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Author's Notes: The following suggested policy is based on guidance of the Institute for Constitutional Advocacy and Protection, Georgetown Law, among others. The specific text is based on; Town of Harrison Public Participation Policy, Town of Alna Public Meeting Participation Policy, and Town of Boothbay Harbor Public Participation Guidelines.

I Purpose

- A. Select Board (Board) meetings are conducted to carry on the official business of the Town of Pittston. All regular, special and emergency meetings of the Board are open to our community; and the community is cordially invited to attend and participate in Board meetings as provided in this policy.
- B. Public comment/participation is not a dialogue.

II Scope

- A. Although Board meetings are not public forums, the Board will provide appropriate opportunities for citizens to express opinions and concerns.
- B. The intent is to allow a fair and adequate opportunity for the public to be heard and to provide adequate time for the Board to obtain information and opinion on subjects before it, while ensuring that the time allowed for public discussion does not interfere with the fulfillment of the scheduled agenda.
- C. During the time allotted for public participation, members of the public may speak on any subject directly related to the operations of the Town, except for personnel matters or complaints concerning specific employees, which shall be addressed through established policies and procedures.

Author's Notes: The MMA Legal Services, GUIDANCE ON PUBLIC COMMENT AT BOARD MEETINGS document addresses Constitutional First Amendment Protections. "Most courts view the public comment portion of a municipal board meeting as a "limited public forum" under constitutional First Amendment jurisprudence, assuming the comment period has been limited to discussion of certain topics. A limited public forum is a forum the government voluntarily creates to allow expressive activity for specified purposes. In a limited public forum, the government may restrict expression provided that the restriction (a) does not discriminate against speech on the basis of viewpoint and (b) is reasonable in light of the purpose served by the forum."

*MMA recommends adopting a written policy with **clear parameters** and obtaining attorney review prior to policy approval.*

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III Guideline

- A. The Select Board is elected by the citizens of Pittston to perform the people's business.
- B. The Board recognizes the value of public comment on municipal issues. To permit fair and orderly expression of such comment, the procedures described in this policy shall be followed to ensure that the Board has time to conduct its business in a professional and timely manner.
- C. All Select Board meetings are open to the public for observation. The Board provides an opportunity for limited forum for public comments during a meeting. Public comments shall be limited to agenda items or concerns relating to municipal business.
- D. Remote speakers shall be muted until recognized, and asked to state their name, town of residence or the group they represent, and the agenda item being commented on.

IV Definitions

- A. **Limited Public Forum.** A limited public forum is a forum the Town of Pittston municipal government (Town) voluntarily creates to allow expressive activity for specified purposes. In a limited public forum, the Town may restrict expression provided that the restriction (a) does not discriminate against speech on the basis of viewpoint and (b) is reasonable in light of the purpose served by the forum.
- B. **Public Comment.** An individual may comment or ask a question on the current discussion during a Select Board meeting. If you wish to speak, raise your hand, wait for the Chair to acknowledge you, stand in front of the podium, state your name for the record, and the agenda item you wish to comment on or the nature of your business as it relates to the operations of the Town. Comments and questions are time limited to one minute.
- C. **Open Public Speaker.** An individual wishing to share community information or their opinions on current issues may be added to the Select Board agenda as Open Public Speaker. Each speaker will be allocated 3-5 minutes of time to present comments. One's time may not be donated to another speaker. This option is for making a statement. There will be no discussion or question and answer period. Requests for Open Public Speaker must be submitted to the Select Board

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by Tuesday at 12:00 noon prior to the Wednesday evening regularly scheduled meeting. The request must include; name, town of residence, and topic.

- D. **Agenda item discussion.** Individuals wishing to engage with the Select Board in a discussion may request being added to the meeting agenda. Requests must be made in writing and must be submitted by Tuesday at 12:00 noon prior to the Wednesday evening regularly scheduled meeting. Individuals may be added to the meeting agenda as Town business permits. Four (4) copies of all materials shall be submitted at the time the request is made and shall include; name, town of residence, topics and any questions. Discussion is time limited by the Chair of the Select Board for the purpose of accomplishing the Town's business.

V Limits of Speech

- A. All comments and questions must be addressed to the Chair. Questions may not be asked of individual Board Members. The Chair may allow a question to be asked, however the Chair is not required to respond. The question may be noted and taken up at a future meeting.
- B. Constituent comments during an open forum shall be limited to agenda items or municipal business issues that are appropriate for open discussion. If you are introducing written materials, charts or other documentation, at least four copies shall be given to the Chair for distribution.
- C. The Board will not entertain public comments about specific individuals, legal or personnel matters. Such matters are handled through a different confidential process
- D. The Chair has the right to set a time limit for comments. Be prepared to state your business in a brief and concise manner. A person may have one opportunity to speak on an issue.
- E. During a Select Board meeting, only the subject matter of the meeting can be discussed. Any other matters must be addressed during open forum.
- F. Comments should be courteous, respectful relevant, and non-repetitive. Personal remarks or accusatory comments are always out of order. Any person who disrupts a Board meeting may be required to leave in order to permit the orderly consideration of the matter for which the meeting was called. Overly repetitive comments, off topic comments, disruptive & disorderly conduct are prohibited (see section H).

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- G. During the meeting, the audience shall not disturb the proceedings by whispering, talking, the use of cell phones, or other distractions. If this occurs, the Chair may interrupt the speaker and ask that the body quiet down and show courtesy for the speaker.
- H. Title 17-A Maine Criminal Code, Part 2 Substantive Offences, Chapter 21 Offenses Against Public Order §501-A Disorderly Conduct applies. (Partial text)
 - 1. A person is guilty of disorderly conduct if:
 - a. In a public place, the person intentionally or recklessly causes annoyance to others by intentionally:
 - i. Making loud and unreasonable noise, including, but not limited to, loud and unreasonable noise resulting from the use of consumer fireworks;
 - ii. Activating a device, or exposing a substance, that releases noxious and offensive odors; or
 - iii. Engaging in fighting, without being licensed or privileged to do so; [PL 2021, c. 510, §3 (AMD).]
 - 2. In a public or private place, the person knowingly accosts, insults, taunts or challenges any person with offensive, derisive or annoying words, or by gestures or other physical conduct, that would in fact have a direct tendency to cause a violent response by an ordinary person in the situation of the person so accosted, insulted, taunted or challenged.
 - 3. As used in this section, unless the context otherwise indicates, the following terms have the following meanings:
 - a. "Public place" means a place to which the public at large or a substantial group has access, including but not limited to:
 - i. Public ways as defined in section 505
 - ii. Schools and government-owned custodial facilities

VI Rules

- A. Residents of Pittston and employees of the Town are welcome to participate as provided in this policy. Others may be recognized to speak at the Chair's discretion.
- B. At no time will the public be allowed to argue, debate or introduce a topic that is not on a Select Board agenda. Should an organization or private individual wish to have a matter placed on the Select Board agenda, a written request detailing the

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specifics of the subject shall be submitted to the Select Board for consideration by Tuesday at 12:00 noon.

- C. Individual employees and/or employee groups will not be permitted to discuss matters for which complaint or grievance procedures are provided.
- D. The Chair may limit the time allotted for comments on a particular topic as well as the time each individual may speak.
- E. In the event of a sizeable audience, the Chair may require persons interested in speaking to sign up so they may be called on in a fair and efficient manner.
- F. During the time set aside for public comment the Chair will be responsible for recognizing all speakers, who must identify themselves as they begin talking.
- G. The Chair may limit repetitive statements and comments.
- H. All speakers are to address the Chair and direct questions or comments to particular Board members only with approval of the Chair. Requests for information or concerns that require further research may be referred to the Select Board to be addressed at a later time.
- I. Members of the Board may ask questions of any person who addresses the Board but are expected to refrain from arguing or debating issues.
- J. No complaints or allegations will be allowed at Board meetings concerning any person employed by the Town. Personnel matters or complaints concerning employees or staff issues will not be considered in a public meeting but will be referred through established policies and procedures.
- K. The Chair has the authority to stop any presentation that violates these guidelines or the privacy rights of others.
- L. Persons who disrupt the meeting may be asked to leave, and the Chair may request law enforcement assistance as necessary to restore order.

Author's Notes: "When First Amendment Rights and Public Meetings Clash" Municipal Research & Services Center, Washington State. "The public meeting of a board or council is considered a "limited public forum," which means the government can regulate the time, place, and manner of speech. Boards and councils regulate speech through the adoption of rules of procedure and conduct. When writing and establishing rules of conduct, the governing body must be careful not to violate the protections that meeting attendees enjoy under the First Amendment. The Ninth Circuit Court of Appeals addressed this issue in ... In that case, the court held that the First Amendment requires a person's speech in a city council meeting must actually disrupt a meeting before that person may be removed from

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the meeting. The case provides an example of language a council may adopt for such a proposed rule. The court looked approvingly on rules that stated:

It shall be unlawful for any person in the audience at a select board meeting to do any of the following. Engage in disorderly, disruptive, disturbing, delaying or boisterous conduct, such as, but not limited to, handclapping, stomping of feet, whistling, making noise, use of profane language or obscene gestures, yelling or similar demonstrations, which conduct substantially interrupts, delays, or disturbs the peace and good order of the proceedings of the council.

The...court explained that argumentative or disruptive behavior cannot be shielded by a claim of First Amendments rights, stating:

Officials presiding over such meetings must have discretion...to cut off speech which they reasonably perceive to be, or imminently to threaten, a disruption of the orderly and fair progress of the discussion, whether by virtue of its irrelevance, its duration, or its very tone and manner.

4/2/25
Policy adopted on this date by;


Cathy Thomas, Selectperson Chair


Joseph Caputo, Selectperson


Christine Holtzinger, Selectperson