

From: Claudia King <cking@falmouthme.org>

To: Molly MacAuslan <vhintlian@aol.com>

Subject: FW: [Falmouth ME] Record keeping and note taking policies

Date: Thu, Jan 8, 2015 10:28 pm

Molly:

I am forwarding two separate email responses I received from our Town Clerk to your query about notes/minutes. In the first, she has excerpted from our Town Council Rules and the MMA Legal Notes.

Regards,
Claudia King
Falmouth Town Council

Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

From: Ellen Planer
Sent: Thursday, January 08, 2015 5:58 PM
To: Melissa Tryon; Claudia King
Subject: RE: [Falmouth ME] Record keeping and note taking policies

Claudia,

We "encourage" all Boards and Committees to take notes. I have pasted some information for you to review. The first excerpt is from the Falmouth Town Council Rules.

COUNCIL COMMITTEES Section 24. (Last Paragraph) The members of these Council Committees will select a Committee Chair person. The Chair person of a Council Committee is encouraged to develop an agenda, and have it posted on the Town's Website, at least two (2) business days prior to a proposed meeting. The keeping of meeting minutes is also encouraged.
(Added 5/27/08)

Excerpt from Maine Municipal Legal Notes

Question: Are municipal boards legally required to take minutes of their meetings?

Answer: As a general rule, no. State law does not require minutes or a record of most municipal board meetings. But here are some important exceptions:

Board of appeals meetings. The secretary of the board must maintain a permanent record of all board of appeals meetings, including a transcript or tape recording, if made, and all papers, exhibits, applications and decisions, including findings and conclusions (see 30-A M.R.S.A. § 2691(3)). A board of assessment review is also governed by these requirements (see 30-A M.R.S.A. § 2526(6)(G)).

Conditional approval or denial of applications. Maine's Freedom of Access Act ("Right to Know" law) requires a written record of every decision by any board or official involving the conditional approval or denial of an application, license, certificate or any other type of permit, with findings and reasons (see 1 M.R.S.A. § 407(1)).

Dismissal or refusal to renew contracts. The Right to Know law also requires a written record of every decision involving the dismissal or refusal to renew the contract of any public official, employee or appointee, again, with findings and

reasons (see 1 M.R.S.A. § 407(2)).

Conflicts of interest. Any official with a financial ("pecuniary") conflict of interest must disclose it and abstain from participating in the decision in which the official has a conflict. This disclosure and abstention must be recorded with the municipal clerk (see 30-A M.R.S.A. § 2605(4)).

Executive sessions. A motion to go into executive session must be approved by a public, recorded vote of 3/5 of the members present and voting (see 1 M.R.S.A. § 405(3)). The motion must also indicate the precise nature of the business to be discussed and cite the legal authority for the executive session. (There is no requirement for minutes or a recording of the executive session itself, however, and we generally recommend against it.)

General assistance fair hearings. The general assistance fair hearing authority must make a tape recording of every fair hearing (see 22 M.R.S.A. § 4352). The applicant must pay the cost of preparing any transcript required to appeal the decision, however. (All records and proceedings relating to general assistance are of course strictly confidential, see 22 M.R.S.A. §§ 4306, 4321.)

Even though minutes are not generally required, we strongly recommend them as a way of accurately recording the decisions of a board. Minutes need not be overly detailed. The time and date of the meeting, the members in attendance, the business discussed, and the motions made and votes taken should be sufficient in most cases. Where specific findings are required, however, a mere narrative of the discussion will not suffice (see "Minutes Are Not 'Findings'," Maine Townsman, "Legal Notes," July 2007).

Where minutes are taken, they will generally be public records. (Notable exceptions include records of general assistance, poverty abatement and concealed weapons proceedings.) Minutes that have yet to be approved by a board (if that is the custom) may be marked "draft" before being made available to the public. They cannot be withheld simply because they have not been approved yet, however.

Minutes are also subject to the State Archives Advisory Board's rules for disposition of local government records (see "Disposition of Records," Maine Townsman, "Legal Notes," May 2009). According to the rules, official minutes of board meetings must be retained permanently.

Kind Regards,
Ellen Planer, Town Clerk
Town of Falmouth
271 Falmouth Road
Falmouth Maine 04105

Telephone: 207-781-5253 ext 5305
Email: eplaner@falmouthme.org

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-----Original Message-----

From: Melissa Tryon
Sent: Thursday, January 08, 2015 4:55 PM
To: Ellen Planer
Subject: FW: [Falmouth ME] Record keeping and note taking policies

See below. Do you know the answer to this question?

-M

Melissa Tryon
Executive Assistant
Town of Falmouth
271 Falmouth Rd.
Falmouth, ME 04105
(207) 781-5253, ext. 5335

-----Original Message-----

From: Claudia King
Sent: Thursday, January 08, 2015 3:53 PM
To: Melissa Tryon
Subject: FW: [Falmouth ME] Record keeping and note taking policies

Hello Melissa:

An acquaintance who is on the Cape Elizabeth Town Council wrote me the email below asking if we have a policy about note-taking for meetings other than the Town Council meetings. I don't think we do, do we? Minutes of some sort are required for all meetings, right? And we have to post them, but it seems like there is no specific timeline to do so, is there?

Thanks,
Claudia King
Falmouth Town Council

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From: Molly MacAuslan [vhintl@aol.com]
Sent: Friday, December 26, 2014 12:32 PM
To: Claudia King
Subject: [Falmouth ME] Record keeping and note taking policies

CKing,

Someone has sent you a message using your contact form on the Falmouth ME site.

If you don't want to receive such e-mails, you can change your settings at <http://www.falmouthme.org/users/cking>.

Message:

Hi Claudia. Happy holidays! I'm working on a project for Cape Town Council re: notes and record keeping. While we record Council and Planning Board meetings, we're discussing what level of detail is appropriate for note taking for other boards and committees. Do you have a policy on this in Falmouth, or have you looked into it in the past? I'll be interested in any advice you might have...thanks!

Look forward to seeing you in January at the MMA meeting--maybe we can ride share?

MM

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Message sent by: Molly MacAuslan (vhintl@aol.com)

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