



COMMITTEE REPORT: Rules of Procedure (ROP) Town Council Ad Hoc Committee, Town Council Meeting 05-06-19

This report accompanies the Draft Rules of Procedure compliant with Charter Sec. 2.6(d) that will be discussed for the first time at the full Town Council 05-06-19.

To comply with the Charter Sec. 10.7(p)(i), the full Town Council needs to vote to adopt permanent Rules of Procedure on or before 06-03-19 (see background at end of this report for interim steps):

The Town Council shall adopt permanent rules within 6 months of the assumption of office; any rules adopted, whether interim or permanent, must meet the provisions for Town Council rules as stated in Section 2.6(d).

Deliberation on these Draft Rules of Procedure can only take place at a posted meeting. We expect this deliberation to occur at the 05-06-19 and 05-20-19 Council meetings, with the final vote 06-03-19.

After adoption of the permanent Rules, the Ad Hoc Rules of Procedure (ROP) Committee should be dissolved by vote of the Town Council 06-03-19. After that vote, any outstanding style or substantive issues should be referred to the Council Governance, Organization and Legislation Committee (GOL) for consideration and return to the full Town Council.

Guide to the Draft Rules of Procedure:

The Draft includes 10 main sections (each denoted as a Rule) and Appendices. As noted in **PINK (To Be Added)** the final version will include a Table of Contents (in order of appearance). An Index (alphabetical by subject) could also improve usability, if the Council desires.

We highlighted in **YELLOW areas that provide creative or innovative practices (not found in all Towns)**. The yellow highlights also indicate areas for potential Council discussion as these go beyond “standard” rules of procedure based on our review of other municipalities.

We highlighted in **BLUE areas where our Committee identified alternative approaches but did not agree**. For these, the Rules draft provides the Council with numbered options, and this report discusses the rationale for each and the votes by our 5 members.

How to read the Draft Rules of Procedure:

ROP recommends that each Town Councilor first:

- 1) Read the entire Draft Rules of Procedure to get a sense of what is covered, and what is not; what is clear and what needs additional explanation; **highlighted areas**; and **options**, and
- 2) Review our current Interim Rules of Procedure 01-28-19, then

3) Return to the Draft Rules of Procedure sections highlighted in yellow or blue in order to be prepared to ask questions as well as to discuss the highlighted areas and options at the Council 5-06-19 meeting.

Draft Rules Options: (see pages 12 and 23)

Rule 6.2 Public Courtesy and Decorum (page 12) All 5 members did not agree whether Rule 6.2.d was sufficient regarding public behavior during Council meetings. Brewer moved to add an additional sentence: **“Those present shall not engage in audible demonstrations of approval or disapproval.”** that both reflects past practice at Town Meeting, and that enables the presiding officer to remind the entire room of the Rule as a simple means to address behavior without needing to consider recessing or adjourning the meeting. Bahl-Milne, DuMont, Hanneke, and Schoen all voted no to adding that sentence for two reasons: the current wording is sufficient, and that allowing expressions of approval (clapping or other) encouraged public participation.

Rule 10.1 Council Committees (page 23)

- **Option 1** requires the Council to vote to implement any policy, practice, or measure developed by a Council Committee and is preferred by Bahl-Milne, DuMont, and Schoen as being more consistent with the expectations of both Councilors and voters that their representatives have a vote on all major policies or actions, and ensures no Council Committee has too much power
- **Option 2** relies on the written Committee charge as voted by the Town Council to determine what actions could be adopted at the Committee level without additional Council votes and is preferred by Brewer and Hanneke as reflecting current practice, with the understanding that future Committee charges may need to be more specific in addressing these concerns

Rule 10.2 Process to establish Council Committees (page 23)

Our research revealed several approaches to the President’s role on Council Committees and to the role of Councilors who are not appointed members of Council Committees.

Some municipalities prevent the President from voting at Council meetings except to break a tie, and some do not allow the President to vote as a member of any Council Committees. In our Charter the President is not prevented from voting, not prevented from serving as a voting member of any Council Committee, makes all Councilor appointments to Council Committee, and oversees all Council Committees, but there is no practical definition provided of what that oversight means. Some communities consider the President an ex-officio member of every Council Committee, and in those cases the President typically is not a voting member of any Council Committee.

We also heard concerns that some Councilors would appreciate allowing all Councilors to serve ex-officio, with the all rights except voting, on other Council Committees. We talked through the simple logistics of needing to potentially post all Council Committees as full Council meetings, as well as the more complex group dynamics and practical aspects of having an unpredictable set of participants in each Council Committee meeting. Alternatively, we wanted our Rules to clarify – rather than remaining silent – that if no ex-officio status exists, any Councilor who is not appointed to a particular Council Committee can still attend that meeting and be treated as a member of the public, without worrying that sitting in the audience and offering public comment somehow triggers an OML violation as long as

no deliberation takes place. The President has requested advice from the Town Attorney, which Rules hopes to discuss next week. In the meantime, we offer the Council two options:

- **Option 1** would limit Councilor, including the President, participation to that of the general public, and is preferred by Bahl-Milne, Brewer, and Hanneke
- **Option 2** would grant ex officio status to the President, without voting rights or the right to make motions, on all Council Committees, and limit other Councilor participation to that of the general public, and is preferred by DuMont and Schoen

Summary comments

The permanent Rules of Procedure are intended to serve as a ready reference for both Town Councilors and the public, rather than a shelved document that was only completed for the sake of complying with a requirement. You will see that some material is provided in Appendices in order to improve readability as well as to make it easier for the Town Council to vote to update the Appendices as things change, say with a new Council committee being created, rather than having to necessarily immediately vote to revise the full Rules themselves. Rule 1.6 enables the Council to revisit and change specific rules by majority vote as described in Rule 9.5.

Just as the Charter did not repeat vast swaths of MGL, but instead made some references, these Rules are not intended to repeat every section of the Charter. The Charter is not included in the Appendices because the online version of the Rules will include a direct link to the Charter.

Please also note that this Draft has not yet been fully revised to provide a uniform style of notation and format for subsection of rules. The current version includes styles of five different Councilors , rather than a polished document in terms of notation, punctuation and reference style. In addition to your substantive deliberations at Council meetings, we ask that if you notice a technical edit, or would like to see the format changed for ease of readability, please let us know.

Where this information came from

In addition to meeting Charter requirements, and the draft Rules presented by the previous version of the Bylaw Review Committee, ROP members researched and considered conversations with and numerous documents from multiple other Massachusetts municipalities, including those municipalities with Town Managers and those with Mayors. ROP members are happy to provide you with reams of information on which communities do what.

We note that most of those documents have been revised over many years and include varying formats and content. Over time we discussed and developed rules that enable Amherst to be creative and build on our town's long history of pubic engagement and participation. Thus, this Draft and the final version adopted by the Council should be viewed as a "living document" to be amended or revised as needed to work well for Amherst.

Additional ROP background:

The Town Council voted to adopt temporary Interim Rules of Procedure on 12-03-18, and the Council President initially appointed members of this ROP Ad Hoc Committee during that 12-03-18 meeting, with an additional member added when the Charge was approved 12-17-18. At our request, the Town Council revised the Town Council Interim Rules of Procedure and our Charge during the 01-28-19 Town Council meeting.

The Town Council ROP Ad Hoc Committee has met 12 times: 12-18-19, 01-15-19, 02-04-19, (02-12-19 cancelled due to snow), 03-05-19, 03-11-19, 03-19-19, 03-26-19, 04-02-19, 04-09-16, 04-16-19, 04-23-19, and 04-30-19. We also have meetings scheduled for 05-07-19, 05-14-19, 05-21-19, 05-28-19, and 06-04-19, all Tuesdays starting at 9:30 am in the Town Room.

In addition to these periodic Reports, and various interim recommendations, e.g., Town Councilor form of address (01-07-19), Trial Revised Order of Agenda (02-11-19), and Public Comment Content Management and Agenda Packets (02-11-19), Finance Committee non-voting residents (04-01-19), and Liaisons (04-01-19), we are on track to replace the Interim Rules with “permanent” rules within 6 months of the assumption of office under Charter Sections 2.6(d) and 10.7(p)(i). Those Rules are hereby submitted to the Town Council for initial discussion on 05-06-19, with the opportunity to revise in time for additional discussion 05-20-19 and a vote on 06-03-19.

Rules of Procedure (ROP) Town Council Ad Hoc Committee Membership:

Alisa Brewer, Chair, Town Councilor-at-Large
Shalini Bahl-Milne, Town Councilor District 5
Darcy DuMont, Town Councilor District 5
Mandi Jo Hanneke, Town Councilor-at-Large
Cathy Schoen, Vice Chair, Town Councilor District 1