



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20th Floor, Boston, MA 02108. Emails may be sent to: openmeeting@state.ma.us.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at openmeeting@state.ma.us.



OPEN MEETING LAW COMPLAINT FORM

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

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Alexander Last Name: Bowman
Address: 132 New Hartford Rd
City: Sandisfield State: MA Zip Code: 01255
Phone Number: 401-447-3915 Ext. _____
Email: alexander.bowman@gmail.com
Organization or Media Affiliation (if any): _____

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

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

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

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

Date of alleged violation: multiple

Description of alleged violation:

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

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

See attached

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

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

See attached

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

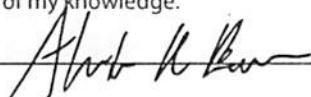
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

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

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

Signed: _____



Date: 2020-04-21

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

Open Meeting Law (OML) Complaint Attachment

Alex Bowman - 2020-04-21 - Sandisfield Board of Selectmen (The Board)

This complaint alleges insufficient specificity for meeting notices. As town counsel has recently concluded that "meeting notice and minutes should include additional detail", this violation appears to be intentional.

The agenda for the open session on 2020-03-25 included the item: "*4. Review and vote on proposed budget reductions for FY2021*".

There was no additional information about what budget items the "proposed budget reductions" included. It is frustrating to continuously request transparency via the formal Open Meeting Law Complaint process. I would rather not have to use this channel, but The Board has twice chosen to expend taxpayer money with a response from town counsel, which they are not required to do, rather than simply add sufficient detail to its notices to allow the public to be informed about their potential interests.

The Board has also declined to heed the advice of town counsel. In a letter dated March 5, Brian Riley of KP Law, Town Counsel to the Town of Sandisfield, responded to a separate OML complaint: "the Board acknowledges that its meeting notice and minutes should include additional detail." Additionally, The Board "has undertaken the remedial actions requested... which include increasing specificity for meeting agendas moving forward...". The letter also stated that "The Board therefore pledges to review the Attorney General's Guidelines with respect to its meeting notices...".

The Board failed to include any additional detail regarding "proposed budget reductions" for the town's ~\$3,500,000 budget, and left it as a single line item. There was nothing about which items of the budget were possible topics for discussion. The Board could have included, at a minimum, the budget items that were being discussed for cuts as they had already been "proposed" and therefore were known to the chair. Is it the library or the transfer station?

The state has provided guidance about specificity in this FAQ: "How detailed should meeting notices be where the public body intends to act on a large group of similar items (for example, annual license renewals or board appointments)?" The answer: "The notice must include details about each item, including the identity of the licensee or applicant or appointee, or the address that is the subject of an application to be considered by the public body" and "it is not acceptable for a meeting notice to refer members of the public to another location to find the required information"

Specifically, OML-2011-7 provides this discussion regarding specificity of notice for a town warrant:

"The meeting notice should have, at a minimum, included detail of the nature of discussion; ideally it would also indicate any anticipated votes. An appropriate notice topic could have appeared as:

Discussion of Town Meeting Warrant Articles 1, 9, 10, 18, 32, 33, and 35. The School Committee may vote to recommend action on these articles at Town Meeting.

As another example of recent notices lacking specificity, the notice for 2020-04-21 included item , "4. Review and sign Chapter 90 Project Request forms". There was no description of what these projects were, or in what areas of town they were taking place.

The state again gives guidance in their FAQ for an example of a traffic improvement project, which is analogous to our Chapter 90 projects:

For example, when the Chair of a Board of Selectmen reasonably anticipates a discussion about on-going traffic improvement projects in town at the next Board meeting, it would be appropriate for the Chair to list that topic in the notice as: "Discussion of Traffic Improvement Projects at the intersection of Main and Pleasant Streets; and at the intersection of Elm and Oak Streets."

As per the guidance, the 2020-04-21 meeting notice should have included the sections of road that were being submitted for projects. Without those details, the public is not given enough information to know whether or not they should attend the meeting to voice an opinion. A resident living on or near Dodd Road, for example, should be able to know beforehand if she will be impacted by one of these projects, and therefore could decide whether or not it was in their interest to attend.

The letter from Town Counsel indicated that they have undertaken remedial actions, yet The Board continues to post notices that lack specificity or detail. This suggests that it is an intentional violation of the OML.

At the 2020-04-21 meeting, Selectman Brian O'Rourke spoke about how The Board's notices have been similarly written many times in the past and I have not complained. Just because there have been no previous complaints, does not mean that the OML was followed.

I sincerely hope that The Board chooses to add detail to their notices, which would properly inform the public and allow for people to engage with their interests.

Requested action for the Board of Selectmen:

1. Increase specificity for meeting notices so the public can be reasonably advised.
2. All members and the administrative assistant who prepares the meeting notices attend in-person training.
3. Review the "Public Body Checklists" and FAQ provided on the mass.gov OML website.

May 5, 2020

Brian W. Riley
briley@k-plaw.com

BY ELECTRONIC MAIL ONLY (openmeeting@state.ma.us)

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 21, 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 21, 2020 by Mr. Alex Bowman ("Complaint"). A copy of the Complaint is enclosed. In essence, the Complaint claims that the Board's meeting notices for meetings held on March 25 and April 21, 2020 provided insufficient detail on specific agenda topics. The March 25 topic was "Review and vote on proposed budget reductions for FY21," while the April 21 topic was "Review and sign Chapter 90 Project request forms." The Board met on May 4, 2020 to discuss this Complaint and consider its response, and authorized me to submit this letter.

In response to the Complaint concerning the March 25 agenda, the Board denies that the meeting notice lacked sufficient detail. The Board notes initially that Mr. Bowman filed a very similar complaint on April 14, 2020, and the Board submitted its written response dated April 27; the Board incorporates that response by reference. The Board intended to discuss the FY21 budget and proposed department reductions for virtually every department, and it was not known ahead of time if deliberations might end up focusing on particular departments. The Board also notes that when specific department budgets were intended to be discussed at prior meetings, the meeting notice so stated. Copies of Board notices for December 16, 2019 and January 9, 2020 are enclosed as examples. Therefore, just as listing "Review, discuss and vote on the FY2021 budget" was not a violation (see April 27 response), neither was the Board's March 25 notice regarding "proposed reductions for FY21."

With regard to the April 21 notice, it was not known prior to the meeting whether all Chapter 90 matters would be ready for discussion; in fact, one notice from the MassDOT's Highway Division was not received until April 21 just before the meeting. The Board acknowledges, however, that more detail as to the road project locations for previously received Chapter 90 matters could have been included in the meeting notice, and the Board will continue to endeavor to comply with all aspects of the Open Meeting Law

{Name of Recipient}

{Title of Recipient}

April 30, 2020

Page 2

Very truly yours,

Brian W. Riley

Enc.

cc: Board of Selectmen (TownManager@sandisfieldma.gov)

Mr. Alexander Bowman (alexander.bowman@gmail.com)

719235/SNFL/0001