

Open Meeting Law:

Balancing Government Transparency
with Government Efficiency





Who the AGO Serves & How

Who:

The Commonwealth

Residents of the Commonwealth and their public interests

State departments, officers, and commissions

Groups of consumers

How:

Four Major Ways this Work is Executed

Investigation

Enforcement

Prevention

Policy



Public Protection & Advocacy Bureau

Description

Protecting students against predatory for-profit schools;

Ensuring that workers are paid the wages they are owed;

Combating discrimination by landlords and employers;

Keeping struggling homeowners in their homes through loan modifications; and

Fighting for consumers against scams and other deceptive business practices.

Divisions of the Public Protection & Advocacy Bureau

Civil Investigations

Consumer Protection

Fair Labor

Insurance and Financial Services

Civil Rights

CARD/HomeCorps



Where the AGO is located

Attorney General Maura Healey and her staff engage with every city and town of the Commonwealth. The Attorney General's Office also runs a statewide Consumer Advocacy and Response Division and supports over thirty regional local consumer and face to face mediation programs, which you may choose to contact.





Purpose of Open Meeting Law (OML)

Government
Accountability



Government
Efficiency

Ensures transparency by public bodies by requiring:

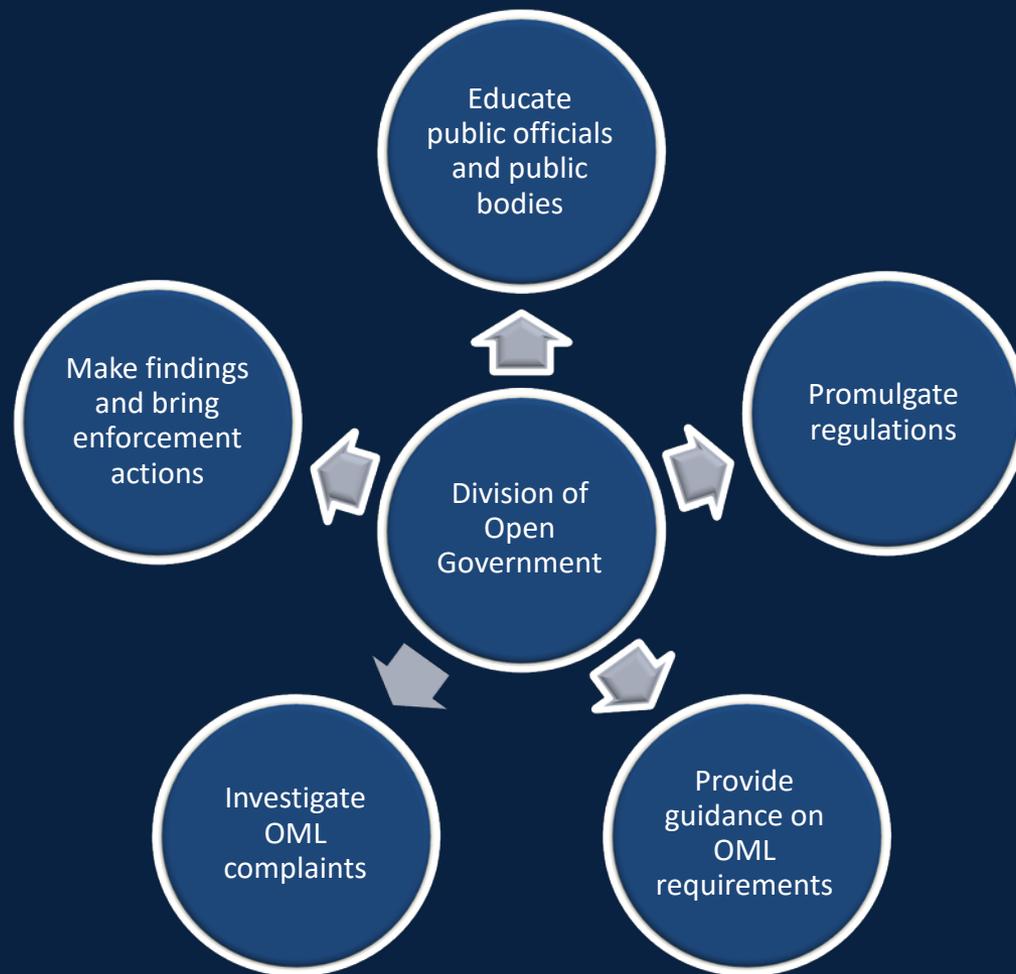
- Notice
- Open Deliberations
- Public Access

Allows government to efficiently manage operations by:

- Providing for certain deliberations in executive session
- Maintaining confidentiality of certain records of executive session



Attorney General's Role





Certification

CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS

I, _____, who qualified for the office of
(Name)
_____, on _____, certify pursuant
(Office) (Date)

to G.L. c. 30A, § 20(h), that I have received copies of the following Open Meeting Law materials:

- 1) the Open Meeting Law, G.L. c. 30A, §§ 18-25;
- 2) regulations promulgated by the Attorney General under G.L. c. 30A, § 25; and
- 3) educational materials promulgated by the Attorney General under G.L. c. 30A, § 19(b), explaining the Open Meeting Law and its application.

I have read and understand the requirements of the Open Meeting Law and the consequences of violating it. I further understand that the materials I have received may be revised or updated from time to time, and that I have a continuing obligation to implement any changes in the Open Meeting Law during my term of office.

(Name)

(Name of Public Body)

(Date)

Pursuant to G.L. c. 30A, § 20(h), an executed copy of this certificate shall be retained, according to the relevant records retention schedule, by the appointing authority, city or town clerk, or the executive director or other appropriate administrator of a state or regional body, or their designee.

Members must sign certification within two weeks of receipt:

- Read and understand requirements of the law and consequences for violating it
- Educational Materials:
 - OML Guide Book
 - Last 5 Years of OML Determinations



Open Meeting Law Basics

Notice of meetings must be posted

Meetings must be open to the public

Minutes must be kept

Complaint process



Public Body

Definition

A multi-member board, commission, committee or subcommittee ... however created, elected, appointed or otherwise constituted, established to serve a public purpose ... subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

Connelly exception

Where a public official creates a group to advise that public official on a decision that he or she has sole responsibility for, the group is not subject to the Open Meeting Law. See *Connelly v. School Committee of Hanover*, 409 Mass. 232 (1991)



Exclusions

State Legislature



Massachusetts House of Representatives

Judicial Branch



Massachusetts Supreme Judicial Court

Not-for-Profit Organizations



The Greater Worcester Land Trust

Focus Groups



No Public Purpose



Constitutional Officers



Massachusetts Governor Charlie Baker



Examples: Public Bodies

State:



University of Massachusetts Board of Trustees

Local:



Town of Brookline, MA Board of Selectmen

Regional:



Martha's
Vineyard
Airport
Commission



Examples: NOT Public Bodies

State:



Regional:



Algonquin Regional High School Boosters Club

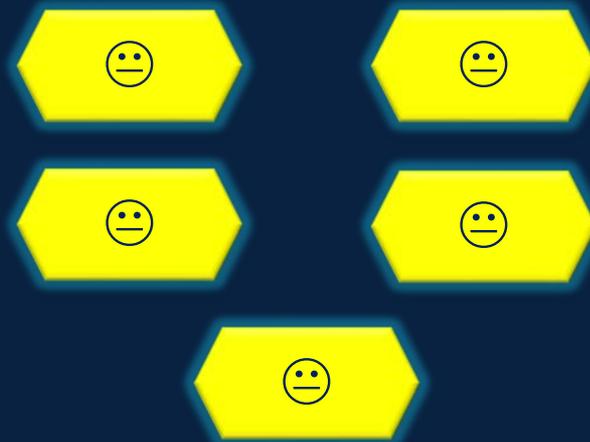
Local:





Quorum and Deliberation

“An oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.”





Deliberation

Not deliberation:



- Agenda
- Scheduling



- Reports or documents



- Subquorum, but not subcommittee



- Recess a Town Meeting for emergency



Meeting

Definition: Deliberation by public body with respect to any matter within the body's jurisdiction

Excludes:



On-site Inspections



State Quasi-Judicial Boards



Town Meetings (Tewksbury Town Meeting)



Events



Attendance at Meetings of other Public Bodies



Meeting Notices

Mendon-Upton Regional School District

RECEIVED
By Lauren Perucci at 2:21 pm, Oct 28, 2015

SCHOOL COMMITTEE MEETING AGENDA
Superintendent's Conference Room-- Miscoe Hill Middle School
November 2, 2015
7:00 pm

RECEIVED
By Mendon Town Clerk at 9:48 am, Nov 02, 2015

- 7:00 pm Call to Order
Pledge of Allegiance
- 7:02 pm Approval of Agenda/Minutes
 - Approval of Agenda
 - Approval of Open Session Minutes- October 19, 2015
- 7:05 pm Community Comments
- 7:20 pm Student Comments
- 7:25 pm Superintendent Comments
 - Nipmuc 21st Century Learning Conference
 - Multihazard Emergency Planning Training of 10/21-22
 - FY16 Home Instruction Report
- 7:35 pm Subcommittee Updates
 - Budget Subcommittee
 - Policy Subcommittee: First Reading of Revised Policy JKAA- Physical Restraint of Students & Policy EBC- Emergency Plans
- 7:40 pm Old Business
 - School Committee Goals for 2015-16
- 7:45 pm New Business
 - Spring 2015 MCAS Results
 - Approval of Miscoe Hill Middle School Improvement Plan- Principal Ann Meyer
- 8:10 pm Correspondence
- 8:12 pm Other matters not anticipated by the Committee within 48 hours of the posted meeting
- 8:13 pm Future Agenda Items
 - MetroWest Adolescent Health Survey Results- November 16
 - Nipmuc AP & SAT Results- November 16
- 8:15 pm Roll call to executive session pursuant to (i) M.G.L. c.30A, Section 21(a), exemption #3, to discuss strategy with regard to collective bargaining with the Mendon-Upton Regional Teachers Association because doing so in open meeting would have a detrimental effect on the bargaining position of the Committee. (The Committee will not be returning to open session.)

The listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Also, the timeframe for each topic is a general guideline and may not be strictly adhered to.

www.mursd.org

Date of meeting

Time of meeting

Place of meeting

List of topics reasonably anticipated

Date and time of notice posting



Meeting Notices

Emergency Meeting

Unexpected



Requires
immediate
action



Meeting Notices: Local Public Bodies



File with Municipal Clerk



Bulletin Board

Or



Municipal Website



Meeting Notices: County, District and Regional Public Bodies

Hampshire
Council Of
Government
Board Of
Councilors



Plymouth Board of County
Commissioners



Amherst-Pelham
Regional School
Committee



Meeting Notices: State Public Bodies

Post to the public body's website or the website of its parent agency



William Francis Galvin

Secretary of the Commonwealth
of Massachusetts

Notify the Attorney General
of the location of the
website

Send a copy of the meeting
notice to the Regulations
Division of the Secretary of
the Commonwealth's Office
regs@sec.state.ma.us



Notice Posting: Common Concerns



What if a new topic
arises after notice is
posted?



What if the clerk can't
post notice in time?



Cancelling a meeting?



Meeting Notices: Websites

Finding notices

- Notices should be easy to find on the website; listed either in a central page or at each public body's page
- Avoid posting in multiple locations unless linked to same document/page

Webpage outages

- 6 business hours to fix website, otherwise must cancel noticed meetings within 48 hours of outage





Accessibility

Reasonable efforts to accommodate crowds

Accessible to the disabled

Americans with Disabilities Act, federal Rehabilitation Act of 1973,
state constitutional provisions

The Attorney General's Civil Rights Division can assist -
Contact the Civil Rights Division at (617) 963-2939



Remote Participation Authorization



Local Public Bodies

- Mayor or board of selectmen approval



County Public Bodies

- County commissioners must authorize



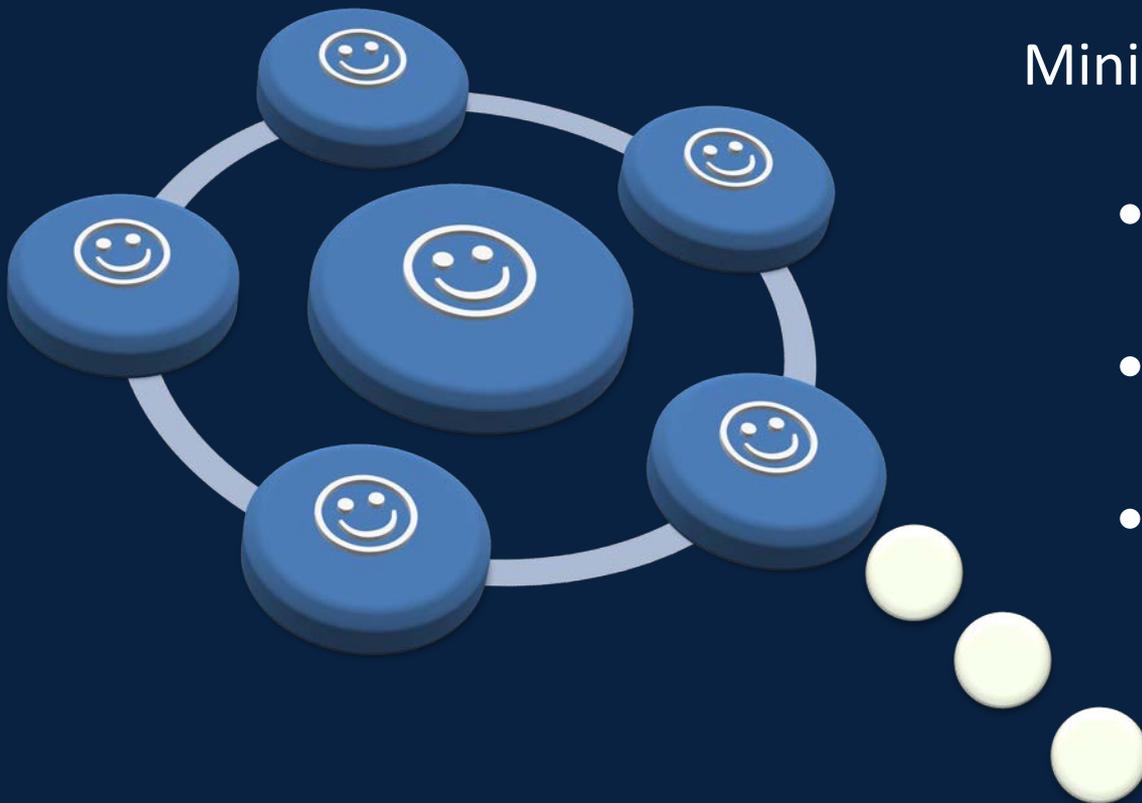
State/Regional Public Bodies

- Simple majority vote



Remote Participation

Permissible reason for Remote Participation: physical attendance at the meeting must be unreasonably difficult.



Minimum Requirements:

- Clearly Audible
- Quorum Present
- Remote participants may vote



Remote Participation

Procedures for Remote Participation

Notify chair

Announcement

Roll call votes

Documents

Executive session
declaration

Technical difficulties

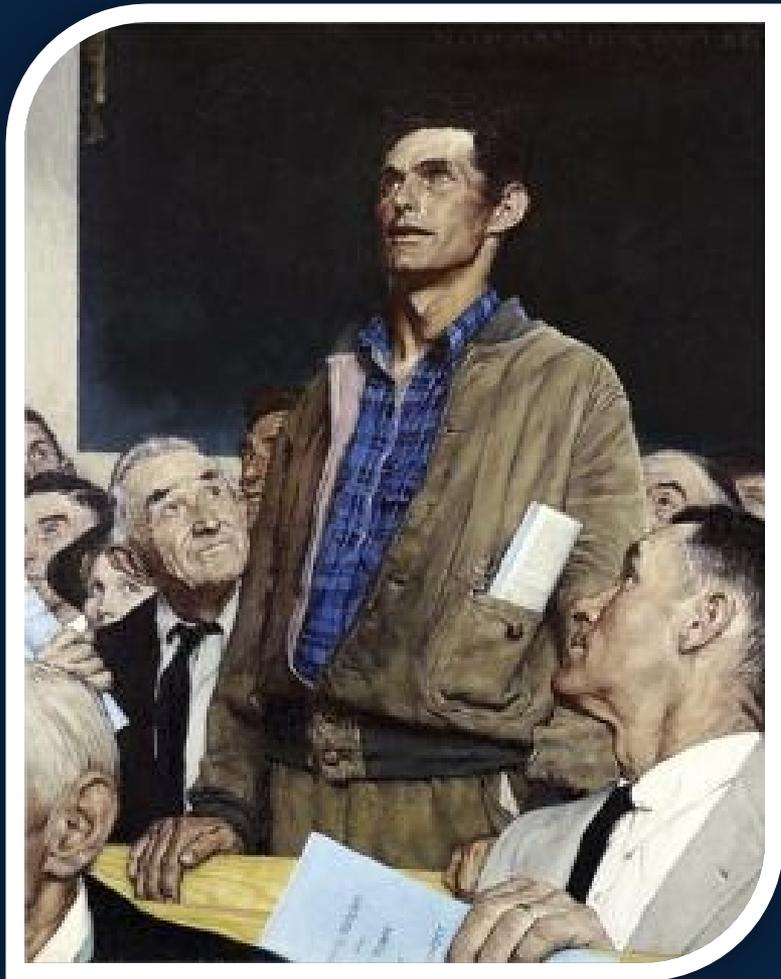


Technology





Public Participation



Public may attend open session

Addressing the public body

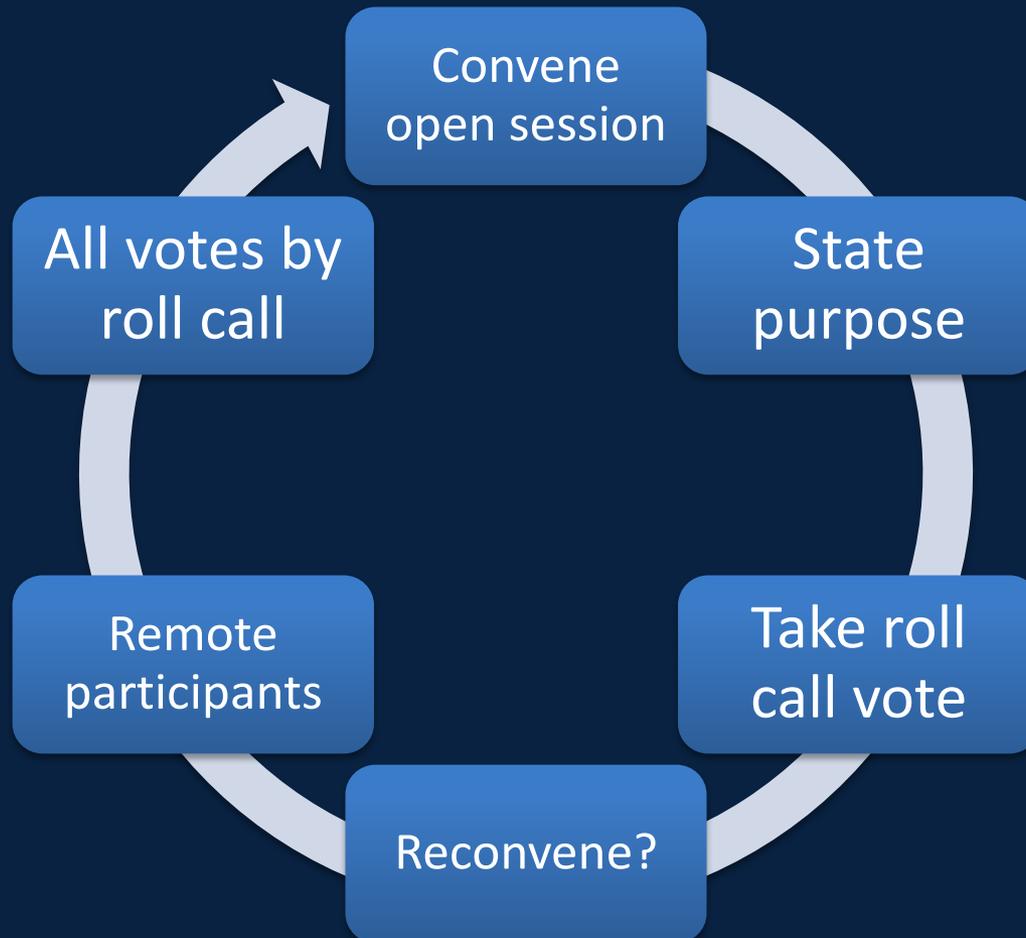
Recording/Informing

Removal



Executive Session

Procedural requirements for entering executive session





Executive Session Purpose: 1

“To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.”





Executive Session Purpose: 2

“To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.”





Executive Session Purpose: 3

“To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.”





Executive Session Purpose: 4 & 5

4. Security personnel or devices



5. Criminal misconduct





Executive Session Purpose: 6

“To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.”



Wellfleet, MA



Executive Session Purpose: 7

“To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.”





Executive Session Purpose: 8

“To consider or interview applicants for employment or appointment by preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening.”





Executive Session Purposes 9 & 10

9. Confer with mediator on litigation or decision



10. Trade secrets in the course of activities conducted by a public body as an energy supplier





Meeting Minutes

BOARD OF HEALTH MONTHLY MEETING
Monday, December 2, 2013
2 School St, Baldwinville, MA

Present members: Richard Trifilo, Donald Tourigny, and E. Jane Crocker
Absentees:
Health Director: Phil Leger
Administrative Assistant: Dianna Morrison

- Meeting called to order at 6:00 p.m. by Chairman Trifilo
- **Chairman's Report** – Mr. Trifilo stated he will not be running in the May election.
- **Member's Report** –
- **Review minutes of October 3, 2013** – Mr. Tourigny made the motion to accept minutes of the November 7 meeting, with one correction. Add “s” to the word appear in the Emergency Call Down Response List under new business. Ms. Crocker seconded the motion, passing unanimously.

Old Business:

1. **Budget Update** – Mr. Leger presented to the BOH the budget for FY'15 for approval. Mr. Leger further states that the salary line items do include a 1.5% increase as well as a step raise for eligible employees to take effect on their anniversary date. With the exception of Animal Inspector Stipend at \$1500.00 and Animal Inspector Expense at \$500.00, the rest of the budget request is for level funding. There was a brief discussion of funding the needed repair to Well 6 at the Landfill in the spring. Mr. Tourigny informed Mr. Leger that there is a funding source available from the Landfill Closure Account. Mr. Leger will speak to Sewer Department to see if possible to use their camera to scope Well 6. Mr. Tourigny motioned to accept the budget as presented and Ms. Crocker seconded the motion, motion passing unanimously.
2. **Office Update** – Ms. Morrison informed the BOH that the 40 hour work week has begun and going well. Ms. Morrison further stated that the barn inspections have progressed, with only three barns left for inspection. Mr. Leger informed the BOH that Dunkin Donuts construction is moving rapidly. The Asian restaurant still working on a solution for the grease trap. Reno's Pizza in East Templeton will be using an active grease trap.
3. **Region 2 EP Coalition Update** – Mr. Leger stated that the region had a facilitated meeting today regarding HMCC Functions. The drive is to centralize informational and resource coordination. Region 2 has already implemented some of the necessary changes needed. This also could mean less grant funding for hard goods.
4. **MPHN Update** – Mr. Leger informed the BOH that all 11 towns have signed the IMA making the grant writing an easier task as 11 towns in one network is impressive.
5. **Housing Update** – Mr. Leger stated that there were 2 housing cases this month both have been resolved and will be followed up.

New Business:

1. **Former Lily Chemical Response Outcome Update** – Mr. Leger informed the BOH that the site is still being monitored, with very low risk level of contamination. The site is now out of the Zone 2 delineation for the town wells.

Other Business:

Adjournment:

A motion was made by Mr. Tourigny to adjourn at 7:29 pm, seconded by Ms. Crocker. The motion passed unanimously.

Clerk's signature: _____

Date approved: 01/13/2014 _____

- Minutes must state the date, time, place of the meeting, and list of members present or absent
- Minutes must include:
 - A summary of discussion of each topic
 - Decisions made and actions taken, including a record of all votes - Secret ballots prohibited
 - List of documents and other exhibits used by the body at the meeting, including by remote participants



Meeting Minutes

Approving Minutes

- Latest of 3 meetings or 30 days BUT whenever possible, approve at the next meeting
- Documents and exhibits used by public body must be retained by the public body but do not need to be physically stored with the meeting minutes

Upon Request

- Open session minutes provided within 10 days of request
 - Whether in draft or approved form
- For all other records – Consult Supervisor of Records in the Secretary of State's Office



Executive Session Minutes

Minutes must be reviewed periodically by the chair or public body to determine if the purpose for executive session remains. The determination must be announced during the next meeting and be included in the minutes

Public body must respond within 10 days to request for executive session minutes

Provide minutes if no longer exempt from disclosure;
or

Review at next meeting or within 30 days, whichever comes first.



Document Used at a Meeting

Documents used by a public body during an open meeting are public records!

But, the following materials are exempt from public disclosure:



Performance evaluations
NOT created by members
of the public body



Application materials,
other than resumes



Complaint Process

Step 1: The Complainant



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: _____ Last Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Phone Number: _____ Ext. _____

Email: _____

Organization or Media Affiliation (if any): _____

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): _____

Specific person(s), if any, you allege committed the violation: _____

Date of alleged violation: _____



Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, will be considered a public record and available to any member of the public upon request. In response to such a request, the AGO generally will not disclose your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____

Date: _____

For Use By Public Body For Use By AGO
Date Received by Public Body Date Received by AGO



Complaint Process

Step 2: The Public Body

Chair disseminates the complaint for response within 14 business days

May delegate responsibility for responding after public body review

Public body may request an extension of time to respond for good cause



Complaint Process

Step 3: The Attorney General's Office

If the complainant is not satisfied with the resolution of the complaint by the public body, he/she may file the complaint with the Division 30 days after the complaint is filed with the public body

Complaints must be filed with the AGO within 90 days of the date of the original alleged violation or reasonably discovery of violation

- The AGO will not review allegations that were not raised in the initial complaint filed with the public body
- Complaints filed with the Attorney General's Office, and documents submitted with the complaint, are considered a public record



Complaint Process

The Division of Open Government

Review complaint

Conduct investigation

Finding

Appeal



Remedies



Compel immediate and future compliance



Compel attendance at training



Release minutes



Other appropriate relief



Nullify action



Reinstate employee



\$1000 civil penalty

A public body found in violation of the OML must certify to the Attorney General its compliance with a remedial order.



Judicial Complaint Process

Attorney General or 3 or more registered voters may initiate a civil action to enforce the Open Meeting Law





Review

Notice must be posted for meetings

Meetings must be open to the public,
unless public body enters executive session

Minutes must be kept for open and
executive sessions

Public body member certification

Complaint process



Resources

Attorney General's Open Meeting Law Website

<http://www.mass.gov/ago/openmeeting>

- Open Meeting Law: G.L. c. 30A, §§ 18-25
- Regulations: 940 CMR 29.00
- Guide
- FAQs
- Checklists
- Determination Letters



Contact Information

Office of Attorney General
Division of Open Government
One Ashburton Place
Boston, Massachusetts 02108
openmeeting@state.ma.us
(617) 963-2540



Contact Us

www.mass.gov/ago

617-727-2200



File a Complaint about an Unfair or Deceptive Trade Practice

617-727-8400

www.eform.ago.state.ma.us



Resources

Have a Complaint or Question?

General Assistance

Consumer Hotline: (617) 727-8400

E-Complaint form: www.eform.ago.state.ma.us

Specific Hotlines

HomeCorps (617) 573-5333

Elder Hotline (888) 243-5337

Fair Labor Division (617) 727-3465

Civil Rights Division (617) 727-2200

Medicaid Fraud Tipline (617) 963-2360

Insurance Fraud Tipline (617) 537- 5330

Insurance & Health Care Consumer Helpline (888) 830-6277



Thank You from the Attorney General

Attorney General

Maura Healey is the chief lawyer and law enforcement officer of the Commonwealth of Massachusetts.

