TOWN OF WARNER

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Select Board: Harry Seidel, Chairman
Alfred Hanson, Vice Chair
Michael J. Smith
Kathleen Frenette, Town Administrator

Select Board Public Meeting Minutes
October 28, 2025 6:00 PM

I. Open the Public Meeting / Roll Call / Pledge of Allegiance

Chair Harry Seidel called the meeting to order at 6:02 PM. The Pledge of Allegiance was recited.
Select Board present: Chairman Harry Seidel, Vice Chair Alfred Hanson and Mike J. Smith via Zoom.

Public present: Judy Newman-Rogers, Andy Bodnarik, Martha Bodnarik, David Carle Rachel Parsons, Ralph Parsons Kathi Schoonmaker, Steve Blevens, Danielle Blevens, James Gaffney, Suzanne Cummings, Karen Coyne, Jody Sloane, Christine Frost, Ed Mical, Martha Mical, Kathy Carson, Nancy Martin, Sue Bartlett, Sara McNeil, Russ Smith, Rebecca Courser, Charlie Albano, Pier D'Aprile, Natalie Wells and Elizabeth Labbe.

Harry Seidel asked those in attendance to remain calm and work through any tension in a peaceful way. He asked speakers to come forward to the microphone and state their name for the record.

II. Public Hearing: Unanticipated funds: to hear public comment to accept and expend Unanticipated Funds Allocated to Warner from the sale of property by Concord Regional Solid Waste Coop in the amount of $20,135.97.

Harry Seidel opened the public hearing at 6:06 PM.

Harry Seidel explained that the Town of Warner is a member (1.34%) of the Concord Regional Solid Waste Coop who many years ago purchased 43 acres to build a single source facility. He stated that did not come to fruition and the land was sold. He stated that Warner's share of the sale price is $20,135.97.

The floor was **Open for Public Comment.**

Andy Bodnarik was surprised by the sale, he asked if anyone knew if the facility was used for all towns or just some of the Towns. He asked where the funds will be deposited if accepted. Harry Seidel stated that the facility was never developed. He stated that the funds will go into the general fund. Andy Bodnarik suggested the funds go towards Warner's Transfer Station.

No further public comment was given.

Alfred Hanson asked if it is feasible to go towards the Transfer Station. Harry Seidel stated that the Select Board will need to look into that. Judy Newman-Rogers explained that the purpose of this public hearing is to accept and expend the funds. She suggested the Select Board in a motion do that and later the funds could be appropriated to a transfer station project or a TS capital reserve fund similar to the solar donation for the beautification fund. Harry Seidel would prefer to accept the funds and put them into the general fund. Mike Smith would like the funds to go towards the transfer station building maintenance fund. Harry Seidel stated that he appreciates and likes the idea but does not want to designate the funds tonight.

Martha Bodnarik questioned the point of holding a public hearing if they are not going to listen to the public.

James Gaffney stated that putting the money into the general "slush fund" is a waste because it will get spent on other non-sense. He stated that the money should be applied towards the long list of things that need to be done. He stated that he would appreciate Mike Smith or Alfred Hanson making a motion to put the money towards the transfer station.

Harry Seidel **Closed the Public Comment.**

Mike Smith made a motion seconded by Harry Seidel to accept and expend $20,135.97 from Concord Regional Solid Waste Coop and to designate the funds for the Transfer Station Building Maintenance fund. Roll Call Vote Hanson YES Seidel YES Smith YES

III. Select Board Business:

a. Department Heads

1. Tim Allen, Director of Public Works, Creating a Town Tree Policy

Harry Seidel explained that there are several resident requests for the Town to cut trees
Tim Allen explained that without a policy there is not consistency when it comes to this. He stated that he uses his best judgement when requests are made. Tim Allen noted that the budget does not cover removal of trees. He would like the Select Board to review the policy implemented in the City of Concord. Tim Allen advised the Select Board that he currently has 8 requests.

Alfred Hanson stated that he would like Tim Allen to draft a policy for the Select Board to review. Mike Smith agreed. Tim Allen explained he tries to budget $3,000-$5,500 for dead tree removal but the problem is the cost of everything has gone up, a crane is $8,000 a day. Tim Allen stated that in most situations the land owner should be responsible for the cost unless it is a nuisance, unsafe or public hazard. Harry Seidel asked Tim Allen to draft a policy for the Select Board to review.

Ed Mical Director of Emergency Management explained that he would like to update the town's emergency operations plan and the continuity of operations plan. He stated that both plans are due for updating. He prepared a motion for the Select Board. Ed Mical explained that there are grant monies available. He stated that he is looking for $7,500 and it is included in his proposed budget. Ed Mical explained that he is requesting permission to start the grant process, he acknowledge that this does not commit the town, and a public hearing would be required.

Alfred Hanson made a motion seconded by Mike Smith to allow Warner's Emergency Management Director to submit an EMPG grant application to update the town's Emergency Operation Plan and the Continuity of Operation Plan to the State. Roll Call Vote Hanson YES Seidel YES Smith YES

Discussion on the motion: Harry Seidel commended Ed Mical for pursuing grants year after year for the residents of Warner.

Harry Seidel made a motion seconded by Alfred Hanson to adjust the order of business by moving up item F Updated Invoice for Beautification Group Lighting in Front of Town Hall. Roll Call Vote Hanson YES Seidel YES Smith YES

F. Updated Invoice For Beautification Group Lighting in Front of Town Hall by Sara McNeil & Cathy Carson.

Kathy Carson explained that they have discovered that the quote from Irish Electric did not include electrical outlets on the light poles. She informed the Select Board that the quote has increased by $1,200. She stated that the revised quote is for $13,108. Kathy Carson stated that work will not begin until the Encore donation

is received. She stated that there will be a provision in the contract that states that. Alfred Hanson and Mike Smith stated that the Select Board should not sign the contract until the money is received. Mike Smith agreed. There was conversation regarding when the donation would be received. Sara McNeil explained that the Select Board previously voted to accept the donation and designate it for the Beautification Group. Harry Seidel stated that the Select Board can vote to accept the revised proposal.
Harry Seidel made a motion seconded by Alfred Hanson to accept the revised proposal for the increase of $1,200 for a total of $13,108. Roll Call Vote Hanson YES Seidel YES Smith YES

b. Presentation of proposed suggestions for BOS rules & procedures submitted by residents

1. Cover Letter and Proposed Amendments, David Carle

David Carle stated that over the last few months residents have been hoping for accountability, respect, integrity and cooperation in Town government. He noted that accountability seems to be the most important. David Carle explained that this hope is for the current and future town government as well as for the public.

David Carle stated that residents feel that generalizations can create inconsistencies that lead to misunderstanding and distrust. He asked the Select Board to keep in mind when they review the proposed edits to the Select Board Rules and Procedures that clarity is the goal. David Carle recapped the proposed amendments.

- Type of meeting defines each type of meeting. Work sessions are for discussion and regular meetings are when the decisions are made.
- When documentation must be provided: the current rules and procedures item B reflects 7 days and item C reflects 3 days, the proposed amendment is to provide consistency.
- Conduct of meetings: proposing a Warner Code of Conduct
- Public Comment: the current rules of procedure does not have clear guidelines for public comment. The proposed amendment provides clear guidelines for both the Select Board and the public.
- Meeting Agendas: final agendas; proposing a definition acknowledging flexibility but also some semblance of a working deadline under the hope for accountability, respect, integrity and cooperation.
- Consent Agenda: proposing clearly defined guidelines that will allow understanding for the Board and the public.
- Contacting Town Counsel: proposing language that offers a process to address a legal concern.
- Committee organization: proposing language that clarifies the Select Board's role in the organization of a committee, including the removal from a committee.
- Conflict of Interest: proposing language that will define a conflict of interest to help build accountability, respect, integrity and cooperation.
- Acceptance of donations/gifts: the amendment is intended to implement the provisions of the RSA's
- Contractual Agreements: ongoing agreements should be reviewed every 3-5 years
- Audit Reports: results of audit report to be addressed during a Select Board meeting
- Select Board recommendation on the warrant: follow RSA 32:5 b

David Carle asked that the Select Board to consider addressing an amendment that was proposed in April 2025 relating to the review of property tax exemptions every five years.

David Carle stated that in the last year a number of issues have gone beyond a disagreement and into a conflict. He stated that is not constructive and the proposed amendments are tied to those issues. He hopes that there will be more constructive dialogue to address the way things have been going based on this document. He explained that this could be moved at a Select Board meeting but not voted on less than seven days later. He stated that the Select Board could accept the document and then when it is brought up would be at the Select Board's discretion. He suggested forming a subcommittee, holding a work session to solicit additional public comment. David Carle stressed that the goal is develop some guidelines for the current and future Select Boards as well as the public.

Alfred Hanson asked David to read the proposed amendment to Contacting Town Counsel.

Requests of Legal Inquiries or Opinions from Town Counsel the Town Administrator, on behalf of any committee, board or department, shall establish first inquiry or introduction of any case. The Town Administrator shall determine whether contact should be made through the New Hampshire Municipal Association (NHMA) Legal Services or, if involving any claim of property liability, Primex. Upon introduction of a legal question or topic by any of the above, the chair of the committee or board, with approval of the Town Administrator, shall have the authority to continue the dialogue directly with Town Counsel until such time as the issue is resolved. Town Counsel shall copy the Town Administrator on all correspondence to each committee and board, in which the Town Administrator shall keep the Select Board apprised of all information pertaining to any case. Department Heads and Advisory Committees shall direct questions to the Town Administrator unless other arrangements are made in specific cases. No member of the Select Board shall direct the Town Administrator to seek an opinion from Town Counsel without the permission from the majority of the Board. The Select Board authorizes the Town Administrator to utilize the services of Town Counsel at any time as deemed justifiable and necessary in communicating town questions or inquiries on behalf of the Board.

David Carle stated that the in most towns, the Town Administrator is the facilitator and coordinator of the action that the Select Board wants done. He stated that if there is not a Town Administrator the Select Board needs to develop a system to fill in. Alfred Hanson asked David Carle to define the committees this relates to. Alfred Hanson stated that would help him if the committees were defined. David Carle stated that this is to set up dialogue to solve the problem. His concern is that about the wording. David Carle stated he is assuming that this will be tabled as the amendment guidelines for the present rules of procedures say.

Harry Seidel thanked David Carle for his work. Harry Seidel acknowledged this is a big task and does not want to rush into this. David Carle stated that some of the amendments are not a big undertaking, some of the proposed amendments can happen immediately such as when documentation must be provided for a meeting. David Carle explained that providing clarity and structure will increase public participation in town government. Alfred Hanson agrees that this is a large undertaking and he would like this to be brought back for additional discussion. David Carle agreed that a work session is needed. Harry Seidel stated that the Select Board received letters from the Chairs of the Planning Board and Zoning Board regarding this. He agreed that more discussion is needed and the need to include the other town committees/boards. David Carle stated that as the town changes it loses the institutional knowledge, having a written policy maintains consistency over time. David Carle reiterated that this is a starting point and hopes that if there is opposition to an amendment that there will be an offer of a way to solve the problem.

Karen Coyne aligned with the though process that went into this and feels that much of the document is attainable. She appreciates the effort that went into this. Karen Coyne explained that some areas where Boards committees and commissions are conflated but there are very specific RSA's that regulate those boards. She stated that she does have recommendations. She stated that she believes in being respectful and professional at all times. Karen Coyne stated that RSA 91-A and the first amendment affirm the public's right to speak in matters of public concern.

Alfred Hanson agrees that this is a work in progress and will require all voices to be heard. He would like to hear from other Chairman's. Mike Smith agreed that there are RSA's written that the town must follow. He explained that the current rules of procedure for the Select Board are new and were just put into effect this year. Mike Smith stated that the RSA covers work session and clearly reflects that work session is a board meeting. He appreciates that time that went into this. He recommends that the Select Board take one item at a time rather than the whole document. Alfred Hanson agreed.

Harry Seidel opened the floor for public input.

Suzanne Cummings spoke about the conflict of interest section, paragraph four that pertains to items of insignificant value. She would like the Select Board to consider defining insignificant value because it is subjective.

James Gaffney stated that the document includes some interesting point. He is concerned about the commitment from the Select Board. He stated that the Select Board does have rules and procedure in place and a lot of RSA's to abide by. He questioned what the point is to do this, if the Select Board does not follow the RSA's or the existing rules of procedures.

Harry Seidel explained that the Select Board has a lot on their plate right now with the budget, health insurance and ambulance negotiations. He stated that a deep review of the rules of procedure is not feasible at the moment. Harry Seidel suggested residents, board chairs and former Selectmen could contribute to make it stronger. David Carle suggested written suggestions be submitted as a starting point.

The Select Board tabled this for three weeks, November 18th meeting, to gather written suggestions and answers to questions. Mike Smith agreed that soliciting public input is a good idea.

Alfred Hanson made a motion seconded by Harry Seidel to table the proposed suggestions for BOS rules & procedures until November 18, 2025. Roll Call Vote Hanson YES Seidel YES Smith YES

2. Resident Comments to Proposed Amendments, Robert Holmes

Tabled

c. Discussion of Budget (2026 Operating and Capital), Cost of Living Adjustment (COLA)

Alfred Hanson stated that the Cost Of Living Adjustment (COLA) was announced today at 2.8%. He stated that the Select Board and Budget Committee are in the process of meeting with department heads and should wrap up the review of the operating budget at the end of November. Alfred Hanson stated that the capital budget will begin the review process soon.

Harry Seidel spoke about the challenges facing the budget, and he questioned if the Town can afford to give a COLA this year. Harry Seidel stated that if a COLA was given the Town would fall behind approximately 6%. He stated that he does not want to fall behind. Alfred Hanson would like to wait until they know where they stand on actual budget before making a decision on COLA. Mike Smith stated that costs are going up everywhere, and the town has to give the town employees something. He stated that the determination has to be made during the budget process sooner rather than later. Mike Smith requested that a notation be added to the budget reflecting what the COLA wage adjustment would be to each position.

d. Review the specific forms for Bldg. Permits proposed by Scott LaCroix, Building Inspector

Alfred Hanson made a motion seconded by Harry Seidel to table the review the specific forms for Building Permits to the next meeting. Roll Call Vote Hanson YES Seidel YES Smith YES

Point of order was made by Mike Smith and James Gaffney. Mike Smith noted that item #2 Resident Comments to Proposed Amendments, Robert Holmes was skipped in the order of business. Harry Seidel stated that Robert Holmes is not in attendance. James Gaffney encouraged the Select Board to include the letters they have received as part of the public record (meeting minutes).

Harry Seidel made a motion seconded by Alfred Hanson to include the letters received regarding the proposed amendments to the Select Board rules and procedure. Roll Call Vote Hanson YES Seidel YES Smith NO

Discussion on the motion: Mike Smith stated that he is not comfortable with posting a letter from someone without their beforehand knowledge that the letter would be made public. Harry Seidel stated that the letters received from Planning Board Chair, Zoning Board Chair and Robert Holmes will be included.

e. Discussion of Auditor Request for Proposal (RFP) documents, Long and Short Form

Alfred Hanson made a motion seconded by Harry Seidel to accept the short form draft RFP. Roll Call Vote Hanson YES Seidel YES Smith NO

g. Review Petitions Submitted (5) and Discuss Setting a Date for a Special Town Meeting Prior to December 31, 2025 a. Legal Contact b. Payroll c. Grants d. Audit e. Select Board & Employee Removal.

Harry Seidel explained that he spoke to NHMA regarding the5 petition warrant articles received. He stated that NHMA advised him that the Select Board should speak to their legal counsel. Harry Seidel stated that NHMA has indicated that some aspects might be improper and they referenced the Winchester case. Harry Seidel reiterated that his focus is on the budget, ambulance negotiations and employee health insurance. He feels that this is something that will take a significant amount of time and he is not prepared to set a date, noting that it must be done 60 days prior to Town Meeting. Harry Seidel stated that Town Counsel does need to provide guidance. Alfred Hanson concurred. Mike Smith explained that he has been reading the letter from attorneys Mike Courtney and Tim Sullivan. He stated that the attorneys have suggested a deadline date January 9, 2026. He suggested the Select Board set a date knowing that it is possible to move the date. The Select Board agreed to tentatively schedule the special Town Meeting on January 7, 2026.

Martha Mical asked to be recognized, she encouraged the Select Board to schedule the special town meeting earlier to get it over. Mike Smith agreed. Harry Seidel explained that the Select Board has a lot of other work that they are trying to get done and a special town meeting will be a distraction. Alfred Hanson explained that there is more information needed from Town Counsel.

Rebecca Courser asked for clarification if the Select Board has spoken to legal counsel. Alfred Hanson explained that a brief discussion was had and a letter was received from legal counsel. Alfred Hanson stated that there are additional questions that need legal counsel to address.

Mike Smith stated that he would like to schedule the special town meeting in December. He stated that he is traveling in January. Harry Seidel would prefer to schedule the special town meeting until after the Holidays. Alfred Hanson stated that it is premature to do anything tonight, they need answers from legal counsel to questions based on the letter received. Mike Smith questioned why legal counsel has not been contacted. The Select Board agreed to hold a non-meeting with legal counsel on Thursday. Mike Smith wants a date to be scheduled to appease the public. Alfred Hanson reiterated that he does not want to do that until all questions have been answered. Harry Seidel concurred. Judy Newman-Rogers suggested the Select Board contact the supervisor of the check list regarding their RSA requirements and deadlines.

A point of order was made by James Gaffney. He strongly recommended that the Select Board review the governing RSA 39:3 that states upon receipt of 50 or more petitioners the Select Board shall hold a special meeting. James Gaffney stressed that there is no wiggle room. Harry Seidel clarified that the Select Board is waiting for answers from legal counsel they are not refusing to hold a special town meeting.

**Harry Seidel made a motion seconded by Alfred Hanson to schedule a special Town Meeting on Wednesday January 7, 2026 pending a review by the Supervisor of the Checklist.
Roll Call Vote Hanson YES Seidel YES Smith NO**

Discussion on the motion: Ed Mical asked for a time to be determined. Mike Smith reiterated that he will not be in town during January and he will have to participate by Zoom. Mike Smith asked the Select Board to reconsider the date and possibly hold it in December. Harry Seidel and Alfred Hanson stressed that they want to hold it in January.

IV. Public Comment

Karen Coyne stated that currently with the weekly meeting schedule there is no way to provide information in time for a meeting. Harry Seidel explained that the Select Board would like to receive the information two weeks prior to the meeting. He acknowledged that it is very challenging.

Ben Frost via Zoom suggested that the supervisor of the checklist, town clerk and the town moderator should be contacted about the special town meeting. As the Town Moderator he would like a time of day to be established. He advised the Select Board that it is up to them what time and what day. Harry Seidel state time will be 6:00PM.

V. Consent Agenda: October 28, 2025

Motion by the Warner Select Board to Approve the following or previously signed: 1. A request to the Trustees of the Trust Funds: a. for funds in the amount of $51,324.00 from the Property Revaluation Capital Reserve Fund to pay 3 invoices from Avitar Associates.

Alfred Hanson made a motion seconded by Harry Seidel to accept the October 28, 2025 Consent Agenda as read. Roll Call Vote Hanson YES Seidel YES Smith NO

VI. Manifest: October 28, 2025

Motion for the Select Board to approve the following previously signed manifest:
Accounts Payable check numbers 11891 through 11923 dated 10/22/2025, in the amount of $110,117.98.

Motion to authorize the Select Board to approve and order the Treasurer to sign the following manifests: Accounts Payable check numbers 11924 through 11930 dated 10/27/2025, in the amount of $83,880.49, which includes $81,000.00 for advance lease payments on the new John Deere grader and the new John Deere loader / backhoe. Accounts Payable check numbers 11931 through 11934 dated 10/28/2025, in the amount of $62,736.28 for the October 30th bi-weekly payroll deposits. Bi-weekly payroll check numbers 4107 through 4120, and direct deposit check numbers E02764 through E02791 dated 10/30/2025 for a net payroll of $47,599.29.

Alfred Hanson made a motion seconded by Harry Seidel to approve the October 28, 2025 Manifest as read. Roll Call Vote Hanson YES Seidel YES Smith NO

VII. Minutes: October 14, 2025 1:00 PM Work Session and 6:00 PM Public Meeting and October 15, 2025 3:00 PM Work Session

<u>October 14, 2025 Work Session</u>

Page 1 correct Judy's name to reflect Judy Newman-Rogers
Page 2 line 38 strike "he" insert "the code enforcement officer Scott LaCroix"

Harry Seidel made a motion seconded by Alfred Hanson to approve the October 14, 2025 Work Session Meeting minutes as amended. Roll Call Vote Hanson YES Seidel YES Smith NO

<u>October 14, 2025 Public Meeting</u>

Page 1 line 17 strike "the new proposed" insert "the actual budget amount is $241,514 for 2025"
Page 2 line 48-49 verbiage correction to reflect that does not mean he wants the town to stop functioning.
Page 4 line 35 strike practices insert practice and verbiage correction strike "of this"

Alfred Hanson made a motion seconded by Harry Seidel to approve the October 14, 2025 Public Meeting at 6:00 PM as amended. Roll Call Vote Hanson YES Seidel YES Smith ABSTAIN

October 15, 2025 3:00 PM Work Session
Page 1 line 8 strike DiGeronimo insert Raymond
Page 1 line 37 Review the zoom for the stated lease agreement amount
TABLED no vote taken

VIII. Select Board Other Business

-Harry Seidel stated that a letter came in from Jim Morse from Henniker OHRV Committee that needs to be addressed. The Select Board agreed to send a response letter.
Alfred Hanson made a motion seconded by to send the letter drafted by Harry Seidel to Henniker OHRV Committee. Roll Call Vote Hanson YES Seidel YES Smith YES

-Harry Seidel stated that the Town received a complaint from Andy and Martha Bodnariks. He believes the complaint was sent to Tim Allen Director of Public Works, but they did speak to Harry Seidel face to face. Alfred Hanson stated that he is aware of the complaint but he is not ready to act on the complaint. Mike Smith stated that he read the response written by Tim Allen and supports the letter being sent. The Select Board agreed to send the letter written by Tim Allen.
-Mike Smith spoke about a letter received from Mr. Hunt regarding a tree on Kearsarge Mountain Road. He noted that a response needs to be sent. Harry Seidel will speak to Tim Allen.
-Mike Smith spoke about a meeting on November 2nd at 4pm with Warner's representative to the Executive Council.
-Mike Smith inquired about the next ambulance negotiation discussion. Harry Seidel provided an update on the status of talks regarding the Hopkinton Ambulance Service. Harry Seidel explained that he spoke to Henniker's ambulance chief. He explained that Henniker's fire chief would like to see a solution regarding the lack of coverage west of Concord. Alfred Hanson stated that he is troubled that Hopkinton has not made their calculations clear. There was conversation regarding the funding shortfall going forward. Harry Seidel stated that more discussions are being scheduled with Webster.
-Mike Smith inquired about a letter from Faith Minton regarding the upcoming employee appreciation on November 20th. Harry Seidel stated that the Select Board approved it.
-Mike Smith asked about the letter from Kimberley Edlemann regarding the tax rate. Judy Newman-Rogers stated that the letter was premature because Clyde Carson is waiting to hear back from the Department of Revenue on the official tax rate. The Select Board agreed to post a work session noticing that the Select Board will be attending the department head meeting on Thursday in hopes that the Tax Rate will be official by then and the Board can address setting and approving a tax rate.

IX. Non-Public Session if needed (RSA 91-A:3 II (a,b,c,d,e,f,g,h,i,j,k,l,m))

None

X. Adjournment

Mike Smith made a motion seconded by Alfred Hanson to adjourn the October 28, 2025 Select Board meeting. Roll Call Vote Hanson YES Seidel YES Smith YES

The meeting adjourned at 9:11 PM
Respectfully submitted on 10/30/25 by Tracy Doherty
Edits: Judith Newman-Rogers, Select Board Admin Asst.
Letters from the Planning Board Chair, Zoning Board Chair and Robert Holmes follow.

RECEIVED

Outlook

OCT 20 2025

Initial:

Proposed Suggestions for BOS Rules & Procedures - 10/21/2025 Meeting

From bobholmes1953@gmail.com <bobholmes1953@gmail.com>
Date Mon 10/20/2025 10:00 AM
To Judy Newman-Rogers - Select Board Admin <selectboard@warnernh.gov>

This email originated from outside of the organization. Do not click links or open attachments unless you are 100% sure that it is safe.

Dear Selectboard:

I read the proposed suggestions for BOS rules & procedures submitted by residents including the cover letter and proposed amendments for the 10/21/2025 meeting and have the following comments.

The proposed amendments use the term "citizen" in a number of places, apparently referring to "citizens" of Warner. The term citizen refers to a member of a sovereign state. The State of NH is a sovereign state, but no NH town or municipality is sovereign state. Nobody is a citizen of Warner. A less legally dense term should be used, for example, "member of the public".

There is a fine balance between respecting the 1st Amendment and running a smooth meeting. The 1st Amendment generally protects critical and even offensive commentary at a selectboard meeting. Although a selectboard can enforce reasonable "time, place, and manner" rules to maintain order and ensure the meeting can proceed, the proposed amendments go far beyond this. I suggest that the list of conduct amendments be phased as "suggestions" or "guidelines", not firm rules, and that the entire provision be proceeded by the following.

"As a limited designated public forum, the Select Board does not have the right to prohibit disparaging, rude and other remarks of a personal nature. But, because of the potential implications, we encourage any speakers to be accurate in their statements and avoid making personal, rude, or provocative remarks and to follow the guidelines below."

The attempt to prohibit personal complaints against town employees at public session probably can't be enforced. The 1st Amendment probably protects the right to complain during a public session.

The amendments use the terms "meeting" and "session" interchangeably. The proposal should be modified to clarify what is meant.

One proposal is to give the Select Board the power to vote to remove a member of a committee for "just cause". RSA 673:13 governs the removal of members of a local land use board. "Just cause" is not a ground for removal. A member can be removed only "upon written findings of inefficiency, neglect of duty, or malfeasance in office". The attempt to make absence automatically a deemed "resignation" probably is inconsistent with RSA 673:13. Similar NH restrictions on removal may apply to members not on a land use board.

Thank you for your patience.

Bob Holmes
352 Kearsarge Mountain Road

RECEIVED

OCT 27 2025

Initial: JR

To: Warner Selectboard
From: Barbara Marty
Date: October 25, 2025
Re: Additions and Changes to the Selectboard Rules of Procedure

After reading through the suggested changes to the SB Rules of Procedure I offer the following observations:

1. The section labeled Requests of Legal Inquiries, suggests restrictions on existing access to legal advice. These suggestions are not realistic, especially in the absence of a Town Administrator on whom the whole section depends.

2. The sections labeled Committee Organization & Resignations-Removal: is equally unworkable. This section lumps together Boards, Committees, and Commissions even though each is governed by different RSAs. The RSAs are specific about how these organizations are formed, their duties, how members are appointed or elected, if they can have ex-officio or members at-large, etc., etc...
   a. The suggested addition states that the Selectboard can appoint the Chair of these organizations, even though the Chairs are elected annually by, and from, the membership. This process is included in the Rules of Procedure of the individual Boards, Committees and Commissions.
   b. The suggested addition states that members can be removed for missing 3 consecutive meetings; when only misconduct, neglect of duty, or failure to preform the responsibility of the position are grounds for removal.
   c. The suggested addition states that the Selectboard can disband any committee by majority vote. This is in conflict with the RSAs and there are serious repercussions to be considered when disbanding a committee, especially the Budget Committee.

   The RSA governing rules to rescind the Budget Committee reads:
   II. This subdivision may be adopted by a majority vote of those present and voting, under an article in the warrant for the annual meeting, inserted by the governing body or by petition.
   III. Voting shall be by ballot, but the question shall not be placed on the official ballot used to elect officers. Polls shall remain open and ballots shall be accepted by the moderator for a period of not less than one hour following the completion of discussion on the question.
   V. A town or district which has adopted this subdivision may rescind its adoption in the manner described in paragraphs II and III.

The suggested additions to the Selectboard Rules of Procedure overstep the Selectboard's authority and are in conflict with existing Rules of Procedure already ratified by existing Warner Boards, Committees and Commissions.

I suggest that the Selectboard table this discussion until the Board has time to clearly consider what it wants from a set of Rules of Procedure and how to go about achieving it. Engaging in a process where everyone in town has a hand in writing this document is probably not going to yield the desired results.

Thank you for considering my concerns.
Barbara Marty
ZBA, Chair

Outlook

Concerns Re BOS ROP Amendment Suggestions

From Karen Coyne <kdcoyne@sbcglobal.net>

Date Tue 10/28/2025 12:01 PM

To Judy Newman-Rogers - Select Board Admin <selectboard@warnernh.gov>; Alfred Hanson - Select Board <ahanson@warnernh.gov>; Michael Smith <msmith@warnernh.gov>; Harry Seidel - Select Board <hseidel@warnernh.gov>; Kathy Frenette - Town Administrator <administrator@warnernh.gov>

1 attachment (176 KB)

BOS ROP Amendment Concerns v2.pdf;

To: Warner Select Board

Subject: Legal Concerns Regarding Proposed Amendments to Select Board Rules of Procedure

- Questioning the **legal validity** or **implementation** of these proposed changes
- Seeking clarity on how these changes align with **state statutes** and **municipal governance norms**
- Advocating for **due diligence** and **legal review** before adoption

Dear Members of the Select Board,

I write to formally express legal and procedural concerns regarding the proposed amendments to the Select Board Rules of Procedure currently under consideration. Upon review, several provisions appear to conflict with established New Hampshire law, particularly the Revised Statutes Annotated (RSAs), and may exceed the statutory authority vested in the Select Board.

1. Committee Organization, Appointments, and Removals

The proposed amendments appear to conflate the roles and governance structures of Boards, Committees, and Commissions, each of which is subject to distinct statutory frameworks. Specific concerns include:

- **Appointment of Chairs:** Pursuant to RSA 32:15(VI), the chair of a Budget Committee must be elected by the committee itself. This statutory requirement applies broadly to other boards unless otherwise specified by law. Similarly, RSA 673 applies to land use boards. The Select Board does not possess unilateral authority to appoint such chairs.
- **Removal of Members:** RSA 673:13 stipulates that members of land use boards may only be removed following a public hearing and upon written findings of inefficiency, neglect of duty, or malfeasance in office. Mere absenteeism does not constitute lawful grounds for removal.
- **Disbanding Committees:** The proposal to permit the Select Board to disband any committee by majority vote raises significant legal concerns. RSA 32:14 and RSA 32:15 govern the establishment and dissolution of official Budget Committees, requiring a vote of the legislative body at an annual town meeting, with specific procedural safeguards including ballot voting and public notice. Similarly, RSA 673 governs the creation and rescission of land use boards, which are not subject to discretionary dissolution by the Select Board.

2. Public Comment and First Amendment Protections

The proposed rules governing public comment sessions may infringe upon constitutionally protected speech. While the Select Board may impose reasonable restrictions on the time, place, and manner of speech, it may not prohibit speech based on content, including speech that is critical or uncomfortable. RSA 91-A and prevailing First Amendment jurisprudence affirm the public's right to speak on matters of public concern during open meetings.

To mitigate legal risk, I recommend that any behavioral guidelines be presented as advisory rather than enforceable, and that the following disclaimer be included:

"As a limited designated public forum, the Select Board does not have the authority to prohibit disparaging or provocative remarks. However, speakers are encouraged to be accurate, respectful, and constructive in their comments."

3. Terminology: Use of "Citizen"

The term "citizen of Warner" is legally imprecise. Warner is a municipal subdivision of the State of New Hampshire and not a sovereign entity. The use of "resident" or "member of the public" is more appropriate and consistent with statutory language.

Recommendation

In light of the foregoing, I respectfully urge the Select Board to defer further action on these proposed amendments until a comprehensive legal review can be conducted. Any revision to the Rules of Procedure should be undertaken with full awareness of statutory constraints and in consultation with qualified legal counsel. A collaborative process involving relevant stakeholders may be beneficial, but it must be grounded in legal compliance to avoid unintended consequences.

Should the Board wish to engage in a review or redrafting of the Rules of Procedure to ensure statutory alignment, I would be pleased to assist.

Respectfully,

Karen Coyne

Karen

"Character is doing the right thing even when nobody's looking."
J.C. Watts