



## **TOWN OF WEARE, NEW HAMPSHIRE NONPUBLIC MEETING MINUTES POLICY**

### **SUMMARY**

This document is intended to clarify how the Weare Board of Selectmen will store, review, and release nonpublic minutes which have not previously been disclosed to the public. Key focuses of this policy are to ensure that members of the board have all information available to them for making decisions in the best interest of the town and that the town follows NH RSA 91-A.

This is also intended to be a guide for other boards, committees, and commissions within the town of Weare which do not have their own policy on nonpublic minutes.

### **MINUTES TAKING**

Nonpublic minutes must be taken by someone in attendance at the nonpublic meeting. The minute taker will be noted in the minutes and this person will be responsible for sharing a draft of the minutes with the board. At the time this policy is accepted, an email shall be sent by way of BCC (Blind Carbon Copy) to the Board of Selectmen's individual Town issued emails from the minute taker with the draft minutes appropriately balances convenience and accountability, but future technologies might replace this.

### **VOTE TO RESTRICT**

At the time this policy is accepted, RSA 91-A:3 III states:

Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present taken in public session, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

If a vote passes following the criteria above, the nonpublic minutes will not be disclosed. This is often referred to as being "sealed" or "sealed and restricted" and there is no distinction between these terms.

## **APPROVAL**

After nonpublic minutes have been written for a meeting, they must be reviewed and approved. This will occur at the next normal meeting of the Board of Selectmen. If the minutes were not sealed, then they will be reviewed along with any public minutes.

If the minutes were sealed, then they will be reviewed in a brief nonpublic meeting following the normal meeting. Minutes of this nonpublic meeting must also be taken in accordance with the law, but to prevent recursive reviews and meetings, the minutes will follow one of these two templates and will not require approval:

1. When reviewed minutes are approved:

“Nonpublic meeting to review nonpublic minutes of <date>. Minutes approved.”

2. When reviewed minutes were not approved and edits were required:

“Nonpublic meeting to review nonpublic minutes of <date>. Minutes required edits and will be reviewed again.”

When sealed nonpublic minutes are approved, a physical copy must be signed by the majority of those board members who are present, and each page of the minutes must be initialed by those same members.

## **STORAGE**

Nonpublic minutes will be stored with the Town Clerk’s office, in accordance with RSA 41:58. Those which are not sealed will also be published along with the public minutes on the town’s website.

Sealed minutes must be stored by the Town Clerk’s office in a manner which prevents non-board members from accessing them without permission of the board.

RSA 91-A:3 III further states:

For all meetings held in nonpublic session, where the minutes or decisions were determined to not be subject to full public disclosure, a list of such minutes or decisions shall be kept and this list shall be made available as soon as practicable for public disclosure. This list shall identify the public body and include the date and time of the meeting in nonpublic session, the specific exemption under paragraph II on its face which is relied upon as foundation for the nonpublic session, the date of the decision to withhold the minutes or decisions from public disclosure, and the date of any subsequent decision, if any, to make the minutes or decisions available for public disclosure.

The list described in the above paragraph shall be kept alongside public minutes, both as hard copies and on the town’s website.

## **REVIEW**

Any board member may review any nonpublic minutes, from their tenure or prior, by arranging access with the Town Clerk's office, but the minutes are not to leave the area in which they are being stored.

## **RELEASE**

Given the criteria for not disclosing minutes (in the VOTE TO RESTRICT section, above) any member of the board may, after reviewing minutes, move to take a legal meeting of the board into nonpublic session to discuss with the board whether that criteria is still met for those minutes and whether the minutes should be released. Once discussion is complete, the board will return to public session for a vote on whether to release the discussed minutes. If multiple minutes were discussed, each will be voted on individually.

RSA 91-A:3 III further states:

Minutes related to a discussion held in nonpublic session under subparagraph II(d) shall be made available to the public as soon as practicable after the transaction has closed or the public body has decided not to proceed with the transaction.

Subparagraph II(d) states:

(d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

It will be the board's responsibility to be aware of when the above condition is met and to release minutes, as appropriate.

Once the board agrees to make nonpublic minutes available to the public the board will retrieve the minutes from the Town Clerk's office, confirm that all signatures and initials are valid and not tampered with, and the minutes will be amended to include the date made public then moved to storage along with existing public minutes, including posting the amended minutes on the town's website alongside other public minutes.

## **IMPLEMENTATION**

Paragraph IV of RSA 91-A was added in October of 2023 and reads as follows:

(a) A public body or agency may adopt procedures to review minutes of meetings held in nonpublic session and to determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91-A:3, III no longer apply. If the public body determines that those circumstances no longer apply, the minutes shall be available for release to the public pursuant to this chapter.

(b) In the absence of an adopted procedure to review and determine whether the circumstances no longer apply for meeting minutes kept from the public, the public body or agency shall review and determine by majority vote whether the circumstances that justified keeping meeting minutes from the public under RSA 91-A:3, III no longer apply. This review shall occur no more than 10 years from the

last time the public body voted to prevent the minutes from being subject to public disclosure. Meeting minutes that were kept from the public prior to the effective date of this paragraph that are not reviewed by the public body or agency within 10 years of the effective date of this paragraph shall be subject to public disclosure without further action of the public body.

To comply with the above, this policy – and especially the REVIEW and RELEASE sections – will be the adopted procedure referred to in subparagraph (a).

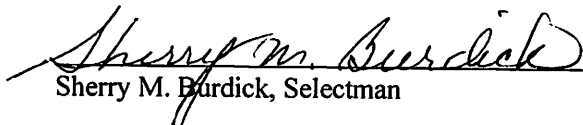
Accepted By: The Town of Weare Board of Selectmen

Dated: October 16, 2023

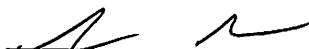
Signed By:

  
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Frederick W. Hippler, Chairman

  
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Benjamin D. Knapp, Vice-Chairman

  
\_\_\_\_\_  
Sherry M. Burdick, Selectman

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Kevin J. Cahill, Selectman

  
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Salim R. Blume, Selectman

Adopted this 16<sup>th</sup> day of October,

2023 Certified seal of the Town Clerk