

8 August 2021

BY ELECTRONIC MAIL ONLY

Re: Town of Sandisfield – Board of Selectmen  
Open Meeting Law Complaint from Mark Newman, dated July 11, 2021

Dear Mr. Newman

The Town's Board of Selectmen ("Board") is in receipt of an Open Meeting Law Complaint received on July 15, 2021 from you ("Complaint"). A copy of the Complaint is enclosed. The Complaint makes three allegations regarding a posting made on June 18, 2021:

1. Posting of notice without proper number of days and lack of information
2. The notice was not posted by the Town Clerk
3. Changing of postings and agendas

On July 19, the Board sent you a letter using the email address on your complaint form requesting more detail about the allegation of "changing of posting and agendas" and requested a response within 10 business days, by August 2, as allowed by CMR 29.05(6). The Board did not receive a response, and as this specific allegation is too vague the Board will not address the allegation.

The Board asserts that the Tuesday 4pm June 22, 2021 meeting was posted with the required 48-hour notice and asserts the notice had sufficient detail. Chairman George Riley filed the notice with the Town Clerk at 12:32pm on Friday June 18, 2021, more than 51 hours prior to the meeting excluding Saturdays, Sundays and legal holidays. The notice had one item that was sufficiently specific "*Review & discuss draft of Independent Accountant's Report on Applying Agreed-Upon procedures from Scanlon & Associates LLC*". The notice also contained the required date (June 22, 2021), time (4pm) and location (Town Hall Annex, 66 Sandisfield Rd, Sandisfield MA) of the meeting.

As a Friday afternoon posting for a Tuesday late afternoon meeting meets the 48-hour requirement, your complaint may have been based on the federal observation of Juneteenth instead of the observation in Massachusetts. The MA Secretary of State's website (<https://www.sec.state.ma.us/cis/cishol/holidx.htm>) states that the Massachusetts legal holiday for Juneteenth in 2021 was Saturday June 19th, not Friday June 18th.

The Board acknowledges the Town Clerk or the clerk's designee did not post the notice as required by CMR 29.03(2a). Chairman Riley filed the notice with the Town Clerk via email at 12:32pm on Friday, nearly 3.5 hours before the 48-hour requirement. However the part-time Town Clerk was not available, did not leave an alternative in her absence, nor any other means to contact her, and did not respond until Monday June 28, 10 days later. Chairman Riley thus posted the notice on the glass of the bulletin board case as he did not have the keys. The Board met all of its requirements in filing the meeting with the Town Clerk. As the Town Clerk could

have designated anyone to post outside her office according to CMR 29.03(2a), including Mr. Riley. Mr. Riley, in the Town Clerk's absence, attempted to comply with the purpose and intent of the Open Meeting Law to the best of his capability by posting the notice in the official posting location with more than 48 hours notice.

After the Town Clerk retired in July, the new Town Clerk designated the members of town committees and boards as designees to post meeting notices. Members now have access to a timestamp and the keys to the bulletin board and can post meeting notices themselves. Had this designation been in place in June, the Town Clerk's absence would not have caused an issue.

The Board therefore complied with all requirements of the Open Meeting Law and the Attorney General's regulations, and the Board denies the allegations of the Complaint. The Board has also worked with the new Town Clerk to establish a process to allow meetings to be posted even when the part-time Town Clerk is unavailable.

Sincerely,  
Alex Bowman  
Town of Sandisfield – Board of Selectmen