

HELLO HINGHAM
BEING A PUBLIC OFFICIAL
By Cathy Salisbury
Hingham League of Women Voters

What is expected of a public official? Residents who are appointed or elected to public office often ask this question. And what legal liability or public criticism are they exposed to while in office?

This column will cover standards for public officials, and next week's column will cover the liability issue.

Public officials are authorized to make decisions on the town's behalf. When they were sworn in by the Town Clerk, they pledged to uphold the Massachusetts Constitution and its laws and to faithfully perform the duties of office. This means complying with the four statutes covering ethics, conflicts of interest, open meetings and public records, as discussed in an earlier column. But they must also ACT like a public official.

Expectations run high despite the fact that there is usually little or no formal training for new public officials who have to learn by doing. Here are a few things they should know.

Boards are an institution, not just a group of elected or appointed individuals. Boards have a history, a philosophy and an established way of doing business. The Chairman will be in charge of supervising board staff, acting as spokesman for the board and acting as liaison with other town boards and officials. The Chairman sets the agenda for board meetings and will guide other board members in developing a philosophy about board work and thinking collectively about what they are trying to do and how to go about doing it.

Board members have to understand their charter and the source of their authority to act. Public officials should know the wording of the document, state law, local by-law or Town Meeting Article governs their public service. Board members can and do get side-tracked with issues that are outside their scope of authority.

Permitting boards are in a special class and merit further discussion. These boards, for instance, The Zoning Board of Appeals, administer an adjudicatory, or legal, process. Public officials serving on these boards must be fair in processing applications and be impartial in making decisions, because they can be challenged in court and are subject to judicial review. Therefore, the way a board reaches a decision is as important as what it decides. A new board member is free to vote as he or she chooses, but should think about board precedents, and should treat all applicants alike. Applicants who argue in favor of an application before a board may make a compelling case based on facts. Board members have to put this information into the larger framework of all similar cases and

apply the same rationale to the current application as were applied to all the others. They must keep the best interests of the town in mind.

And what about exercising discretion? A public official must understand the governing public policy of his or her board. Permit-granting board members should know the standards an applicant must meet. Other legitimate questions a public official should ask are:

- is there sufficient information to make a decision?
- have the issues have been correctly identified?
- how can community expectations be met?
- will the decision be consistent with the board's philosophy and precedent?
- will the decision be consistent with the public official's philosophy?

Making good board decisions is hard work. Adjudicatory boards have the added burden of building a formal record to illustrate the facts to support the board's conclusion and to show that procedural due process standards were met during deliberations.

Residents serving as public officials expose themselves to public criticism (and sometimes legal action) with every official decision that they make. Often this criticism is not couched in terms of disagreeing with their policy or with their exercise of discretion but rather as personal attacks. This makes public officials' jobs unpleasant as well as difficult. It's important to remember the reason public officials were appointed or elected was because of their unique perspective and ideas which they have every right to express in their decision-making. Whether you agree with a public official or not, the office that this person occupies deserves respect. Fortunately, despite the fact that the burdens of public office are substantial, some citizens are still willing to undertake them. They understand it's an honor to participate in the exercise of decision-making on behalf of their community.

Next week we will discuss municipal liability for the actions of public officials.

For information about membership in the Hingham League of Women Voters, please contact Christine Dietterich at coed@verizon.net.