

ZOOM INFORMATION

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WINTHROP TOWN COUNCIL

MEETING AGENDA

AUGUST 12, 2025

6:30 PM

HARVEY HEARING
ROOM

RECEIVED

2025 AUG -7 P 4: 22

TOWN CLERK
WINTHROP, MASS.

Town Council Members

Town Council President James Letterie

Precinct 1 Councilor Costigan

Precinct 3 VP- Councilor Belcher

Precinct 4 Councilor Swope

Precinct 5 Councilor Aiello

Precinct 6 Councilor DaRos

Councilor at Large DeMarco

Councilor at Large Tassinari

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

1. MINUTES

Approval of Minutes July 22, 2025 as circulated

2. GENERAL INFORMATION AND RECOMMENDATIONS

Citations:

Winthrop Police Explorers

Water Rescue

RKG Presentation-Eric Halvorsen

3. PUBLIC COMMENT

4. CORRESPONDENCE

5. COMMITTEE REPORTS

FHBC UPDATE

6. SCHOOL DEPARTMENT REPORT

7. UPDATE POLICY MAKING COMMITTEES

8. TOWN MANAGER REPORT

9. OLD BUSINESS

Ordinance Review Committee Recommendations on Town Charter

Abandonment Motion-Continued for review

10. NEW BUSINESS

Committee Appointments-Katherine Garro/CDICR -Susan Gerow/Cultural Council – Michael Bacon/Cultural Council

Memorial Dedication-Jerry DeFranza

11. PUBLIC COMMENT

12. PUBLIC RELATIONS / UPCOMING EVENTS

- o Nomination Papers for the Local Election 11-4-25 Available Clerks Office
- o Farmers Market Every Sunday June through Sept. 9-1pm-Ingleside Park
- o Next Town Council Meeting is September 2, 2025 and normal schedule continues
- o Committee Opening for Board of License Member

13. ADJOURNMENT



TOWN OF WINTHROP

OFFICE OF THE TOWN COUNCIL

Town Hall, 1 Metcalf Square, Winthrop, MA 02152 Telephone: 617-846-1742

MOTION

Submitted By: Town Council President

Date: 8-12-25

TEXT OF MOTION

MOTION: That the Town Council vote to accept the Ordinance review Committee recommendation to amend the Town Charter Section 2-1 (a) **TERM OF OFFICE** to read that there shall be a town council consisting of six (6) at large councilors, which shall exercise the legislative powers of the town, with three (3) elected at each biennial election for four-year staggered terms. They shall be nominated and elected by and from the voters. The seventh member shall be a council president chosen as provided in section 2-2; or take any other action relative thereto.

**THIS MOTION IS CURRENTLY
UNDER REVIEW BY TOWN COUNSEL**



TOWN OF WINTHROP

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TOWN OF WINTHROP

OFFICE OF THE TOWN COUNCIL

Town Hall, 1 Metcalf Square, Winthrop, MA 02152 Telephone: 617-846-1742

MOTION

Submitted By: Town Council President

Date: 8-12-25

TEXT OF MOTION

MOTION: That the Town Council vote to accept the Ordinance review Committee recommendation to amend the Town Charter Section 2-1 (d) **ABANDONMENT** to read

1. Any elected council member shall be considered to have abandoned their office if that person fails to attend either three consecutive regularly scheduled meetings of the full council or if that person fails to attend 50% of the regularly scheduled meetings of the full council over a three-month period, unless such absences are determined by the council to be for good cause.
2. The Clerk of the Town Council shall be responsible for maintaining official attendance records of all councilors and shall notify the Town Council President in writing when a councilor meets the attendance criteria for abandonment.
3. Within thirty (30) days of receiving such notification, the Town Council shall hold a public hearing to determine whether the councilor meets the attendance criteria for abandonment, whether there was good cause for the absences, and whether such absences constitute abandonment under this charter.
4. At the hearing, the councilor shall have the opportunity to present evidence and testimony regarding the absences and to show good cause why the office should not be declared abandoned.
5. Following the hearing, the Town Council shall make a formal finding by a two-thirds vote as to whether the councilor has abandoned the office. If abandonment is found, the office shall thereupon be declared vacant effective immediately and the vacancy shall be filled in accordance with the provisions of SECTION 2-11; or take any other action thereto



TOWN OF WINTHROP

OFFICE OF THE TOWN COUNCIL

Town Hall, 1 Metcalf Square, Winthrop, MA 02152 Telephone: 617-846-1742

MOTION

Submitted By: Town Council President

Date: 8-12-25

TEXT OF MOTION

MOTION: That the Town Council vote to accept the Ordinance Review Committee recommendation to amend the Town Charter Section 2-2 (c) **COUNCIL VICE PRESIDENT** to be read that the **Council President will nominate** a Vice President from the membership to serve a **two-year term**, subject to **confirmation by majority vote** of the Council who shall act as council president during the absence or disability of the council president and, if a vacancy occurs, shall become council president for the remainder of the unexpired term. The powers of an acting council president shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of such temporary absence or disability and no others and shall include acting as a member of the school committee only when the absence or disability continues for more than thirty days.



TOWN OF WINTHROP

OFFICE OF THE TOWN COUNCIL

Town Hall, 1 Metcalf Square, Winthrop, MA 02152 Telephone: 617-846-1742

MOTION

Submitted By: Town Council President

Date: 8-12-25

TEXT OF MOTION

MOTION: That the Town Council vote to accept the Ordinance Review Committee recommendation to amend the Town Charter Section 2-4 (a) **COMPENSATION EXPENSES-TOWN COUNCIL** to be read (a) Salary -The council president and the members of the town council shall receive such salary for their services as may from time to time be set by ordinance. The Town Council to review and vote on compensation adjustments every two years, prior to June 30TH. Any proposed increase must then be placed on the ballot at the next scheduled biennial election for approval or rejection by the voters. The council president and the members of the town council shall not be considered employees for the purpose of chapter thirty-two B of the General Laws.



TOWN OF WINTHROP

OFFICE OF THE TOWN COUNCIL

Town Hall, 1 Metcalf Square, Winthrop, MA 02152 Telephone: 617-846-1742

MOTION

Submitted By: Town Council President

Date: 8-12-25

TEXT OF MOTION

MOTION: That the Town Council vote to accept the Ordinance Review Committee recommendation to amend the Town Charter Section 2-6 (ii) **EXERCISE OF POWERS, QUORUM RULES** to be read that Special meetings of the Town Council shall be held on the call of the Council President, or, on the call of any four or more members. Notice of meeting shall be at least forty-eight weekday hours in advance of the time set, which shall contain notice of the subjects to be acted upon and location of meeting. In the event that a meeting is considered an emergency meeting, notice of an emergency meeting shall be posted as soon as reasonably possible ahead of the emergency meeting. A copy of the said notice shall also be posted on the town bulletin board and on the Town of Winthrop Web Page. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public and the media.



TOWN OF WINTHROP

OFFICE OF THE TOWN COUNCIL

Town Hall, 1 Metcalf Square, Winthrop, MA 02152 Telephone: 617-846-1742

MOTION

Submitted By: Town Council President

Date: 8-12-25

TEXT OF MOTION

MOTION: That the Town Council vote to accept the Ordinance Review Committee recommendation to amend the Town Charter Section **9-7 (a) UNIFORM PROCEDURES GOVERNING MULTIPLE MEMBER BODIES** to be read that(a) Meetings - All multiple member bodies of the town, whether elected, appointed or otherwise constituted, shall meet regularly at such times and places as they may by their own rules prescribe, unless some other provision is made by ordinance or by law. Special meetings of any multiple member body shall be held on the call of the chair or by one third of the members. Notice of meeting shall be at least forty-eight weekday hours in advance of the time set, which shall contain notice of the subjects to be acted upon and location of meeting. In the event that a meeting is considered an emergency meeting, notice of an emergency meeting shall be posted as soon as reasonably possible ahead of the emergency meeting. A copy of the said notice shall also be posted on the town bulletin board and on the Town of Winthrop Web Page. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public and the media.



Dear Council President Letterie and Town Council Members:

In accordance with Section 9-6 of the Town Charter, "Periodic Review of Charter and Ordinances shall be done in each year ending in a five or a zero by a committee consisting of nine members." Pursuant to this requirement, a nine-member committee was appointed by the Council President on February 25, 2025. This committee is referred to as the Ordinance Review Committee (ORC).

The ORC is comprised of a diverse and experienced group of individuals representing various sectors of the community:

- **Chair: Karin Chavis** – Medical Field
- **Clerk: Carole Mietzsch** – Information Technology
- **Hannah Belcher** – Higher Education Administrator
- **Kaitlin Burroughs** – Project Manager
- **Timothy Callinan, Esq.** – Legal
- **Vincent Crossman** – Public Safety
- **Kurt Millar** – Global Manager
- **Shannon Poulos** – Finance
- **Denise Quist** – Municipal Government; Winthrop Town Clerk

Between April 2, 2025, and June 24, 2025, the ORC held eleven meetings. All meetings were posted on the Town Calendar along with their agendas and were announced in the Town Manager's weekly newsletter. The committee also held one public comment session and one formal Public Hearing, which were advertised through the local newspaper, the Town Manager's newsletter, and social media platforms.

The primary focus of the ORC during this review cycle was to formulate Charter change recommendations for inclusion on the biennial election ballot scheduled for November 4, 2025. Registered voters will have the opportunity to vote on these proposals. The committee will begin its review of the Town Ordinances on October 1, 2025.

A brief synopsis of the ORC's recommendations for the ballot is provided below, with a detailed explanation of each recommendation attached. All proposals have been reviewed and approved by the Town Attorney and are submitted herewith for the Town Council's consideration and vote.

Proposed Amendment: Section 2-1(a) – Composition of Council

Current Language:

The Town Council is composed of six (6) precinct councilors and two (2) at-large councilors.

Proposed Amendment:

Amend Section 2-1(a) to change the composition of the Town Council from six (6) precinct councilors and two (2) at-large councilors to **six (6) at-large councilors, with three (3) elected at each biennial election for four-year staggered terms.**

Rationale:

The Ordinance Review Committee (ORC) recommends this change to promote broader participation in local government and to encourage a more competitive electoral process. Over the last ten biennial election cycles, **65% of precinct councilors have run unopposed**, suggesting a lack of contested races and, potentially, limited voter choice. By transitioning to all at-large council positions with staggered terms, the ORC believes this will:

- Provide all voters with the opportunity to vote for all council seats over time
- Foster town-wide representation and accountability
- Reduce barriers to candidacy that may exist under the precinct-based system
- Encourage more residents to run for office by removing geographical restrictions

This proposed change aims to strengthen democratic engagement and improve representation across the Town of Winthrop.

Approved by roll call vote 7-2 (7 in favor, 2 opposed)

Section 2-1 (d) Abandonment of Office

Proposed Amendment:

Replace the existing provision with a clearly defined five-step procedure to be followed when a Town Council member is considered to have abandoned their office. This new process ensures that any determination is handled fairly, transparently, and with appropriate due process protections for the councilor in question.

Purpose and Rationale:

The Ordinance Review Committee (ORC), in collaboration with the Town's Legal Counsel, drafted this revision to:

- Ensure due process for elected officials
- Create a clear and consistent procedure
- Protect both the rights of the councilor and the integrity of the office
- Avoid ambiguity and potential misuse of the abandonment clause

The proposed five-step procedure defines how concerns are raised, reviewed, and acted upon, including opportunities for the councilor to respond and appeal.

Approved by roll call vote: 8-0 (1 absent)

Section 2-2(c) – Council Vice President

Proposed Amendment:

Amend the current process in which the Council elects the Vice President from among its members. Under the proposed change, the **Council President will nominate** a Vice President from the membership to serve a **two-year term**, subject to **confirmation by majority vote** of the Council.

Purpose:

- Streamline the appointment process
- Clarify roles and timelines for Vice Presidential service

Approved by roll call vote: 8-0 (1 absent)

Section 2-4 – Compensation and Expenses

Proposed Amendment:

Require the Town Council to review and vote on compensation adjustments every two years, prior to June 30. Any proposed increase must then be placed on the ballot at the next scheduled biennial election for approval or rejection by the voters.

Purpose:

- Ensure regular review of council compensation.
- Increase transparency and voter oversight
- Address an issue the ORC believes is long overdue

Voice Vote: Unanimous

Section 2-6 Exercise of Powers; Quorum; Rules

Amend current rule / regulation for the Town Council's delivery of the calling a Special Meeting

Section 9-7 Uniform Procedures Governing Multiple Member Bodies

Amend current rule / regulation for the Town Council's delivery of the calling a Special Meeting

Purpose:

- To Change the Delivery of these notices as to not have to be "hand delivered" to Committee/Board Members

Approved by roll call vote: 8-0 (1 absent)

The Ordinance Review Committee (ORC) extends its sincere appreciation to Town Legal Counsel James Cipoletta, Esq. for his invaluable guidance, expertise, and support throughout this review process.

We also wish to thank Council President James Letterie and Councilor Swope for their consistent presence at all ORC meetings and for their thoughtful advice, suggestions, and encouragement.

Your contributions were instrumental in helping the committee complete its work thoroughly and effectively.

Respectfully submitted,
Ordinance Review Committee (2025)

- Chair: Karin Chavis
- Clerk: Carole Mietzsch
- Hannah Belcher
- Kaitlin Burroughs
- Timothy Callinan, Esq
- Vincent Crossman
- Kurt Millar
- Shannon Poulos
- Denise Quist

Section 2-1(a) – Composition of Council

SECTION 2-1: COMPOSITION, TERM OF OFFICE

CURRENT LANGUAGE

- (a) Composition - There shall be a town council consisting of nine members which shall exercise the legislative powers of the town. Six of these members, to be known as precinct councilors, shall be nominated and elected by and from the voters of the six precincts into which the town is divided, and two of the members, to be known as councilors-at-large, shall be nominated and elected by and from the voters at large. The ninth member shall be a council president chosen as provided in section 2-2.

PROPOSED AMENDMENT

- (a) Composition - There shall be a town council consisting of six (6) at-large councilors, which shall exercise the legislative powers of the town, with three (3) elected at each biennial election for four-year staggered terms. They shall be nominated and elected by and from the voters. The seventh member shall be a council president chosen as provided in section 2-2.

SECTION 2-1: COMPOSITION, TERM OF OFFICE

(d) Abandonment

1. Any elected council member shall be considered to have abandoned their office if that person fails to attend either three consecutive regularly scheduled meetings of the full council or if that person fails to attend 50% of the regularly scheduled meetings of the full council over a three-month period, unless such absences are determined by the council to be for good cause.
2. The Clerk of the Town Council shall be responsible for maintaining official attendance records of all councilors and shall notify the Town Council President in writing when a councilor meets the attendance criteria for abandonment.
3. Within thirty (30) days of receiving such notification, the Town Council shall hold a public hearing to determine whether the councilor meets the attendance criteria for abandonment, whether there was good cause for the absences, and whether such absences constitute abandonment under this charter.
4. At the hearing, the councilor shall have the opportunity to present evidence and testimony regarding the absences and to show good cause why the office should not be declared abandoned.
5. Following the hearing, the Town Council shall make a formal finding by a two-thirds vote as to whether the councilor has abandoned the office. If abandonment is found, the office shall thereupon be declared vacant effective immediately and the vacancy shall be filled in accordance with the provisions of SECTION 2-11.

SECTION 2-2: COUNCIL PRESIDENT

(c) VICE PRESIDENT

Current Language:

Council Vice President - The town council shall elect from among its members a council vice president who shall act as council president during the absence or disability of the council president and, if a vacancy occurs, shall become council president for the remainder of the unexpired term. The powers of an acting council president shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of such temporary absence or disability and no others and shall include acting as a member of the school committee only when the absence or disability continues for more than thirty days.

Proposed Amendment:

The **Council President will nominate** a Vice President from the membership to serve a **two-year term**, subject to **confirmation by majority vote** of the Council who shall act as council president during the absence or disability of the council president and, if a vacancy occurs, shall become council president for the remainder of the unexpired term. The powers of an acting council president shall be limited to only those powers of the office indispensably essential to the performance of the duties of the office during the period of such temporary absence or disability and no others and shall include acting as a member of the school committee only when the absence or disability continues for more than thirty days.

SECTION 2-4: COMPENSATION, EXPENSES – TOWN COUNCIL

CURRENT LANGUAGE

(a) Salary - The council president and the members of the town council shall receive such salary for their services as may from time to time be set by ordinance.

No ordinance increasing the salary of town councilors shall be effective unless it shall have been adopted on or before the last day of June in the second year following a town election and it provides that such salary is to take effect upon the organization of the town government following **two municipal elections**. The council president and the members of the town council shall not be considered 'employees' for the purpose of chapter thirty-two B of the General Laws.

PROPOSED AMENDMENT

SECTION 2-4: COMPENSATION, EXPENSES – TOWN COUNCIL

(a) Salary - The council president and the members of the town council shall receive such salary for their services as may from time to time be set by ordinance. The Town Council to review and vote on compensation adjustments every two years, prior to June 30TH. Any proposed increase must then be placed on the ballot at the next scheduled biennial election for approval or rejection by the voters. The council president and the members of the town council shall not be considered employees for the purpose of chapter thirty-two B of the General Laws.

SECTION 2-6: EXERCISE OF POWERS; QUORUM; RULES

CURRENT LANGUAGE

(ii) Special meetings of the Town Council shall be held at the call of the council president, or, on the call of any four or more members. by written notice delivered in hand or to the place of business or residence of each member and which contains a listing of the items to be acted upon. Except in case of an emergency, of which the council president shall be judge, such notice shall be delivered at least forty-eight weekday hours in advance of the time set for such meeting. A copy of the notice to members shall, forthwith, be posted upon the town bulletin boards.

PROPOSED AMENDMENT

(ii) Special meetings of the Town Council shall be held on the call of the Council President, or, on the call of any four or more members. Notice of meeting shall be at least forty-eight weekday hours in advance of the time set, which shall contain notice of the subjects to be acted upon and location of meeting. In the event that a meeting is considered an emergency meeting, notice of an emergency meeting shall be posted as soon as reasonably possible ahead of the emergency meeting. A copy of the said notice shall also be posted on the town bulletin board and on the Town of Winthrop Web Page. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public and the media.

SECTION 9-7: UNIFORM PROCEDURES GOVERNING MULTIPLE MEMBER BODIES

CURRENT LANGUAGE

(a) Meetings - All multiple member bodies of the town, whether elected, appointed or otherwise constituted, shall meet regularly at such times and places as they may by their own rules prescribe, unless some other provision is made by ordinance or by law. Special meetings of any multiple member body shall be held on the call of the chair or by one third of the members thereof by written notice delivered in hand or to the place of residence of each member at least forty-eight weekday hours in advance of the time set, which shall contain notice of the subjects to be acted upon. A copy of the said notice shall also be posted on the town bulletin board. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public and the media.

PROPOSED AMENDMENT

(a) Meetings - All multiple member bodies of the town, whether elected, appointed or otherwise constituted, shall meet regularly at such times and places as they may by their own rules prescribe, unless some other provision is made by ordinance or by law. Special meetings of any multiple member body shall be held on the call of the chair or by one third of the members. Notice of meeting shall be at least forty-eight weekday hours in advance of the time set, which shall contain notice of the subjects to be acted upon and location of meeting. In the event that a meeting is considered an emergency meeting, notice of an emergency meeting shall be posted as soon as reasonably possible ahead of the emergency meeting. A copy of the said notice shall also be posted on the town bulletin board and on the Town of Winthrop Web Page. Except as may otherwise be authorized by law, all meetings of all multiple member bodies shall at all times be open to the public and the media.



This memo in reference to the
request from Councilor Aiello on
Abandonment

TOWN OF WINTHROP
Office of the Town Attorney
Winthrop Town Hall
1 Metcalf Square
Winthrop, Massachusetts 02152

31 July 2025

To: Tony Marino, Town Manager
Fr: James Cipoletta, Town Attorney
Re: Town Council Request

We were requested by the Winthrop Town Council to “*conduct a comprehensive review of all applicable provisions within the Winthrop Town Charter, Town Council Rules, municipal ordinances, relevant statutes of the Commonwealth, and any pertinent regulation in order to identify and clarify the legal standards that determine whether a Councilor is deemed to have officially attended a meeting of the Council – whether such attendance is in person or via remote participation.*”¹

In connection therewith I have reviewed the applicable provisions of the Winthrop Town Charter, Town Council Rules, Winthrop Town Ordinances, Applicable Massachusetts Statutes, and applicable portions of the Code of Massachusetts Regulations (CMR).

I. Abandonment.

The inquiry begins with an examination of the existing provision of the Winthrop Town Charter, specifically Section 2-1 which reads:

(d) **Abandonment** - Any elected council member shall be considered to have abandoned their office if that person **fails to appear** at either three consecutive

¹ Council Motion dated June 24, 2025.

abandoned their office if that person **fails to appear** at either three consecutive regularly scheduled meetings of the full council or if that person fails to appear at 50% of the regularly scheduled meetings of the full council over a three month period, as defined by Council Rules. If the office is abandoned, the office shall be deemed vacant and shall be filled in the manner provided in section 2-11. An allowance for exemption to this rule maybe granted by a 2/3 vote of the majority of the full body of the Town Council.

Charter Section 1-9 is the definitions section. Neither “abandonment” nor “fails to appear” are defined in the charter. Therefore, the common meaning and usage of these terms is to be utilized. There is no provision in the charter that requires a member appearing at a meeting to speak, vote, offer a motion, or to take any other administrative actions. Nor does the Charter speak to the member’s status if they are tardy or need to leave prior to the completion of the meeting. “Appear” in my opinion, consistent with the common English language usage, means simply to attend. Attendance may be in person or remotely depending upon the meeting rules in effect at the time.

Ordinance Review Committee (ORC) has sent the Council a proposal for an amendment to this section of the Charter The proposed amendment to this section of the Charter states in full:

SECTION 2-1: COMPOSITION, TERM OF OFFICE [Proposed]

(d) Abandonment

1. Any elected council member shall be considered to have abandoned their office if that person fails to attend either three consecutive regularly

scheduled meetings of the full council or if that person fails to attend 50% of the regularly scheduled meetings of the full council over a three-month period, unless such absences are determined by the council to be for good cause.

2. The Clerk of the Town Council shall be responsible for maintaining official attendance records of all councilors and shall notify the Town Council President in writing when a councilor meets the attendance criteria for abandonment.
3. Within thirty (30) days of receiving such notification, the Town Council shall hold a public hearing to determine whether the councilor meets the attendance criteria for abandonment, whether there was good cause for the absences, and whether such absences constitute abandonment under this charter.
4. At the hearing, the councilor shall have the opportunity to present evidence and testimony regarding the absences and to show good cause why the office should not be declared abandoned.
5. Following the hearing, the Town Council shall make a formal finding by a two-thirds vote as to whether the councilor has abandoned the office. If abandonment is found, the office shall thereupon be declared vacant effective immediately and the vacancy shall be filled in accordance with the provisions of SECTION 2-11.

It is my opinion that the proposal is clearer than the current ordinance and provides more

specific guidance on the subject. One suggestion that I would make is to include definitions of “attend” and “fails to appear” in the Charter in order to avoid future confusion. The Council also may want to consider adding the abandonment section to its Rules.

We have not been requested to opine on whether any councilor has abandoned the office therefore do not here render any opinion on that issue. However, it is suggested that the Council apply the analysis and procedure derived from the information contained in this memorandum.

II. Remote Participation.

The concept of remote participation in public meetings falls within G. L. Chapter 30A, the Massachusetts Administrative Procedures Act, and is subject to the mandates of the Open Meeting Law pursuant to 940 CMR 29:10. The Code of Massachusetts Regulations is not a statute. The regulations serve as rules created by a state agency to implement and enforce statutes. One of the primary purposes of the Open Meeting Law is to “promote transparency with regard to deliberations and decisions on which public policy is based.” 940 CMR 29:10

Pursuant to 940 CMR 29.10 (2), titled, *Adoption of Remote Participation*, remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows²:

Local Public Bodies. The Chief Executive Officer, as defined in G. L. c. 4, § 7, must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.

(4) Minimum Requirements for Remote Participation.

(a) Members of a public body who participate remotely and all persons present at the

² Only portions of the statute and CMR pertinent to the issues addressed are reproduced here.

meeting location shall be clearly audible to each other, as required by M.G.L. c. 30A, § 20(d);

(b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by G. L. c. 30A, § 20(d);

(c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of G. L. c. 39, § 23D.

(5) Permissible Reason for Remote Participation. If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7), only if physical attendance would be unreasonably difficult.

(7) Procedures for Remote Participation.

(a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely. This information shall also be recorded in the meeting minutes.

(c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

(d) A member participating remotely may participate in an executive session, but shall

state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with G. L. c. 30A, § 22.

(8) Further Restriction by Adopting Authority. 940 CMR 29.10 does not prohibit any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) from enacting policies, laws, rules or regulations that prohibit or further restrict the use of remote participation by public bodies within that person or entity's jurisdiction, provided those policies, laws, rules or regulations do not violate state or federal law.

(9) Remedy for Violation. If the Attorney General determines after investigation that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

The method for measuring attendance or absence from a remote proceeding does not vary much from that of in-person attendance with the exception of a slightly higher level of detail in record keeping by the Clerk for purposes of clarity. Recordings of meetings or proceedings carried out remotely should be preserved and maintained in compliance with the applicable Massachusetts records statute.

Additional Points:

- (a) The Council may want to consider including a Charter provision defining what constitutes being in attendance at a meeting.
- (b) Beyond the remedy for violation of the Open Meeting Law during a remote meeting in (9) above, there is no provision for the invalidation of any vote or other action taken during that meeting.

Should you require further or a more in-depth analysis of this or any related issue please let us know.

Respectfully submitted,

/s/ *James J. Cipoletta*

James J. Cipoletta
Town Attorney