

April 17, 2020

Brian W. Riley
briley@k-plaw.com

Carrie Benedon, Esq.
Director, Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Re: Town of Sandisfield – Board of Selectmen
Open Meeting Law Complaint from Alex Bowman, dated April 14, 2020

Dear Attorney Benedon:

Please be advised that this office serves as Town Counsel to the Town of Sandisfield. The Town's Board of Selectmen ("Board") is in receipt of an Open Meeting Law Complaint dated April 14, 2020 by Mr. Alex Bowman ("Complaint"). A copy of the Complaint is enclosed. In essence, the Complaint claims that the Board's meeting notice for a March 18, 2020 meeting provided insufficient detail in stating "Review, discuss and vote on the FY2021 budget." The Board met on April 21, 2020 to discuss this Complaint and consider its response, and authorized me to submit this letter.

The Board notes initially that while the meeting had been scheduled for March 18, the Board canceled it the day before due to the Governor's emergency order prohibiting public gatherings of 10 or more people. In response to the Complaint, however, the Board denies that its March 18, 2020 meeting notice lacked sufficient detail, and further that a virtually identical meeting notice was used for meetings held in the weeks before March 18. Mr. Bowman cites to the Division's guidance for matters with "a large group of similar items (for example, license renewals or board appointments)" and alleges that the Board should have listed out each item of the FY21 budget to be discussed. The Board is aware of the Division's guidance with respect to license renewals and appointments, where the list of items that the Board knows will be deliberated should be made available. The same analysis does not apply to a discussion of an annual budget, however. Budget discussions are always a moving target of numbers and subjects and it is often uncertain which subtopics will be discussed, and in such cases a broad description such as the Board provided is sufficient, and the Division has so determined. In OML 2019-26, the Division found that while a discussion of privatizing the Town's ambulance service was not listed on the meeting notice, "We find that this topic, although not specifically listed on the meeting notice, fit within the Board's larger budget discussion, listed on the notice as 'Budget Review.'" Other determinations confirm that a broad agenda item, where either all subtopics may be discussed or it is not certain where the deliberations may lead, is sufficiently specific. See, e.g., OML 2019-121:

Where a public body anticipates discussing specific Town Meeting warrant articles, it must specifically list them in its meeting notice. See OML 2011-7. However, where a public body

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is reviewing all articles for a Town Meeting warrant, it is not required to list all of the warrant articles on its meeting notice.

In view of this Division precedent, the Board denies any violation of the Open Meeting Law regarding its March 18, 2020 meeting notice and no further action is warranted.

Very truly yours,

Brian W. Riley

Enc.

cc: Mr. Alexander Bowman

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