk or the Chair shall direct such activity as appropriate. There shall be two members of the Select Board (the Chair and the Clerk or their designees) who have access to the secure box.

Minutes / Segments that have been finalized through the above process will have an agenda item added to the next available Select Board public meeting agenda by the Support Services Coordinator. This agenda item will be an Announcement on Determination of Releasability of Executive Session Minutes for each set of minutes / segments. This agenda item will be coordinated with the Select Board Chair and/or Clerk.

Audit of Held Minutes - Process

The Select Board Chair or appropriate designee shall, from time to time, but in no circumstances less frequently than every six (6) months, review held minutes to determine whether continued non-disclosure of minutes is warranted. When reviewing held minutes, consideration will include if a given matter reviewed at executive session is no longer ongoing. If the subject matter is no longer ongoing and there remains question on releasability due to attorney-client privilege or one or more of the exemptions under Public Records Law, the subject matter and minutes should be reviewed by Town Counsel to gain a determination as to whether the minutes should continue to be held. Such reviews shall be documented and should not be unreasonably delayed in that there is policy for release of executive session documents as soon as the reasons for executive privilege have lapsed (See Appendix 1).

The Select Board Chair or appropriate designee shall summarize the review of held minutes in a fashion that will not disclose the Confidential nature of any of the topics. An agenda item will then be placed on the next public meeting agenda to announce the completion of the review.

Those minutes deemed potentially releasable by the Select Board Chair or designee shall be placed on the next executive session agenda and the Select Board shall either confirm the decision or determine that continued non-disclosure remains warranted.

If the Select Board determines the minutes can be disclosed, the motion and vote on releasability of Executive Session Minutes will be noted at the end of the original minutes / segment with a statement that reflects the date of the vote, the motion, and votes taken. This section of the record documenting releasability will be confirmed by the Chair and Clerk for accuracy.

Appendix 1

The definitions in this appendix are for reference and should be periodically checked for updates at www.mass.gov/ago/openmeeting.

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 [their] 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 [their] 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 [they] 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.

Executive session minutes, as well as all documents used during an executive session, must be disclosed once publication will no longer defeat the purpose for having entered into executive session unless they are exempt from disclosure under the public records law or because of attorney client privilege.