

TMMA Executive Committee Minutes: June 15, 2006

Attendance:

TMMA Officers:

Gloria Bloom – (Chair Pct 4)
David Horton – (Vice Chair Pct 8)
Alessandro Alessandrini – (Treasurer Pct 2)
Darwin Adams – (Clerk Pct 3)

Precinct Officers:

Pct 9: Vicki Blier, Mollie Garberg
Pct 7: Jim Courtemanche, Marsha Baker
Pct 6: Alan Lazarus, Edith Sandy
Pct 5: Eph Weiss
Pct 4: John Rosenberg
Pct 3: Bonnie Brodner
Pct 2: Robin DiGiammarino,
Pct 1: Ellen Basch, Jon Cole

Members “At Large”:

Marge Battin (Town Moderator)
Jeanne Krieger (Board of Selectmen – Chair)

Town Officials/Board & Committee members:

Linda Vine (Assistant Town Manager)
Helen Cohen (School Committee – Chair)
Chariles Hornig (Planning Board)
Alan Levine (Appropriations Committee – Chair)
John Bartenstein (Appropriations Committee)

Presenters:

Pct 8: Lorraine Fournier
Pct 5: Ana Flaster

Guests:

Pct 8: Richard Battin
Pct 6: Leslie NicholsonS
Pct 2: Betsy Weiss
(Note: A number of people did not sign the attendance sheet)

Agenda:

Gloria called the meeting to order at 7:00 pm in the Selectmen's Meeting Room

Treasurer's Report:

The treasurer's report was presented and approved unanimously.

Sympathy Card:

Alice Warner, the wife of long-time Town Meeting member Caleb Warner, passed away recently. Gloria suggested that the TMMA might send him a sympathy card. The idea was accepted unanimously.

Acceptable Use Policy (AUP) for e-mail list (part A – Use of list by non-TM people):

John Bartenstein outlined the history of the TMMA e-mail list. His comments followed closely in a summary published to the executive committee prior to tonight's meeting. It is included below for reference.

John and Lorraine's discussion of AUP on posting privileges:

On May 11, you requested a brief summary, in advance of the June 15 TMMA Executive Committee meeting, of the issues presented by the provision in the recently adopted AUP limiting the posting privileges on the TMMA email list of Town committee members who are not Town Meeting Members. I have met and conferred with Lorraine, and we are submitting this response together.

Background

In early 2005, the TMMA Executive Committee requested the Communications Working Group (CWG) to review and consider possible updates to the Acceptable Use Policy (AUP) for the TMMA email list. The CWG discussed the issue through the summer and fall of 2005 and ultimately drew up a proposed new AUP for consideration by the TMMA Executive Committee. The proposed AUP was presented to the TMMA Executive Committee at its meeting held on January 11, 2006.

All members of the CWG agreed on most of the text of the proposed AUP. The CWG was divided, however, on one issue: whether list members who are not Town Meeting Members -- including Town staffers and members of committees and Boards -- should be free to post on any topic otherwise meeting the content guidelines of the AUP, or whether their postings should be restricted to topics relating to their Town or committee position. The CWG ultimately decided to present the issue to the TMMA Executive Committee and let the Executive Committee decide. A copy of the proposed AUP, with the debated language in bold, is reproduced below.

The TMMA Executive Committee discussed the proposed AUP at length at its January 11 meeting. Members of the CWG presented reasons for and against the bolded language. The Executive Committee ultimately voted unanimously to adopt the non-bolded language. It then voted 8-3 to include the bolded language as well. The minutes of the January 11 meeting recording the discussion and votes can be

found at <http://lexingtonmma.org/about/Minutes.html>.

After the new AUP was published, Lorraine asked Gloria for an opportunity to address the Executive Committee about the new policy and to advocate reconsideration of the bolded language. Lorraine is not currently a Town Meeting Member but has posting privileges on the TMMA list by virtue of her membership on the Selectmen's Ad Hoc Water and Sewer Rate Study Committee. Because Lorraine was not aware that the AUP issue would be raised at the January 11 meeting, she did not attend that meeting and did not have an opportunity to make her views known.

Lorraine and I are both planning to attend the meeting on June 15 and present our respective points of view. We have done our best to summarize some of the key pros and cons but have not attempted to be exhaustive, and we may raise other issues as well.

Reasons to Include the Bolded Language

- The TMMA list is a forum for Town Meeting Members. Its purpose is to permit Town Meeting Members to exchange information and views about matters on which they may be required to vote at Town Meeting.
- It is useful to grant Town staff members, board members and committee members posting privileges on the list so they can respond to requests for information about matters within their jurisdiction and area of expertise. However, those who are not also elected Town Meeting Members are not TMMA members, do not have the responsibility to represent residents on town financial and policy matters generally, and are not accountable directly to voters.
- For list participants who are not Town Meeting Members to use the leverage of the TMMA list to advocate positions, or to request information from others, on a broad range of matters beyond the scope of their town position or committee assignment, effectively allows them to act as "supplemental Town Meeting Members," a role for which they were not elected.
- If any Town resident were permitted to post to the TMMA list, this restriction would be unnecessary. If the goal is to maximize "free speech," the airing of all points of view, and communication between town residents and Town Meeting Members, then posting privileges should be opened up to all town residents. However, where town residents generally are not permitted to post to the list, however, it is unfair and inequitable to provide unrestricted access to unelected committee or staff members.
- The proposed restriction is hortatory ("should"), not mandatory ("must"). The expectation is that it would not be enforced rigidly, or to minor deviations from the policy, but only in the case of significant abuse.
- The proposed restriction would not completely "freeze out" non-Town Meeting members from communicating with Town Meeting Members on the list. Any Town resident may request a Town Meeting Member at any time to post a communication on his her behalf, just as Town Meeting Members sponsor the proponents of citizens articles at Town Meeting. The Town Meeting Member is

accountable (to the TMMA and to his or her constituents) for what gets posted. Staffers and committee members who wish to communicate on the list on topics not related to their position can request such "courtesy postings" as well..

- List participants who are not Town Meeting Members typically have not posted on issues beyond their town or committee membership; however, where this has occurred, other TMMA members have complained that the postings are inappropriate because the posters are not elected Town Meeting Members.
- The bolded language is an attempt to establish a policy that meets those complaints and establishes reasonably clear expectations but can still be applied reasonably and flexibly.

Reasons Not to Include the Bolded Language

- Town staffers and committee members, by virtue of their service to the town, whether voluntary or compensated, have valuable information, insights and opinions to offer beyond the specific issues for which they have been appointed, and should be granted the privilege of full participation on the TMMA list.
- To restrict the opportunity of staffers and committee members to participate fully in a discussion list such as this diminishes and demeans their role and contribution.
- The Town and Town Meeting Members benefit from hearing from as many points of view as possible -- "let a hundred flowers bloom."
- The fact that the public generally is prohibited from posting to the list does not justify the restriction on existing list members. Even if opening the list to full participation by all Town residents would be deemed to create too great a risk of abuse, the risk of permitting full participation by the limited number of non-Town Meeting Members who are already on the list is not comparable.
- The bolded language creates needless administrative headaches for the list-master, and it is potentially difficult and time-consuming to enforce. It is asking too much of the list-master to monitor and police different levels of participation by different list members. The burdens of enforcement outweigh the benefits.
- Where the restriction is discretionary, it creates a risk of selective enforcement and censorship, or least the risk of a perception of selective enforcement, both of which are detrimental to a sense of community. Even if the list-master strives to be impartial, there is still a risk of selective enforcement, or the perception thereof, if most enforcement action takes place in response to complaints by other list members.
- List members who are not Town Meeting Members typically have not posted on topics beyond their jurisdiction or expertise. Where this has occurred, the postings have not been abusive and the complaints have been unreasonable.

We hope this will be helpful to the members of the Executive Committee in thinking through the issues and look forward to discussing the matter further on the 15th.

John Bartenstein and Lorraine Fournier

Acceptable Use Policy Adopted 1/11/2006

The purpose of the TMMA list is to support, encourage and inform discussion among Town Meeting Members regarding issues before Town Meeting or directly concerning the Town of Lexington. Appropriate postings present opinions, ask questions, provide answers or offer illuminating information on acceptable topics. Pertinent topics are those that:

- could or will come before Town Meeting;
- are relevant to Lexington Government; or
- are specifically relevant at a town level.

List members are encouraged to use other Lexington on-line groups for postings that fall outside of these guidelines.

Persons who may post to the TMMA list are Town Meeting Members, elected officials, Town Management, and Committee, Board or Commission Members. **Non- Town Meeting Members should limit their posts to matters related to their Town or Committee position.** All postings are freely available for viewing by the public via the list's website at <http://groups.yahoo.com/group/lex-tmma/>. As a courtesy, list members may post messages on behalf of those who are not list members, if such messages otherwise meet these guidelines.

Be polite and respectful in tone. Following the same expectations outlined by the Town Moderator before every Town Meeting, list members should address the issue, not the personality, and should not impute motive. Please sign all messages and identify your committee or position if you are writing in an official capacity.

The TMMA will respond to postings in violation of these guidelines with an escalating set of actions beginning with private, then public reminders of the policy, and ending with suspension or removal from the list.

John pointed out that at the original AUP vote, Lorraine Fournier was not aware that the vote was being taken and did not have a chance to share her views with the TMMA Executive Committee. This meeting (June 15) was the first opportunity to make these views known. The consensus of the Communications Working Group was that the current AUP burdens David Kaufman with ruling on postings by non- Town Meeting member's postings which is difficult and subjective. The CWG, therefore, recommended a trial period where the "bolded language" (see the 1/11/2006 AUP above) would be deleted.

Lorraine Fournier addressed the group stating that the views of the Boards and Committees were very valuable to TMMA. She noted that in the past, people not in Town Meeting who wished to post would do so by asking a Town Meeting member to post for them. The person who does post becomes partly responsible for the content of the post and this puts them "on the spot." Lorraine expressed some feelings that it was degrading to Board and Committee members to be disallowed from posting.

John Bartenstein suggested that we could delete the bolded language, but remain open to revisiting this decision should the postings become a problem in the future.

John Rosenberg felt that it is fine to have a list open to all in the town, but that the TMMA list was specifically set up for TMMA business.

Bonnie Brodner suggested that we might want a small sub-committee to help David Kaufman with the work of moderating the current policy.

Vicki Blier noted that normally there is no problem with all people posting to the list. It only becomes a problem occasionally.

Eph Weiss said he originally favored the bolded language. However the greater problem was with civility on the list.

A motion was made to delete the current bolded language:

Non- Town Meeting Members should limit their posts to matters related to their Town or Committee position.

There were 13 votes in favor and 3 opposed.

Acceptable Use Policy (AUP) for e-mail list (part B – Privacy Concerns):

During the recent override campaign a link to a compilation of personal data was sent to the TMMA email list.

A statement regarding posting of personal information was read by Ana Flaster. Below is a copy of her statement.

*Comments to TMMA Executive Council
6/15/06
Ana Flaster
Precinct 5*

By compiling and circulating residents' personal data through the TMMA list on May 23rd, and in subsequent emails, Patrick Mehr has put our constituents at increased risk of identity theft and criminal activity, and he has also violated the standards for debate as established by TM and TMMA. He has stated that he sees "nothing wrong with publicly disclosing public information." I am here to ask the EC to respond immediately to his irresponsible, dangerous, and divisive act, and that it do everything possible to protect the tenor of future debate in our Association.

1. First: Mr. Mehr made the job of criminally-minded people much easier by researching and compiling personal data about our constituents. By making that data available through our site he has opened the door to mal-intended people far outside the borders of our town. We all know that senior citizens are targets of break-ins and phone scams; children the target of sexual predators; and all residents are extremely vulnerable to identity theft. By supplying the dates-of-birth, amounts donated, assessed home values, and other sensitive data of the residents on his spreadsheet, he has created a perfect document for criminals who target seniors, parents of school aged children, or any resident for identity theft. [I urge you, especially, to remember that children are our most vulnerable citizens. The fact that Mr. Mehr alerted criminals who are internet-savvy to where children from affluent homes can be found—

that is, the addresses of highly assessed homes headed by 40 year-olds who've given generously to a pro-school campaign—he has in essence put bulls' eyes on a number of neighborhoods and children in our town.

2. His email also contravened several TM debate standards as outlined on page 7 of the "TM in Lexington" booklet. The fact that the vast majority of the residents on his spreadsheet are not even TM members only adds to the injustice of Mr. Mehr's dragging them, as individuals, into this debate. First: our guidelines prohibit personal attacks—and, the listing of residents by name, address and dates of birth more than constitutes "personal," in my opinion.. Second: "remarks must be relevant to the subject under discussion." In this case, Patrick used a debate on health benefits for public employees as an excuse to promote a link to his spreadsheet showcasing the personal donor data from the 2004 campaigns. And third: one should not impute motives to other members. By stating that certain YES donors are turning the town into, "a ghetto for millionaires" he improperly characterized individual YES donors and ascribed a motive to their actions.
3. Mr. Mehr's email also ignored an important part of our list's existing AUP: "...to support and encourage discussion of issues relating to the Town." From now on, fellow citizens who consider participating in campaigns or civic debate will have reason to fear that their civic activity will expose them and their families to far greater scrutiny than even OCPF requires and may leave them and their families at an increased risk of criminal activity. Can a town that averages roughly 30% registered voter-turnout for local elections *afford* this kind of intimidation and cyber bullying of its citizens?

TM and TMMA must define and *refine* appropriate rules of conduct and debate for its members. The fact that an act is legal does not make it permissible in TM or to TMMA. Distributing pornographic images and participating in raucous behavior are legal actions. yet they would never be permitted on the floor of TM nor in a TMMA gathering.

Mr. Mehr's emails are the electronic equivalent of standing in the middle of the street and yelling about our neighbors' private lives, pulling down their pants and then excusing our behavior in the name of open and transparent research. Mr. Mehr could have just as easily made his point by summarizing his findings and omitting names, dates of birth, etc. I urge you, as members of the TMMA executive council, to respond officially to Mr. Mehr's irresponsible misuse of our list by:

1. Inserting the following 2 sentences in the 4th paragraph of our AUP: "The listing of residents' personal data for any reason will not be tolerated. All analysis should be summarized and presented in the aggregate in order to protect individual privacy rights."

And. 2. Since Mr. Mehr sees nothing wrong with distributing our constituents' public information, representatives of the Exec. Council should meet immediately with him to review the change in the AUP. warn him that the next abuse of the TMMA list will result in his suspension from the list, and demand he apologize to the members of the TMMA list for his reckless act.

Thank you for your consideration

Marge Battin stated that as Moderator of Town Meeting, she has authority over the conduct at Town Meeting. Since Town Meeting was not in session, she does not have legal authority in this case. However, TMMA is a separate organization -- not legally a part of town government -- and could create and enforce its own standards of conduct.

A lengthy discussion ensued covering the following concepts:

1. The information on the website was derived from publicly available sources – many of them already on-line.
2. However, joining this information and organizing it and publishing it makes a difference. It is no longer scattered and no longer requires a lot of “digging” to find. Furthermore, it presents a particular point of view. Not every piece of publicly available information was included.
3. During a campaign, the candidates often must give up some of their privacy since the public wants to know about them.
4. However, this was an override campaign. There were not any candidates. Furthermore, the private information was about voters not candidates.
5. If the privacy of citizens is compromised, some may choose to avoid public debate in order to protect themselves.
6. Some people fear that their children or their houses may be at risk because criminals could find out where people work, how much money they make and where they live.
7. TMMA has no control over personal websites. The issue for TMMA is that a link to the site was published on the TMMA email list. The TMMA has no jurisdiction over the website itself.

A number of people suggested that we should take some kind of action soon. Some felt that we should not vote on the issue without having Mr. Mehr (who published the information) present to defend his actions.

John Bartenstein requested that the TMMA Executive Committee schedule a special meeting and to invite Mr. Mehr to participate. The majority felt that the meeting should happen soon – rather than wait for the next monthly meeting.

A motion was made to meet on Wednesday, June 21.
14 voted in favor and 1 abstained.

Acceptable Use Policy (AUP) for e-mail list (part C – Enforcement of the AUP):

Eph Weiss moved that postings by members of the TMMA list be limited to 1 posting per day. This would avoid a small number of people from monopolizing the list.

Several people noted that dialog is important on the list and that waiting a whole day between responses would not be practical. This would be especially true during Town Meeting where the time for a vote cannot be delayed.

There was 1 vote in favor and 14 opposed.

TM Wrapup:

Gloria Bloom turned over the meeting to Marge Battin to discuss how we might improve the functioning of Town Meeting. The meeting was opened on the subject of Town Meeting.

Mr Lowry noted 2 problems faced by Town Meeting this year:

1. There was a delay in getting the budget ready.
2. The minutes of some town committee meetings were not posted in a timely fashion.

Carl Valente acknowledged that many people in his department (including himself) were new this year and that the budget was later than usual. He reminded the group that the purpose of the “Brown book” and the “Blue book” was to get the majority of budget information together in time to meet the 28 day deadline for Town meeting. Carl also noted that forming the budget is a process and the most current information can be gotten by attending the committee meetings

Eph Weiss noted that J R Lowry is a new Town Meeting member who works with numbers all the time and wants to get budget information but cannot get to the committee meetings.

John Rosenberg said that the budget process is many months long. Also, there are tradeoffs made toward the end of the process – even 5 minutes before the beginning of Town Meeting. So minutes of the committees could hardly be timely when the budget process is running late. The process is political and works right up to the beginning of Town Meeting.

Al Levine shared several thoughts. He suggested that we focus on Town Meeting and not spend a lot of time asking for more help from Town boards and committees. The decision making process takes time. Minutes are hard to write and are written by board members. There are 50 meetings each year and we don’t have time to write good minutes.

A suggestion was made to use the new senior tax work-off program (where seniors can work for the Town in exchange for reduced property taxes) to take minutes.

Marge Battin noted that the League of Women Voters has volunteers which take notes of the meetings and that they have a repository of information. The information is posted on the Stand For Children website.

Helen Cohen said that the School Committee reviews the minutes of all meetings prior to release to the public. So its not just the time to write the minutes. More delays occur due to proper review by the entire board. Also, the School Board at times can be very busy which makes review of the minutes difficult.

Marge Battin suggested that prior to Town Meeting, the Town offices, boards and committees are working late hours and that Town Meeting should not burden the staff any more than necessary.

Marge raised some other issues regarding Town Meeting. At the start of our meetings, people come in late and talk in the aisles. It is very distracting. A suggestion was made that Gloria Bloom could usher people to their seats and “police” the hallways.

John Rosenberg suggested dimming the lights in Cary Hall the way they do in a theater to inform people that Town Meeting was beginning.

Marge suggested that precinct chairs could “police” the member of their precinct. Another suggestion was to keep the doors to the hallways closed..

Al Levine noted that the acoustics in Cary Hall are not very good. Perhaps we could add acoustic panels to absorb the sound.

Another opinion was that 7:30 was too early to start Town Meeting and perhaps that would account for people arriving late. Helen Cohen said she tried to schedule School Committee meetings at 6:30 so that the committee can complete its work in time for Town Meeting. However, she sometimes does not get a quorum until 7pm (due to the early time of the meeting).

Eph Weiss noted that Town Meeting currently begins with ceremonial presentations and that important votes are typically later in the meeting. Reversing the order of the agenda might encourage people to arrive on time.

Others felt that too much time was consumed in Town Meeting with reports from the boards and committees. Marge said she would look into placing presentations and reports at the end of each meeting rather than the beginning.

Sheldon Spector complained that complicated questions were given to staff at the last minute. This could be embarrassing when staff cannot answer these questions fully. The cable TV audience might not know that the question was last minute. He cautioned that surprises can often backfire and that appropriate notice should be given for difficult or complicated questions.

John Rosenberg suggested that we should be more strict about last minute motions. Marge Battin said that she can only rule on procedure and does not have authority to judge the merits of amendments and motions.

Helen Cohen asked if there could be some kind of rule about how much warning is needed before a motion or amendment could be considered.

Al Levine suggested that the material of motions might be circulated on the TMMA email list so that members will know about them before meetings start.

Linda Vine (and Marge Battin) warned that some material is often last minute and would not be available in time for the email list.

Further discussion regarding improvements to Town Meeting included:

- Office hours for people to speak with Selectmen and Committees.
- Sending email to the Boards and Committees.
- A general agreement that having planning board items first on the agenda for Town Meeting worked well this year.
- Our budget this year was difficult for a host of reasons including new staff and the need for an override.
- That it would be good for interested parties to attend board meetings prior to Town Meeting because that is the time when changes can be accommodated and when the deepest material is presented.
- That we must try to get the budget completed sooner so that Town Meeting can review the final version
- That having the override vote after Town Meeting means that we must consider several scenarios on the budget – especially with an itemized override vote format.

- That the boards and committees analyze this years questions so that they can be anticipated and answers prepared for similar questions which might arise next year.
- That having requests for many detailed information directed to the boards and committees in the last few weeks prior to Town Meeting can be a big burden. People should direct their questions to the board/committee chairs and the chairs should decide how the questions should be managed.
- That we might investigate moving the override vote to March so that Town Meeting will know the true budget limitations.

Closing Comments:

Gloria Bloom announced that Sheri Mahoney will be the TMMA representative to the 2020 committee.

The meeting was adjourned at 9:25pm