Public Body Checklist for Entering Into Executive Session

Issued by the Attorney General's Division of Open Government – March 12, 2013

- ☐ Executive session listed as a topic for discussion on meeting notice, including as much detail about the purpose for the executive session as possible without compromising the purpose for which it is called. See G.L. c. 30A, § 20(b); 940 CMR 29.03(1)(b).
- ☐ Public body convened in open session first. G.L. c. 30A, § 21(b)(1).
- ☐ Chair publicly announced the purpose for executive session, citing one or more of the 10 purposes found at G.L. c. 30A, § 21(a).
- ☐ Chair stated all subjects that may be revealed without compromising the purpose for which the executive session was called. G.L. c. 30A, § 21(b)(3). For example, the Chair identified the party a public body may be negotiating with or the litigation matter the public body will be discussing.
- ☐ Chair stated whether the public body will adjourn from the executive session, or will reconvene in open session after the executive session. G.L. c. 30A, § 21(b)(4).
- ☐ For Executive Session Purposes 3, 6, and 8:
  - o Chair publicly stated the having the discussion in open session would have a detrimental effect on the public body's negotiating position, bargaining position, litigating position, or ability to obtain qualified applicants. G.L. c. 30A, §§ 21(a)(3), (6), (8).
- ☐ A majority of members of the body voted by roll-call to enter into executive session. G.L. c. 30A, § 21(b)(2).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

Public Body Checklist for Posting a Meeting Notice

Issued by the Attorney General's Division of Open Government – March 12, 2013

Notice Contents

- ☐ The notice contains the date, time, and location of the meeting. G.L. c. 30A, § 20(b).
- ☐ If the meeting is a joint meeting of several public bodies, the names of all bodies meeting are listed.
- ☐ The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. G.L. c. 30A, § 20(b). The topics are sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting, including executive session topics. See G.L. c. 30A, § 20(b); 940 CMR 29.03(1)(b).
- ☐ The notice is printed in a legible, easily understandable format. G.L. c. 30A, § 20(b).
- ☐ The date and time that the notice is posted is conspicuously recorded on the notice. 940 CMR 29.03(1)(b).

Notice Publication

- ☐ The notice is published at least 48 hours before the meeting, not including Saturdays, Sundays and legal holidays. G.L. c. 30A, § 20(b).
- ☐ The notice is posted with the proper authority. G.L. c. 30A, § 20(c); 940 CMR 29.03(2)-(6).
    - Local public bodies - Filed with the municipal clerk, who must post it either:
        - In a location conspicuously visible to the public at all hours in or on the municipal building where the clerk's office is located; or
        - If an alternative posting method, such as a website, has been adopted, at the alternative location, with a description of the alternative method posted in a manner conspicuously visible to the public at all hours on or adjacent to the main and handicapped accessible entrances to the building in which the clerk's office is located. Meeting notice must also be available in or around the clerk's office so that members of the public may view the notices during normal business hours.
    - State public bodies – Posted to a website, and a copy sent to the Secretary of State's Regulations Division.
    - Regional public bodies – Posted in every municipality within the region, unless the public body has adopted an alternative notice posting method.
    - County public bodies - Filed with the office of the county commissioners and a copy of the notice is publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose, unless the public body has adopted an alternative notice posting method.

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Public Body Checklist for Creating and Approving Meeting Minutes

Issued by the Attorney General's Division of Open Government – March 12, 2013

- ☐ Minutes must accurately set forth the date, time, place of the meeting, and a list of the members present or absent. G.L. c. 30A, § 22(a).
- ☐ Minutes must include an accurate summary of the discussion of each subject. See G.L. c. 30A, § 22(a). The summary does not need to be a transcript, but should provide enough detail so that a member of the public who did not attend the meeting could read the minutes and understand what occurred and how the public body arrived at its decisions.
- ☐ The minutes must include a record of all the decisions made and the actions taken at each meeting, including a record of all votes. G.L. c. 30A, § 22(a).
- ☐ The minutes must include a list of all of the documents and other exhibits used by the public body during the meeting. G.L. c. 30A, § 22(a). Documents and exhibits used at the meeting are part of the official record of the session, but do not need to be physically attached to the minutes. See G.L. c. 30A, §§ 22(d), (e).
- ☐ If one or more public body members participated remotely in the meeting, the minutes must include the name(s) of the individual(s) participating remotely, and their reason(s) under 940 CMR 29.10(5) for remote participation. 940 CMR 29.10(7)(b).
- ☐ If one or more public body members participated remotely in the meeting, the minutes must record all votes as roll call votes. 940 CMR 29.10(7)(c).
- ☐ Executive session minutes must record all votes as roll call votes. G.L. c. 30A, § 22(b).
- ☐ The minutes must be approved in a timely manner. G.L. c. 30A, § 22(c). Generally, this should occur at the next meeting of the public body.

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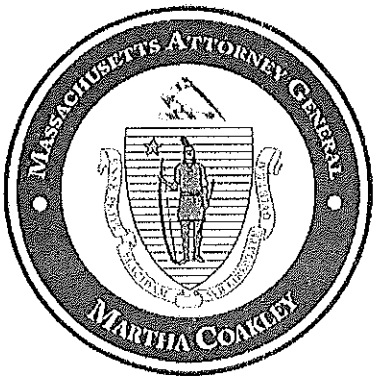
Open Meeting Law Guide



Commonwealth of Massachusetts

Office of Attorney General Martha Coakley

March 12, 2013

Dear Massachusetts Residents:

On July 1, 2010, the Attorney General's Office assumed responsibility for the enforcement of the Open Meeting Law (OML) from the state's District Attorneys. We believe that transferring all enforcement to one central statewide office will allow for greater consistency and will ensure that local officials have access to the information they need to comply with the law.

Our office is committed to ensuring that the changes to the Open Meeting Law will provide for greater transparency and clarity – both of which are hallmarks of good government. We are focused on providing educational materials, outreach and training sessions to ensure that all members of the public understand the law.

Whether you are a town clerk or town manager, a member of a public body, or an involved resident, I want to thank you for taking the time to understand the Open Meeting Law. We strive to be a resource to you, and encourage you to contact the Division of Open Government at (617) 963-2540 or visit our website at www.mass.gov/ago/openmeeting for more information.

Cordially,

Martha Coakley

Martha Coakley
Massachusetts Attorney General

Attorney General's Open Meeting Law Guide

Overview

Purpose of the Law

The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

AGO Authority

The Open Meeting Law was revised as part of the 2009 Ethics Reform Bill, and now centralizes responsibility for statewide enforcement of the law in the Attorney General's Office (AGO). G.L. c. 30A, § 19 (a). To help public bodies understand and comply with the revised law, the Attorney General has created the Division of Open Government. The Division of Open Government provides training, responds to inquiries, investigates complaints, and when necessary, makes findings and takes remedial action to address violations of the law. The purpose of this Guide is to inform elected and appointed members of public bodies, as well as the interested public, of the basic requirements of the law.

Certification

Within two weeks of a member's election or appointment or the taking of the oath of office, whichever occurs later, all members of public bodies must complete the attached Certificate of Receipt of Open Meeting Law Materials certifying that they have received these materials, and that they understand the requirements of the Open Meeting Law and the consequences for violating it. The certification must be retained where the body maintains its official records. All public body members should familiarize themselves with the Open Meeting Law, the Attorney General's regulations, and this Guide.

In the event a Certificate has not yet been completed by a member of a public body, the member should complete and submit the Certificate at the earliest opportunity to be considered in compliance with the law.

Open Meeting Website

This Guide is intended to be a clear and concise explanation of the Open Meeting Law's requirements. The complete law, as well as the Attorney General's regulations, training materials, advisory opinions and orders can be found on the Attorney General's Open Meeting website, http://www.mass.gov/ago/openmeeting. Local and state

government officials, members of public bodies and the public are encouraged to visit the website regularly for updates, as well as to view additional Open Meeting Law materials.

What meetings are covered by the Open Meeting Law?

With certain exceptions, all meetings of a public body must be open to the public. A meeting is generally defined as "a deliberation by a public body with respect to any matter within the body's jurisdiction." As explained more fully below, a deliberation is a communication between or among members of a public body.

These four questions will help determine whether a communication constitutes a meeting subject to the law:

1) is the communication between members of a **public body;**
2) does the communication constitute a **deliberation;**
3) does the communication involve a matter within the body's **jurisdiction;** and
4) does the communication fall within an **exception** listed in the law?

What constitutes a public body?

While there is no comprehensive list of public bodies, any multi-member board, commission, committee or subcommittee within the executive or legislative branches[1] of state government, or within any county, district, city, region or town, if established to serve a public purpose, is subject to the law. The law includes any multi-member body created to advise or make recommendations to a public body, and also includes the governing board of any local housing or redevelopment authority, and the governing board or body of any authority established by the Legislature to serve a public purpose. The law excludes the Legislature and its committees, bodies of the judicial branch, and bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer.

Boards of selectmen and school committees are certainly subject to the Open Meeting Law, as are subcommittees of public bodies, regardless of whether their role is decision-making or advisory. Neither individual government officials, such as a town manager or police chief, nor members of their staff, are "public bodies" subject to the law, and so they may meet with one another to discuss public business without needing to comply with Open Meeting Law requirements.

Bodies appointed by a public official solely for the purpose of advising on a decision that the individual could make himself or herself are not public bodies subject to the Open Meeting Law. For example, a school superintendent appoints a four member advisory body to assist her in nominating candidates for school principal, a task the

[1] Although the Legislature itself is not a public body subject to the Open Meeting Law, certain legislative commissions are required to follow the Law's requirements.

superintendent could perform herself. That advisory body would not be subject to the Open Meeting Law.[2]

What constitutes a deliberation?

The Open Meeting Law defines deliberation as "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." Distribution of a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at a meeting is often helpful to public body members when preparing for upcoming meetings, and will generally not constitute deliberation, provided that when these materials are distributed no member of the public body expresses an opinion on matters within the body's jurisdiction.

To be a deliberation, the communication must involve a quorum of the public body. A quorum is usually a simple majority of the members of a public body. Thus, a communication among fewer than a quorum of the members of a public body will not be a deliberation, unless there are multiple communications among the members of the public body that together constitute communication among a quorum of members. Courts have held that the Open Meeting Law applies when members of a public body communicate in a manner that seeks to evade the application of the law. Thus, in some circumstances, communications between two members of a public body, when taken together with other communications, may be a deliberation. Note also that the expression of an opinion on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds.

What matters are within the jurisdiction of the public body?

The Open Meeting Law applies only to the discussion of any "matter within the body's jurisdiction." The law does not specifically define "jurisdiction." As a general rule, any matter of public business on which a quorum of the public body may make a decision or recommendation is considered a matter within the jurisdiction of the public body. Certain discussions regarding procedural or administrative matters may also relate to public business within a body's jurisdiction, such as where the discussion involves the organization and leadership of the public body, committee assignments, rules or bylaws for the body, and discussions of whether the body should consider or take action on specific topics at a future meeting. However, statements characterizing past acts for political purposes are generally not considered communications on public business within the jurisdiction of the public body.

What are the exceptions to the definition of a meeting?

There are five exceptions to the definition of a meeting under the Open Meeting Law.

[2] See Connelly v. School Committee of Hanover, 409 Mass. 232 (1991).

1. Members of a public body may conduct an on-site inspection of a project or program; however, they cannot deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they cannot deliberate at such gatherings;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they cannot deliberate at such gatherings;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law; and,
5. Town Meetings are not subject to the Open Meeting Law. See G.L. c. 39, §§ 9, 10 (establishing procedures for Town Meeting).

For "quasi-judicial boards or commissions," the AGO interprets this exemption to apply only to certain state "quasi-judicial" bodies, and a very limited number of public bodies at other levels of government whose proceedings are specifically defined as "agencies" for purposes of G.L. c. 30A.

We have received several inquiries about the exception for Town Meeting, and whether it applies to deliberation by Town Meeting members outside of a session of Town Meeting, to meetings of committees created by Town Meeting that occur outside a session of Town Meeting, or to deliberation by members of a public body – such as a board of selectmen – during Town Meeting. The Attorney General interprets this exemption to mean that the Open Meeting Law does not reach any aspect of Town Meeting. Therefore, the Attorney General will not investigate complaints alleging violations in these situations. Note, however, that this is a matter of interpretation and future Attorneys General may choose to apply the law in such situations.

What are the requirements for posting notice of meetings?

Except in cases of emergency, a public body must provide the public with notice of its meeting 48 hours in advance, excluding Saturdays, Sundays and legal holidays. Notice of emergency meetings must be posted as soon as reasonably possible prior to the meeting. Also note that other laws, such as those governing procedures for public hearings, may require additional notice.

What are the requirements for filing and posting meeting notices for local public bodies?

For local public bodies, meeting notices must be filed with the municipal clerk sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meeting. Notices may be posted on a bulletin board, in a loose-leaf binder or on an electronic display (e.g. television, computer monitor, or an electronic bulletin board), provided that the notice is conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located. In the event that the meeting notices posted in the municipal building are not visible to the public at all hours, then the municipality must either post notices on the outside of the building or follow one of the alternative posting methods approved by the Attorney General in 940 CMR 29.03(2)(b):

- public bodies may post notice of meetings on the municipal website;
- public bodies may post notice of meetings on cable television, AND, post notice or provide cable television access in an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- public bodies may post notice of meetings in a newspaper of general circulation in the municipality, AND, post notice or a copy of the newspaper containing the meeting notice at an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- public bodies may place a computer monitor or electronic or physical bulletin board displaying meeting notices on or in a door, window, or near the entrance of the municipal building in which the clerk's office is located in such a manner as to be visible to the public from outside the building; or
- public bodies may provide an audio recording of meeting notices, available to the public by telephone at all hours.

Note that even if an alternative posting method has been adopted, meeting notices must still be available in or around the clerk's office so that members of the public may view the notices during normal business hours. Prior to adopting an alternative posting method, the clerk of the municipality must inform the Division of Open Government of its notice posting method, and update the Division of any future change. All public bodies shall consistently use the most current notice posting method on file with the Division. A description of the alternative posting method must also be posted on or adjacent to the main and handicapped accessible entrances to the building where the clerk's office is located.

What are the requirements for posting notices for regional, district, county and state public bodies?

- For regional or district public bodies and regional school districts, meeting notices must be filed and posted in the same manner required of local public bodies, in each of the communities within the region or district. As an alternative method of notice, a regional or district public body may post a meeting notice on the regional or district public body's website. A copy of the notice shall be filed and kept by the chair of the public body or the chair's designee.
- County public bodies must file meeting notices in the office of the county commissioners and post notice of the meeting in a manner conspicuously visible to the public at all hours at a place or places designated by the county commissioners for notice postings. As an alternative method of notice, a county public body may post a meeting on the county public body's website. A copy of the notice shall be filed and kept by the chair of the county public body or the chair's designee.

- State public bodies must file meeting notices by posting the notice on the website of the public body or its parent agency. The chair of a state public body must notify the Attorney General in writing of the website address where notices will be posted, and of any subsequent changes to that posting location. A copy of the notice must also be sent to the Secretary of State's Regulations Division, and should be forwarded to the Executive Office of Administration and Finance, which maintains a listing of state public body meetings.

A note about accessibility

Public bodies are subject to all applicable state and federal laws that govern accessibility for persons with disabilities. These laws include the Americans with Disabilities Act, the federal Rehabilitation Act of 1973, and state constitutional provisions. For instance, public bodies that adopt website posting as an alternative method of notice must ensure that the website utilizes technology that is readily accessible to people with disabilities, including individuals who use screen readers. All open meetings of public bodies must be accessible to persons with disabilities. Meeting locations must be accessible by wheelchair, without the need for special assistance. Also sign language interpreters for deaf or hearing-impaired persons must be provided, subject to reasonable advance notice.[3] The Attorney General's Disability Rights Project is available to answer questions about accessibility and may be reached at (617) 727-2200.

What information must meeting notices contain?

Meeting notices must be posted in a legible, easily understandable format; contain the date, time and place of the meeting; and list all topics that the chair reasonably anticipates, 48 hours in advance, will be discussed at the meeting. The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting. Where there are no anticipated topics for discussion in open session other than the procedural requirements for convening an executive session, the public body should list "open session" as a topic, in addition to the executive session, so the public is aware that it has the opportunity to attend and learn the basis for the executive session.

While not required under the Open Meeting Law, public bodies are encouraged to make a revised list of topics to be discussed available to the public in advance of the meeting if the body intends to discuss topics that come up after posting, but before the meeting convenes.

[3] The Massachusetts Commission for the Deaf and Hard of Hearing will assist with arrangements for a sign language interpreter. The Commission may be reached at 617-740-1600 VOICE and 617-740-1700 TTY.

When can a public body meet in executive session?

While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session. Before going into an executive session, the chair of the public body must first:

- Convene in open session;
- State the reason for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- State whether the public body will reconvene in open session at the end of the executive session; and
- Take a roll call vote of the body to enter executive session.

Where a public body member is participating in an executive session remotely, he or she must state at the start of the executive session that no other person is present and/or able to hear the discussion at the remote location. The public body may authorize, by a simple majority vote, the presence and participation of other individuals at the remote participant's location.

While in executive session, the public body must keep accurate records and must take a roll call vote of all votes taken and may only discuss matters for which the executive session was called.

The Ten Purposes for Executive Session

The law states ten specific Purposes for which an executive session may be held, and emphasizes that these are the only reasons for which a public body may enter executive session.

The ten Purposes for which a public body may vote to hold an executive session are:

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. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.**

This Purpose is designed to protect the rights and reputation of individuals. Nevertheless, it appears that where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against the individual. An executive session called for this Purpose triggers certain rights on the part of an individual who is the subject of the discussion. The individual's right to choose to have this discussion in an open meeting takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this Purpose, this Purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.

2. **To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;**

   Collective Bargaining Sessions: These include not only the bargaining sessions, but also include grievance hearings that are required by a collective bargaining agreement.

   While a public body may negotiate with nonunion personnel or conduct a collective bargaining session with a union in executive session, and may even agree on final contract terms in executive session, the public body must vote to approve or ratify any contract or collective bargaining agreement in open session before it can take effect.

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;**

   Collective Bargaining Strategy: Discussions with respect to collective bargaining strategy include discussion of proposals for wage and benefit packages or working conditions for union employees. The public body, if challenged, has the burden of proving that an open meeting might have a detrimental effect on its bargaining position. The showing that must be made is that an open discussion may have a detrimental effect on the collective bargaining process; the body is not required to demonstrate or specify a definite harm that would have arisen. At the time the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's bargaining or litigating position.

   Litigation Strategy: Discussions concerning strategy with respect to ongoing litigation obviously fit within this Purpose, but only if an open meeting may have a detrimental effect on the litigating position of the public body. Discussions relating to potential litigation are not covered by this exemption unless that litigation is clearly and imminently threatened or otherwise demonstrably likely. That a person is represented by counsel and supports a position adverse to the public body's does not by itself mean that litigation is imminently threatened or likely. Nor does the fact that a newspaper reports a party has threatened to sue necessarily mean imminent litigation.

   Note: A public body's discussions with its counsel do not automatically fall under this or any other Purpose for holding an executive session.

4. **To discuss the deployment of security personnel or devices, or strategies with respect thereto;**

5. **To investigate charges of criminal misconduct or to consider the filing of criminal complaints;**

   This Purpose permits an executive session to investigate charges of criminal misconduct and to consider the filing of criminal complaints. Thus, it primarily involves discussions that would precede the formal criminal process in court. Purpose 1 is related, in that it permits an executive session to discuss certain complaints or charges, which may include criminal complaints or charges, but only those that have already been brought. Also, unlike Purpose 5, Purpose 1 confers certain rights of participation on the individual involved, as well as the right for the individual to insist that the discussion occur in open session. To the limited extent that there is overlap between Purposes 1 and 5, a public body has discretion to choose which Purpose to invoke when going into executive session.

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;**

   Under this Purpose, as with the collective bargaining and litigation Purpose, an executive session may only be held where an open meeting may have a detrimental impact on the body's negotiating position with a third party. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's negotiating position.

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

   There may be provisions in state statutes or federal grants that require or specifically allow a public body to consider a particular issue in a closed session. Before entering executive session under this purpose, the public body must cite the specific law or federal grant-in-aid requirement that necessitates confidentiality.

8. **To consider or interview applicants for employment or appointment by a 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;**

   This Purpose permits a hiring subcommittee of a public body or a preliminary screening committee to conduct the initial screening process in executive session. This Purpose does not apply to any stage in the hiring process after the screening committee or subcommittee votes to recommend candidates to its parent body, however it may include multiple rounds of interviews by the screening committee aimed at narrowing

the group of applicants down to finalists. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session will be detrimental to the public body's ability to attract qualified applicants for the position. If the public body opts to convene a preliminary screening committee, the committee must contain fewer than a quorum of the members of the parent public body. The committee may also contain members who are not members of the parent public body.

Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

9. **To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:**

   (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
   (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

10. **To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided:**

    - in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164;
    - in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164; or
    - in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164;
    - when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

May a member of a public body participate remotely?

The Attorney General's Regulations, 940 CMR 29.10, permit remote participation in certain circumstances. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

How can the practice of remote participation be adopted?

Remote participation may be used during a meeting of a public body if it has first been adopted by the chief executive officer of the municipality for local public bodies, the county commissioners for county public bodies, or by a majority vote of the public body for retirement boards, district, regional and state public bodies. The chief executive officer may be the board of selectmen, the city council, or the mayor, depending on the municipality. See G.L. c. 4, § 7.

If the chief executive officer in a municipality authorizes remote participation, that authorization must apply to all public bodies in the municipality. 940 CMR 29.10(2)(a). However, the chief executive officer determines the amount and source of payment for any costs associated with remote participation, and may decide to fund the practice only for certain public bodies. See 940 CMR 29.10(6)(e). In addition, the chief executive officer can authorize public bodies in that municipality to "opt out" of the practice altogether. See 940 CMR 29.10(8).

What are the permissible reasons for remote participation?

Once remote participation is adopted, any member of a public body may participate remotely if the chair or, in the chair's absence, the person chairing the meeting, determines that one of the following factors makes the member's physical attendance unreasonably difficult:

1. Personal illness;
2. Personal disability;
3. Emergency;
4. Military service; or
5. Geographic distance.

What are the acceptable means of remote participation?

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications. Text messaging, instant messaging, email and web chat without audio are not acceptable methods of remote participation.

What are the minimum requirements for remote participation?

Any public body using remote participation during a meeting must ensure that the following minimum requirements are met:

1. A quorum of the body, including the chair or, in the chair's absence, the person chairing the meeting, must be physically present at the meeting location;

2. Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
3. All votes taken during a meeting in which a member participates remotely must be by roll call vote.

What procedures must be followed if remote participation is used at a meeting?

At the start of any meeting during which a member of a public body will participate remotely, the chair must announce the name of any member who is participating remotely and which of the five reasons listed above requires that member's remote participation. The chair's statement does not need to contain any detail about the reason for the member's remote participation other than the section of the regulation that justifies it. This information must also be recorded in the meeting minutes.

Members of public bodies who participate remotely may vote, and shall not be deemed absent for purposes of G.L. c. 39, § 23D. In addition, members who participate remotely may participate in executive sessions, but must state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

If technical difficulties arise as a result of utilizing remote participation, the chair or, in the chair's absence, person chairing the meeting may decide how to address the situation. Public bodies are encouraged, whenever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If a remote participant is disconnected from the meeting, the minutes must note that fact and the time at which the disconnection occurred.

What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. Any member of the public also has a right to make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The chair is required to inform other attendees of any such recording at the beginning of the meeting.

While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair. An individual is not permitted to disrupt a meeting of a public body, and at the request of the chair, all members of the public shall be silent. If, after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting and, if the person does not leave, the chair may authorize a constable or other officer to remove the person.

What records of public meetings must be kept?

Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions. The minutes, which must be created and approved in a timely manner, must state the date, time and place of the meeting, a list of the members present or absent, and the decisions made and actions taken including a record of all votes. Minutes must also include the name of any member who participated in the meeting remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. While the minutes must include a summary of the discussions on each subject, a transcript is not required. No vote taken by a public body, either in an open or in an executive session, shall be by secret ballot. All votes taken in executive session must be by roll call and the results recorded in the minutes. In addition, the minutes must include a list of the documents and other exhibits used at the meeting. While public bodies are required to retain these records in accordance with records retention laws, the documents and exhibits listed in the minutes need not be attached to or physically stored with the minutes.

The minutes, documents and exhibits are public records and a part of the official record of the meeting. Records may be subject to disclosure under either the Open Meeting Law or Public Records Law and must be retained in accordance with the Secretary of State's record retention schedule. The State and Municipal Record Retention Schedules are available through the Secretary of State's website at: http://www.sec.state.ma.us/arc/arcrmu/rmuidx.htm.

Open Session Meeting Records

The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. The law requires that existing minutes be made available to the public within 10 days upon request, whether they have been approved or remain in draft form. Materials or other exhibits used by the public body in an open meeting must also be made available to the public within 10 days upon request.

There are two exemptions to the open session records disclosure requirement: 1) materials (other than those that were created by members of the public body for the purpose of the evaluation) used in a performance evaluation of an individual bearing on his professional competence, and 2) materials (other than any resume submitted by an applicant, which is subject to disclosure) used in deliberations about employment or appointment of individuals, including applications and supporting materials. Documents created by members of the public body for the purpose of performing an evaluation are subject to disclosure. This applies to both individual evaluations and evaluation compilations, provided the documents were created by members of the public body for the purpose of the evaluation.

Executive Session Meeting Records

Public bodies are not required to disclose the minutes, notes or other materials used in an executive session where the disclosure of these records may defeat the lawful purposes of the executive session. Once disclosure would no longer defeat the

purposes of the executive session, however, minutes and other records from that executive session must be disclosed unless they are within an exemption to the Public Records Law, G.L. c. 4, § 7, cl. 26, or the attorney-client privilege applies. Public bodies are also required to periodically review their executive session minutes to determine whether continued non-disclosure is warranted, and such determination must be included in the minutes of the body's next meeting. A public body must respond to a request to inspect or copy executive session minutes within 10 days of request and promptly release the records if they are subject to disclosure. If the body has not performed a review to determine whether they are subject to disclosure, it must do so prior to its next meeting or within 30 days, whichever is sooner.

What is the Attorney General's role in enforcing the Open Meeting Law?

The Attorney General's Division of Open Government is responsible for enforcing the Open Meeting Law. The Attorney General has the authority to take and investigate complaints, bring enforcement actions, issue advisory opinions, and issue regulations.

The Division of Open Government regularly seeks feedback from the public on ways in which it can better support public bodies to help them comply with the law's requirements, and offers online and in-person training on the Open Meeting Law. The Division of Open Government will also respond to information requests from public bodies and the public.

The Division of Open Government will take complaints from members of the public and will work with public bodies to resolve problems. While any member of the public may file a complaint with a public body alleging a violation of the Open Meeting Law, a public body need not, and the Division of Open Government will not, investigate anonymous complaints.

What is the Open Meeting Law complaint procedure?

Step 1. Filing a Complaint with the Public Body

Individuals who allege a violation of the Open Meeting Law must first file a complaint with the public body alleged to have violated the OML. The complaint must be filed within 30 days of the date of the violation, or the date the complainant could reasonably have known of the violation. The complaint must be filed on a Complaint Form available on the AGO website. When filing a complaint with a local public body, the complainant must also file a copy of the complaint with the municipal clerk.

Step 2. The Public Body's Response

Upon receipt, the chair of the public body should distribute copies of the complaint to the members of the public body for their review. The public body has 14 business days from the date of receipt to review the complainant's allegations; take remedial action if appropriate; notify the complainant of the remedial action; and forward a copy of the complaint and description of the remedial action taken to the AGO. The public body may request additional information from the complainant. The public body may

also request an extension of time to respond to the complaint. A request for an extension should be made within 14 business days of receipt of the complaint by the public body. The request for an extension should be made in writing to the Division of Open Government, and should state the reason for the requested extension.

Step 3. Filing a Complaint with the Attorney General's Office

A complaint is ripe for review by the AGO 30 days after the complaint is filed with the public body. This 30-day period is intended to provide a reasonable opportunity for the complainant and the public body to resolve the initial complaint. It is important to note that complaints are not automatically treated as filed for review by the AGO upon filing with the public body. A complainant who has filed a complaint with a public body, and seeks further review by the Division of Open Government, must file the complaint with the AGO after the 30-day local review period has elapsed but before 90 days have passed since the date of the violation. When filing the complaint with the AGO, the complainant must include a copy of the original complaint and may include any other materials the complainant feels are relevant, including an explanation of why the complainant is not satisfied with the remedial action taken by the public body. Complaints filed with the AGO are public records.

The AGO will review the complaint and any remedial action taken by the public body. The AGO may request additional information from both the complainant and the public body. The AGO will seek to resolve complaints in a reasonable period of time, generally within 90 days of the complaint becoming ripe for review by our office. The AGO may decline to investigate a complaint where more than 90 days have passed since the date of the alleged violation.

When is a violation of the law considered "intentional"?

The Attorney General may, upon finding a violation of the Open Meeting Law, impose a civil penalty upon a public body of not more than $1,000 for each intentional violation. G.L. c. 30A, § 23(c)(4). An "intentional violation" is an act or omission by a public body or public body member in knowing violation of the Open Meeting Law. G.L. c. 30A, § 18. In determining whether or not a violation was intentional, the Attorney General will consider, among other things, whether the public body or public body member 1) acted with specific intent to violate the law; 2) acted with deliberate ignorance of the law's requirements; or 3) was previously informed by a court decision or advised by the Attorney General that the conduct at issue violated the Open Meeting Law. 940 CMR 29.02. If a public body or public body member made a good faith attempt at compliance with the law, but was reasonably mistaken about its requirements or, after full disclosure, acted in good faith compliance with the advice of counsel, its conduct will not be considered an intentional violation of the Law. G.L. c. 30A, § 23(g); 940 CMR 29.02.

Will the Attorney General's Office provide training on the Open Meeting Law?

The Open Meeting Law directs the AGO to create educational materials and provide training to public bodies to foster awareness of and compliance with the Open Meeting

Law. The AGO has established an Open Meeting Law website, www.mass.gov/ago/openmeeting, on which government officials and members of public bodies can find the statute, regulations, FAQs, training materials, the Attorney General's determination letters resolving complaints, and other resources. The AGO will provide regional trainings for members of public bodies, in addition to offering a free online training video.

Contacting the Attorney General

If you have any questions about the Open Meeting Law or anything contained in this guide, please contact the AGO's Division of Open Government. The AGO also welcomes any comments, feedback, or suggestions you may have about the Open Meeting Law or this guide.

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THE COMMONWEALTH OF MASSACHUSETTS

OPEN MEETING LAW, G.L. c. 30A, §§18-25

* * *

Chapter 28 of the Acts of 2009, sections 17–20, repealed the existing state Open Meeting Law, G.L. c. 30A, §§ 11A, 11A-1/2, county Open Meeting Law, G.L. c. 34, §§9F, 9G, and municipal Open Meeting Law, G.L. c. 39, §§ 23A, 23B, and 23C; and replaced them with a single Open Meeting Law covering all public bodies, G.L. c. 30A, §§ 18-25, enforced by the Attorney General.

* * *

Section 18: [DEFINITIONS]

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"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; provided, however, that "deliberation" shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

"Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

"Executive session", any part of a meeting of a public body closed to the public for deliberation of certain matters.

"Intentional violation", an act or omission by a public body or a member thereof, in knowing violation of the open meeting law.

"Meeting", a deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, "meeting" shall not include:

(a) an on-site inspection of a project or program, so long as the members do not deliberate;
(b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
(c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
(d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
(e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

"Minutes", the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

"Open meeting law", sections 18 to 25, inclusive.

"Post notice", to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

"Preliminary screening", the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

"Public body", a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that "public body" shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

"Quorum", a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

Section 19. [Division of Open Government; Open Meeting Law Training; Open Meeting Law Advisory Commission; Annual Report]

(a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:

(1) the general background of the legal requirements for the open meeting law;
(2) applicability of sections 18 to 25, inclusive, to governmental bodies;
(3) the role of the attorney general in enforcing the open meeting law; and
(4) penalties and other consequences for failure to comply with this chapter.

(c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

(d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

(1) the number of open meeting law complaints received by the attorney general;
(2) the number of hearings convened as the result of open meeting law complaints by the attorney general;
(3) a summary of the determinations of violations made by the attorney general;
(4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;
(5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;
(6) the number of actions filed in superior court seeking relief from an order of the attorney general; and
(7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

Section 20. [Meetings of a Public Body to be Open to the Public; Notice of Meeting; Remote Participation; Recording and Transmission of Meeting; Removal of Persons for Disruption of Proceedings]

(a) Except as provided in section 21, all meetings of a public body shall be open to the public.

(b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.

(c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose and a duplicate copy of the notice shall be filed with the regulations division of the state secretary's office.

The attorney general shall have the authority to prescribe or approve alternative methods of notice where the attorney general determines such alternative will afford more effective notice to the public.

(d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.

(e) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings.

(f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

(g) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person

upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

Section 21. [EXECUTIVE SESSIONS]

(a) A public body may meet in executive session only for the following purposes:

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. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

i. to be present at such executive session during deliberations which involve that individual;
ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
iii. to speak on his own behalf; and
iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
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;
4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
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;
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

8. To consider or interview applicants for employment or appointment by a 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;
9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation

or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

(b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:

1. the body has first convened in an open session pursuant to section 21;
2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
5. accurate records of the executive session shall be maintained pursuant to section 23.

Section 22. [Meeting Minutes; Records]

(a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.

(b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.

(c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.

(d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.

(e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

(2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

Section 23. [Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions]

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

(1) compel immediate and future compliance with the open meeting law;
(2) compel attendance at a training session authorized by the attorney general;
(3) nullify in whole or in part any action taken at the meeting;
(4) impose a civil penalty upon the public body of not more than $1,000 for each intentional violation;
(5) reinstate an employee without loss of compensation, seniority, tenure or other benefits;
(6) compel that minutes, records or other materials be made public; or
(7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member

has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

Section 24. [Investigation by Attorney General of Violations of Open Meeting Law]

(a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where

such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 25. [REGULATIONS, LETTER RULINGS, ADVISORY OPINIONS]

(a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.

(b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

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(g), 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 for 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(g), 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.

BARNSTABLE COUNTY PROPOSED FY2014 OPERATING & CAPITAL BUDGET

March 20, 2013

CONTENTS

- Budget Overview
  - Revenues
  - Expenditures
- Budget Highlights
  - Department by Department

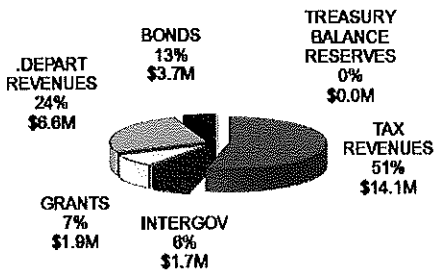
OVERVIEW PROPOSED FY2014 BUDGET

- Total Budget - $27,875,846
- Increase of 18.2% from FY13
  - $2 m (9%) of increase due to Dredge replacement
  - $308,300 (1.3%) due to other Capital projects
  - $263,283 (1.1%) due to Retirement & Health Insurance

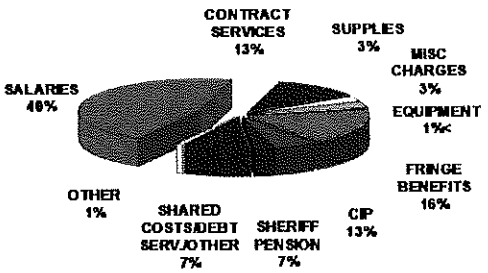
OVERVIEW - REVENUES

- County Tax & CCEPF Tax Increase 2.5%
- Deeds Excise Rate Remains the Same
  - $2.70/$1,000
- Deeds Excise increased to $8m.
- Registry Business Revenues Exceed Department Costs
- Capital Program - $3,691,400
- No Treasury Balance Funding

BARNSTABLE COUNTY FISCAL YEAR 2014 REVENUES



BARNSTABLE COUNTY FISCAL YEAR 2014 EXPENDITURES BY GROUP



BUDGET HIGHLIGHTS

- Commissioners' Office:
  - County Administrator Position
  - Arts Foundation - $35,000 ($10k from License Plate Funds)
- Information Technology:
  - Continued Capital Program (Wide Area Network)
  - Wellfleet IT Services

BUDGET HIGHLIGHTS

- Facilities Department:
  - Additional Capital Facility Improvements - $1,118,100
  - Rest Area Operation – License Plate Funds
- Cooperative Extension:
  - Solid Waste Reduction Coordinator (FT, grant)
  - Forest Fire Prevention - $25,000
  - Land Management Mini-Grants - $25,000

BUDGET HIGHLIGHTS

- Dredge
  - Capital Purchase of Replacement Dredge
- Health Department:
  - Incident Management Team Assistant (PT)
  - Health Lab Analyst (PT)
  - Health Lab Assistant (PT)
- Human Services Department:
  - Human Services Project Assistant (FT, 25% grant)

BUDGET HIGHLIGHTS

- Children's Cove:
  - Continued DFS Funding - $100,000
- Elder Services/Meals on Wheels:
  - Maintains Funding Commitment
- Public Safety:
  - Sheriff Remaining Unfunded Pension Liability

BUDGET HIGHLIGHTS

- Cape Cod Commission/Joint Initiatives
  - Strategic Information Office
    - Systems Development Manager (FT)
    - Applications Implementation Manager (FT)
- Water Protection Collaborative:
  - Enhanced Municipal Support Initiative - $300,000

BUDGET HIGHLIGHTS

- Shared Costs:
  - Funds 2% COLA
  - Appropriated Reserves $50,000 total

PROPOSED FY2014 BUDGET

Contact:

Mark Zielinski
(508) 375-6643
mzielinski@barnstablecounty.org

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Two Thousand and Thirteen

Resolution 13-02

To establish a Charter Review Committee, required by Article 9, General Provisions, Section 9-4, Periodic Review, Charter and Ordinances, Subsection (a), Charter/Ordinance Review, of the Barnstable County Home Rule Charter.

BE IT HEREBY RESOLVED by the Barnstable County Assembly of Delegates:

Amends Resolution 09-02 and in accordance with Article 9, General Provisions, Section 9-4, Charter and Ordinances, Subsection (a), Charter/Ordinance Review, a Charter Review Committee is hereby established to review the Barnstable County Home Rule Charter, as amended, and Ordinances of the County, for the purpose of determining if any amendments or revisions are necessary or desirable. The Charter Review Committee shall make a report, with recommendations, to the Assembly of Delegates not later than ten months following the date such committee is appointed. The Committee shall be appointed by the Speaker and shall consist of five members. The composition of the Committee shall be:

1) The Speaker and Deputy Speaker;
2) One County Commissioner;
3) The President of the Cape Cod Selectmen & Counselors' Association; and
4) One at-large member selected by the Board of Regional Commissioners.

(Submitted by Speaker Ronald Bergstrom, Chatham Delegate, at a regular Assembly meeting held on March 6. 2013.)

Proposed Amendments offered by Leo

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES

In the Year Two Thousand and Thirteen

Resolution 13-02

To establish a Charter Review Committee, required by Article 9, General Provisions, Section 9(-4)-1, (Periodic Review, Charter and Ordinances, Subsection (a), Charter/Ordinance Review,)of the Barnstable County Home Rule Charter.

BE IT HEREBY RESOLVED by the Barnstable County Assembly of Delegates:

Amends Resolution 09-02 and in accordance with Article 9, General Provisions, Section 9-(4)-1, Charter and Ordinances, (Subsection (a), Charter/Ordinance Review,) a Charter Review Committee is hereby established to review the Barnstable County Home Rule Charter, as amended, and Ordinances of the County, for the purpose of determining if any amendments or revisions are necessary or desirable, AND PREPARE A PETITION TO BE FILED IN A TIMELY MANNER WITH THE STATE LEGISLATURE FOR THEIR ENACTMENT. The Charter Review Committee shall make a report, with recommendations, to the Assembly of Delegates not later than ten months following the date such committee is appointed. The Committee shall be appointed by the Speaker and shall consist of (five) Seven members. The composition of the Committee shall be:

1) The Speaker (and Deputy Speaker);
2) One County Commissioner; OR THEIR REPRESENTATIVE
3) THREE MEMBERS OF THE ASSEMBLY
3) The President of the Cape Cod Selectmen & Counselors' Association; and
4) TWO MEMBERS AT-LARGE SELECTED BY THE SPEAKER
4) One at-large member selected by the Board of Regional Commissioners.

(Submitted by Speaker Ronald Bergstrom, Chatham Delegate, at a regular Assembly meeting held on March 6. 2013.)

Amendments presented by Leo G. Cakounes. Delegate Harwich
March 20 2013
Proposed additions in Caps, deletions in parentheses and red

BARNSTABLE COUNTY ASSEMBLY OF DELEGATES
Standing Committee on Health & Human Services
DRAFT Minutes
March 6, 2013

The Standing Committee on Health & Human Services met to review the 2014 proposed budgets of Elder Services, the Human Rights Commission, Human Services, and the Affordable Housing section of the Cape Cod Commission budget on March 6, 2013, beginning at 1:00 p.m.

Committee members present: Vice-Chair Deborah McCutcheon, Suzanne McAuliffe, Patrick Princi, and Anthony Scalese (arrived at 2:15 p.m.).

Elder Services (Meals on Wheels funding) Budget p. 184 ("County Assistance to Human Service Providers" and line itemed as "Contractual Services"

Executive Director Leslie Scheer and Chief Financial Officer Deborah Tranfaglia met with the committee and provided a handout that explained how "meals on wheels" works and the various related programs and services that are offered to Cape Cod residents and statistical information about its operations. (This handout will be considered an addendum to these minutes and available for viewing at the Clerk's Office.) The organization, Elder Services of Cape Cod and the Islands, is not a department of the County. The line item in the County's budget supports only "Meals on Wheels" for Barnstable County residents. . Grants and fundraising are also used to support the program. Various towns also provide some funding and others, such as Barnstable, provide substantial "in-kind" assistance to the program. The program is not "needs based" and serves all who apply and therefore is perpetually at a deficit. The program has been level funded at $75,000.00, at least since 2007, when it was cut from $100,000. due to declining revenues at the Registry of Deeds. The request in the FY 2014 Commissioner's budget proposal is $75,000.00. The Elder Nutrition Program serves approximately 1,000 meals per day using hundreds of volunteers. This is not an income based program, and is provided to people who are home bound and have a need, whether short or long term; the program's recipients are over sixty. A $2.00 donation is asked for each meal - if the client has the ability to pay. The agency cost per meal is $8.50 and the agency deficit breaks down to $ .59 per meal.

Declining federal revenues due to "sequestration" are estimated at approximately $25,000. It was suggested that Delegates might consider going back to their towns to ask for funding consideration that will help support the program based on use by the their community. The Committee expressed interest in increasing the requested funding by $25,000.00.

Suzanne McAuliffe motioned, and it was seconded, to recommend approval of the budget request of $75,000 for the Elder Services (Meals on Wheels) Program FY 2014 to the Standing Committee on Finance. Motion carried. 3-0-0.

Suzanne McAuliffe motioned, and it was seconded, that the Standing Committee on Finance consider increasing the FY 2014 by $25,000.00 representing the funding cut from previous budget cycles. Motion carried. 3-0-0.

Human Rights Commission (Budget p. 175, line identified as "Human Services Grants" shows total requested and prior year actuals)

HRC Coordinator Elenita Muniz, Chairman John Reed, and Commissioners Paul Houlihan, Malcom Dowel, and Laura Roskas, met with the committee to discuss their mission and plans for FY 2014. A handout with information about the Human Rights Academy and the Human Rights Breakfast was provided to the committee, will be considered an addendum to these minutes, and available for viewing at the Clerk's Office. The Human Rights Commission looks at different forms of discrimination on the Cape. The requested FY2014 budget is $48,000 and represents a slight increase ($4,700) over FY 2013, and more substantial increases over the past four budget cycles due to addition of a contract staff position..

Increases are being driven by the need to create more interpretative services and also the Human Rights Academy. The Academy is a program which is presently offered to high school students, but which is proposed to expand to middle school students, for human service projects. Over the past year, the Commission has completed a strategic plan which focuses on five goals, including expansion of the Academy programs.

Suzanne McAuliffe motioned, and it was seconded, to recommend approval of the requested $48,000 FY 2014Human Rights Commission budget to the Standing Committee on Finance. Motion carried. 3-0-0.

Human Services (Budget p. 171-175, including HRC) Mr. Scalese joined the Committee for this meeting.)

Director Beth Albert met with the committee and provided a handout and overview of her FY 2014 budget request. In her overview the Director indicated that it was important to show and explain how the department has been functioning. Originally this was a four person department. In 2007-2008 there was no director on staff. In July of 2008 the Director was hired and by FY 2012 the department had three staff positions since 2008. In addition, since 2008 consultants have been used to support the work of the department. In 2012 the department's budget request proposed creating a new staff position with proportionate decrease in consulting. However, the staff position was not funded, and the consulting services were not increased, thus resulting in a drop in funding for FY 2013 of 36%. The funding request for FY 2014 proposes an increase of 47% over FY 2013, which would create a new staff position, funded 25% by a three year grant. . The FY 2014 budget request is $501,820 (exclusive of the $48,000 for the Human Rights Commission previously discussed).

Discussion focused on the pros and cons of creating a permanent position versus utilizing consultants. The Director was of the opinion that it is inefficient to run the department relying on consultants. It was pointed out that the three year grant is used to supplement two positions, 25% each, and that these positions would continue when the grant funds are exhausted. The Director was asked to prioritize her request for new staff position considered in light of the Department request for new projects, including a Homelessness Coordinator, a grant writer for the HUD Continuum, and web maintenance and development, including two new websites focusing on mental, behavioral health and public health. The Director opined that the staff position would be her first priority.

Suzanne McAuliffe motioned, and it was seconded, to recommend approval of the requested $501,820 FY 2014 Human Services budget (exclusive of $48,000 for Human Rights Commission) to the Standing Committee on Finance. Motion carried. 3-1-0.

Affordable Housing (Budget figures not separated from Cape Cod Commission budget)

Affordable Housing Specialist Paul Ruchinskas, Gail Coyne, Chief Financial Officer, and Michelle Springer, (title??), all from the Cape Cod Commission, met with the committee an overview and referred to a summary handout of background information and the role of the Affordable Housing Program. This handout will be considered an addendum to these minutes and available for viewing at the Clerk's Office.

Paul Ruchinskas told the committee that this was the most productive decade for the region in creating affordable housing. Average wages on Cape Cod are about 35% lower than the rest of the state and there is a need for more affordable housing.

The Affordable Housing Roles encompass regional resources and programs such as the Home Consortium, the Soft Second Loan Program, and the Regional Ready Renters Program. The Housing Program also offers technical assistance and information sharing such as studies, reports and data, workshops, and is involved with regulatory and regional policy plan development.

Michelle Springer is now the Fiscal Officer, does double duty with Affordable Housing, and is full-time. Federal funds help subsidize this position.

Suzanne McAuliffe motioned, and it was seconded, to recommend approval of the request for the Affordable Housing section of the Cape Cod Commission FY 2014 budget to the Standing Committee on Finance. Motion carried. 4-0-0.

The meeting adjourned at 3:30 p.m.

Submitted by:
Janice O'Connell, Secretary/Clerk
Assembly of Delegates

Proclamation

The Provincetown Board of Selectmen wishes to express its support for the efforts the Cape & Vineyard Electric Cooperative, CVEC, has taken on behalf of the seventeen member towns to coordinate, finance and establish renewable energy projects on Cape Cod.

WHEREAS, CVEC has successfully established the legal framework to purchase and own renewable energy projects, enter into contracts, borrow money, form public/private partnerships, and purchase, sell and distribute energy for the financial benefit of local communities;

WHEREAS, CVEC has negotiated several cooperative solar projects which will result in significant savings to participating communities;

WHEREAS, The Cape Light Compact, CLC, created and initially funded CVEC to develop renewable energy projects as requested by its member communities, and has identified an end date for its funding commitment; and the initial CVEC funding source was from CLC rate payers as renewable energy projects are judged to benefit all Cape Cod electrical users

WHEREAS, CLC and CVEC shared management, administrative and support functions to minimize project costs and maximize energy savings/expenses to member communities; and CLC and CVEC, as judged by the U.S. Internal Revenue Service (IRS) and MA Department of Revenue (DOR), took all reasonable actions to document discussion and decisions in a transparent and accountable manner while respecting the privacy of vendors;

WHEREAS, as CVEC has gained experience with several renewable energy projects and has adopted and refined best practices under the amended Massachusetts Open meeting law and implemented other changes designed to facilitate CVEC's development as an independent organization;

Now Therefore, The Provincetown Board of Selectmen wishes to publicly state its support for CVEC as CVEC works to bring renewable energy projects to Cape Cod.

The Honorable Board of Selectmen

Austin Knight, Chairman

Elaine Anderson, Vice Chair

John Santos

David McChesney

Erik Yingling

March 18, 2013

ATTEST: Town Manager Sharon Lynn

Signed on March 18th 2013

Proclamation

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David McChesney

Erik Yingling

ATTEST: Town Manager Sharon Lynn