

CITY OF NEWTON

IN BOARD OF ALDERMEN

PROGRAMS AND SERVICES COMMITTEE REPORT

WEDNESDAY, OCTOBER 8, 2014

Present: Ald. Sangiolo (Chairman), Baker, Hess-Mahan, Norton, Leary, Blazar and Kalis

Absent: Ald. Rice

Also Present: Ald. Johnson, Danberg, Fuller and Harney

City Staff Present: David Olson (City Clerk/Clerk of the Board), Donnalyn Kahn (City Solicitor), Sandy Guryan (Deputy Superintendent of Schools), Matt Hills (Chair, School Committee), Margie Ross Decter (Vice Chair, School Committee), Margaret Albright, Diana Fisher Gomberg and Steven Siegel (Members, School Committee), Karyn Dean (Committee Clerk)

Re-appointment by His Honor the Mayor

#353-14 MICHAEL GOLDMAN, 14 Saxon Terrace, Newton Highlands, re-appointed as a member of the FARM COMMISSION for a term to expire July 31, 2017 (60 days 12/05/14) [09/25/14 @ 1:39PM]

ACTION: **APPROVED 7-0**

NOTE: The Committee voted to approve Mr. Goldman's re-appointment without discussion.

Re-appointment by His Honor the Mayor

#354-14 PETER LEWENBERG, 47 Mary Ellen Road, Waban, re-appointed as a member of the FARM COMMISSION for term to expire July 31, 2017 (60 days 12/05/14) [09/25/14 @ 1:39PM]

ACTION: **APPROVED 7-0**

NOTE: The Committee voted to approve Mr. Lewenberg's re-appointment without discussion.

Re-appointment by His Honor the Mayor

#355-14 MARIAN KNAPP, 250 Hammond Pond Parkway, Chestnut Hill, re-appointed as a member of COUNCIL ON AGING for a term to expire September 1, 2017 (60 days 12/05/13) [09/25/14 @ 1:39PM]

ACTION: **APPROVED 7-0**

NOTE: Ald. Hess-Mahan stated that he had a meeting with Ms. Knapp recently to discuss some concerns she and the Council of Aging had with the Senior Center. She is a member of the Council of Aging. The Senior Center seems to be turning into more of a community center and the Council of Aging has not been involved in the decision-making process relative to this change of use. Ald. Leary noted that the correspondence from the Senior Center now identifies itself as "345 Walnut Street" and not "The Senior Center". Ald. Hess-Mahan would like to have Ms. Knapp come in to discuss what is happening there.

The Committee voted to docket an item to ask Jayne Colino and the Council on Aging come in to discuss the changes happening at the Senior Center.

The Committee voted to approve Ms. Knapp's re-appointment.

#339-14 ALD. HESS-MAHAN AND SANGIOLO requesting discussion with the Mayor's Office, the Law Department and the Clerk's Office concerning training of staff and members of Commissions, Boards and Committees to ensure compliance with the requirements of the Open Meeting Law Commissions, particularly with respect to meeting minutes. [09/05/14 @ 2:40PM]

ACTION: **HELD 7-0**

NOTE: Ald. Hess-Mahan reminded members that the Committee had met with the Licensing Board at a previous meeting to discuss licensing fees being charged to non-profit groups. It was revealed that there were discussions in the Licensing Board meetings about this issue, and members had varying opinions. Some members of the Programs & Services Committee asked to see the meeting minutes so they could understand the deliberations that took place, however, it was explained by Dori Zaleznik, who was the note-taker for the Commission at the time, that the notes were not extensive. She also noted that audio recordings were available if requested, but were not posted online. Written minutes are the legal record. Ald. Hess-Mahan asked Ms. Zaleznik why notes were not taken and she said they were not required by Open Meeting Law (OML). Linda Walsh provided the meeting minutes from the discussions in question and they merely stated "continued discussion of possible fee reductions for fundraiser" with no detail of the discussion themselves. It was impossible from the minutes to have any idea what the discussions were. He also noted that the OML was substantially amended in 2009 and the changes put into effect in 2010, however, the Licensing Commission minutes reference the OML from 1958.

Ald. Hess-Mahan provided to Committee several determinations from the Attorney General's office relative to OML violations complaints. It was noted in one of the determinations that meeting minutes must contain "a summary of the discussions on each subject" and the provisions in the OML that relate to meeting minutes were referenced. "A discussion was held" is not a sufficient note. The Attorney General's Office is not looking for a transcript but as is stated in their determination "the minutes should contain enough detail and accuracy so a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred". Ald. Hess-Mahan made the department head and City Solicitor aware of his concerns and docketed this item to ensure that all boards, commissions and neighborhood area councils are properly following OML.

David Olson, City Clerk, explained that he and Ouida Young did training for all staff who work with Boards and Commission on the changes in the OML. They also did and will continue to do additional training sessions for specific Boards or Commission who make a request to do so. There is an OML PowerPoint presentation (attached) which was presented this year for the neighborhood area councils on three different dates. In addition, the City Clerk's office and the Law Department are resources for any questions relative to the OML. Anyone appointed and

sworn into a board or commission receives an Appointed Committee handbook, which they have to sign to confirm they have received. The handbook contains a copy of the OML and the guide published by the Attorney General's office as well on the OML. Because the requirement states only that there needs to be a summary of the discussion, he and Ms. Young put together a minute-taker manual to provide some guidance about what is necessary and what should be recorded. This is not from the Attorney's General Office, however. It was distributed to all staff who do minute-taking for boards and commissions as well as to all the neighborhood area councils. The handbook was first developed in 2010 and has been updated over the years. Donnalyn Kahn added that she was always happy to answer any questions relative to OML and she does receive calls. If there was any question the Law Department could not answer, they call into the Attorney General's office for guidance. She felt the training was extensive and comprehensive citywide.

Committee Questions and Comments

The Committee asked if the Licensing Board, specifically, has been trained. Mr. Olson explained that the staff person who would be taking minutes for the Board was trained. Ms. Kahn said she would reach out to the Licensing Board and offer the materials once again, and additional training. She also has samples that show what meeting minutes should look like and it was suggested the reports from the Board of Aldermen Committee meetings been shown as examples as well.

Ald. Sangiolo asked if the School Committee had been trained and Mr. Olson reported that Dede Reede, who staffs the School Committee had received the training. Ald. Sangiolo thought there had been an OML issue with the School Committee this year.

Committee members asked about the availability of minutes and Mr. Olson said that minutes should be available to anyone who might want to see them within 10 days of the meeting. A member said that many boards and commissions do not have minutes posted online, or if they do, they are not easily found. Ald. Hess-Mahan said that although not all are available online, the ones he did find were taken appropriately. Mr. Olson noted there is no requirement that minutes be posted online, just that they be provided to anyone who makes a request. Audio recordings are not required, though many boards and commission do record the meetings.

It was asked how many OML complaints the Law Department receives. Ms. Kahn there are 5-6 a year. There is a procedure within the OML to file a complaint. A letter should be sent to the board of commission in question and if the complainant is not satisfied with the answer, they can then go to the Attorney General's office.

Follow Up

Ald. Hess-Mahan said that he now understands there is a comprehensive training program in place and it's just a matter of making sure everyone receives and follows the training. Ms. Kahn reiterated that she would follow up with the Licensing Board to be sure they understand what is required. Ald. Sangiolo felt it would be good to hold this item and bring it back in a year or so to be sure the issues have been addressed.

Clerk's Note: Please see attached email from City Solicitor, Donnalyn Kahn as follow-up.

The Committee voted to hold this item.

REFERRED TO PROG & SERV, PUB. FACIL. AND FINANCE COMMITTEES

#312-10 ALD. LENNON, LAPPIN, SCHNIPPER, SANGIOLO requesting a discussion with the School Committee on its plans to address space needs in the Newton public schools. [10/27/10 @ 11:07 AM]

ACTION: HELD 5-0 (Ald. Baker and Kalis not voting)

NOTE: Ald. Johnson addressed the Committee. She explained that she wanted to understand how things have evolved and where they will be going in terms of school buildings. She assumes that enrollment is driving the activity and she would like to understand what calculations go into determining school enrollment numbers.

Sandy Guryan, Deputy Superintendent of Schools, explained that a strategic plan was developed in 2007 and was updated in 2011. In 2012 she presented to the Board of Aldermen a proposed approach to solving what is a big and complex problem using that plan and the projected enrollment numbers. Ald. Johnson asked what data the School Department received from the City relative to the increase in density in the City based on demolitions and new houses. Since this is a very developed City, most of the increases in population come from re-builds, so she wondered how the enrollment projections progressed from 2007 to the present, incorporating those demographic changes in the City.

Ms. Guryan said that their projections on enrollment overall have been very close to what has actually happened, but perhaps not school by school. Housing developments have been a factor and they have put a lot of effort into understanding how many students might come from them. Taking Avalon as an example, there were 300 units and they estimated 60ish students and that's how many they got. There is a factor, regardless of developments, bringing families with young children to Newton. Housing changes are factored in but they have not changed that much. She works with the Planning Department and with the census to be sure the data matches. They also look at housing development changes and some of that is picked up in the enrollment projections as part of the growth trend. But when a project is new and permitted, they hand-add it to the projections. Projects such as a two-family replacing a single-family, for example, are not factored in in that way. She has been in touch with people in Lexington who are looking at the impact of the changing housing types and rental units, and trying to determine if that's the cause in the change in growth. She doesn't think that's driving the growth in Newton, but she will be taking a look at their report when it is complete. Newton belongs to an education consortium that has staff that does enrollment and demographic projections for many cities and towns, including Newton's. They share the projections with Newton and Newton publishes them as an appendix in their report.

Ald. Sangiolo got data from the ISD webpage to review the list of permits per month in preparation for her demolition moratorium item. John Lojek got his numbers from the Assessor's office by asking for "new-build" information. The Assessor's information included 44 units that did not include demolition, and the ISD information only included units resulting from a demolition. Ald. Johnson asked Ms. Guryan if the Schools looked at the ISD data on permits.

She said she does get data from the City but she does not know if it's from ISD or another source. She will find out.

Ald. Johnson would like to see an Excel spreadsheet showing the trends and how they relate to the individual schools. Ald. Johnson would like to see how enrollment has changed by school, with the projected enrollment and the actual enrollment for each. Ms. Guryan said the School Committee has spent a great deal of time studying enrollment and openly presenting their report and she is happy to share that spreadsheet. She said the order of the schools in the plan is not relative to enrollment or future enrollment. The order has more to do with the age and condition of buildings but there is also a capacity problem. Some of that has been temporarily solved with modular so that schools can function at reasonable class sizes. They do not have the facilities they want and as soon as Angier is completed the City will be presented with the question of how can it wait any longer to upgrade the other schools and provide that quality space to all the students in Newton. They have been re-analyzing the work on the buildings and they have put Lincoln Elliot before Ward even though Ward is older, but other than that the order has not changed. They look at many different factors to make these determinations.

The elementary school projections as a whole have been building up and are working towards 6000 students which would be 1000 per grade (K-5). The kindergarten class right now is at 938, which is higher than projected, and it's very easy to get to 1000. In the long-range plan, as she is able to move ahead one year further she is able to base it on actual births. The global elementary projections are meant to provide capacity for 6300-6400 students. They are now at 5830 which shows a slight slow-down. She personally feels that to create an elementary school facility across the city that would serve 6300-6400 would be a sound plan. She has looked at layering larger-scale projects with mid-scale projects, which she feels is also a sound approach. The question then becomes how do you assign students to where you now have the capacity as we move into the future and target all parts of the City.

Matt Hills, Chairman of the School Committee, explained that when looking at the projections, what the most recent year will show in actual numbers has to be compared not to just the previous year, but to a couple of years before that as well. One will see very little variance and it does change on a school by school basis a little, but if the schools are weeded out that are in buffer zones that were put in after the projections, there is still only a variation of a small number of percentage points. Out of 6000, there are 140 students more in the elementary schools than were projected 3 years earlier, which is a very small difference. Ms. Guryan has a presentation from 2012 that lays out objectives for the program overall, school by school what the increases in the classroom are, and the targeted capacity. In 2013, Ms. Guryan said she presented an updated version of that. The Committee asked that she provide that to the Committee.

Ald. Johnson asked if it was the goal and vision of the School Committee and Department to increase the capacity of all the schools. She has a list of north and south feeding schools to make things balanced into the four middle schools and two high schools. The enrollments range from 400-450. Angier is not getting tremendously larger and no whole-scale redistricting is necessary to fill that school. Cabot will be similar to Angier, but Zervas will involve more.

Ald. Johnson said there was a lot of contention over taking homes for parking and she wanted to know if it was the intention to provide as much on-site parking as possible for all the schools, and therefore, a need to take more homes; or will underground parking be considered. If a school building is coming down, underground parking can be considered. Ms. Guryan said they have considered parking structures and have discussed it with the Design Review Committee and was discussed during Zervas deliberations. With Angier, the design architects came up with a solution to do that fill and create some land and made it into parking. The Zervas site is different and the enlargement of the site was not just to acquire parking, it was really to accommodate the whole program and design.

Cabot, for example, abuts a park and some design solutions show some collaboration of park and school and she's hopeful that a solution will come that is not as complicated as Zervas. She cannot say for sure how many sites will include on-site parking. The more acreage to a site the more flexibility of design and it will depend largely on that on a case-by-case basis. If cars can be parked on-site and not all over the neighborhood, that would be the preference. Ald. Sangiolo said the Board has not weighed in on that opinion at all. Ms. Guryan said that there are Board members on the Working Group, but Ald. Sangiolo said they have not been instructed to represent that policy as the view of the Board.

Ms. Guryan understands that each site has its challenges with parking and it's her view that the Working Group and the School Building Committee should address it because there seems to be much concern and interest in it. Ald. Johnson asked that Ms. Guryan keep parking in mind, do some concurrent planning and engage the Board of Aldermen in those conversations as soon as possible. She felt they were brought in far too late on the Zervas project. Ald. Norton asked when this issue with the Cabot project will be brought up. Ms. Guryan they are just beginning the process with Cabot. Notification will be coming out soon about what is upcoming and then there will be an opportunity to meet with the consultants and the project team. That will be the place to air out the interests and have it be part of the discussion about criteria. Ald. Sangiolo said she has received some email from teachers and there seems to be an expectation, perhaps, that on-site parking will be the trend.

Ald. Leary said she has been involved with the Underwood School and figuring out parking and working with Bill Paille and others and they are making some progress. Aside from working with underutilized space, they are looking at things like Zipcars and the expectations that teachers have free parking and should that be the case. She would like to find alternatives to single-use cars. She would like to continue that discussion and she's reached out to some School Committee members.

Ald. Johnson said there is talk and she's not sure if its rumor or fact, that conversations are being had about taking a number of houses in the Cabot area. Ms. Guryan said a feasibility study will be done and the process will unfold just as the Angier and Zervas processes did – Zervas, however, was not under the MSBA umbrella as Angier and Cabot were. The feasibility study will look at all site options including other sites for Cabot so they can be evaluated based on criteria. Nothing at all has happened to begin that process. It will be as open as transparent as possible and they will be focusing on communication with the community and input from the community.

Ald. Fuller wondered if based on what is being learned and projected with the first three school projects, does it make sense to stay the course with the established strategic plan for the next three schools, and forward.

Ald. Johnson asked what might happen to capacity issues if full-day kindergarten and/or universal day-care were implemented by a new Governor. Ms. Guryan said capacity would not be an issue in kindergarten but staffing could be, which could lead to the need for more parking. After school programs are in the educational program and spaces are provided for them in each of the new facilities and they also have access to the cafeterias and gyms.

Ald. Johnson wondered why the Horace-Mann school could not be the designated swing space, and allow the Horace-Mann community to move into the Carr School. Ald. Norton supported this idea. Horace-Mann is in terrible condition and has been for quite a long time and she feels they deserve a better environment. The swing space is short-term for any population that would be in there, so why use a beautifully updated school for that when a school population is occupying a terrible space on a long-term basis. Ms. Guryan said many discussions have taken place relative to the best way to use and occupy swing space. Aquinas was in the mix for a long time and when that did not pan out, the Carr School entered the picture. It was more about providing space for a long stretch of years for many projects to move populations in and out. The work for Carr was scoped out for that purpose. Ald. Johnson asked that they revisit that plan and consider her recommendation. She would like to know why that could not work. Ald. Hess-Mahan reminded the Committee that at one time, Jeff Young asked Ald. Hess-Mahan what he thought of moving the Horace-Mann community to the Carr School. Ald. Hess-Mahan brought that to the PTO and there was opposition because they were raising money for a new playground. The idea was to use the building as the headquarters for the Parks & Recreation Dept. but it did not work out.

Follow Up

- Ald. Johnson would like the spreadsheet showing the projected and actual numbers for enrollment as was discussed and would like those provided to the Board on an ongoing basis.
- She would also like the Board to be engaged in the conversations relative to parking accommodations at the school sites as early as possible.
- Ms. Guryan is going to find out if the permit data she receives from the City is from ISD or another source. She does get sales information from the Assessors Office.
- Ms. Guryan will also provide the presentation from 2013 as discussed.
- She would also take Ald. Johnson's question regarding using Horace-Mann as the swing space and moving that population into the Carr school to the School Committee and relevant staff.

Clerk's Note: The enrollment spreadsheet was provided and emailed to the members of the Committee and Ald. Johnson. It is a large Excel spreadsheet, so it is not attached to this report, but can be made available by request.

The Committee voted to hold this item.

#356-14 ALD. HESS-MAHAN AND DANBERG, requesting a RESOLUTION of the Newton Board of Aldermen on behalf of Newton Dialogues on Peace & War, declaring support for the U.S. Conference of Mayors' program "Mayors for Peace," of which the City of Newton has been a member since 2005, and its goal of eliminating all nuclear weapons by 2020. [09/10/14 @ 3:15PM]

ACTION: **HELD 7-0**

NOTE: Ald. Hess-Mahan and Ald. Danberg docketed this item at the request of Newton Dialogues on Peace & War. The proposed resolution is based on a unanimously adopted Resolution of both the Mayors of Peace and the US Conference of Mayors. It has been adopted every year since 2005. The US Conference of Mayors resolution, as well as the proposed Newton resolution, were attached to the agenda.

Jane Brown, Dan Shaw, Joan Eklind and Libby Gurlock of Newton Dialogues addressed the Committee. They expressed their concern with this issue and how it affects the lives of everyone on earth, including every citizen of Newton. The threat from nuclear weapons whether from war or accident is a public health menace. A nuclear detonation would destroy agriculture and cause mass starvation. The US has 450 bombs ready to be fired within 2 minutes which would destroy humanity across the globe. They also noted that the US is about to embark upon a trillion dollar program to upgrade the nuclear arsenal which Newton Dialogues considers extremely dangerous. The nuclear arms race has to end as soon as possible and upgrading the arsenal is madness. Another important note is that starting in 2015 a 5-year review by the United Nations of the nuclear non-proliferation treaty will take place. The US has not been an honest participant in the treaty and does not even attend meetings. This makes it an important time to take a stand and support this resolution.

Two similar resolutions have been passed in Cambridge and in Boston. Newton is a member of Mayors for Peace which is active across the United States in over 600 cities, including 14 in Massachusetts. It was started by the mayors of Nagasaki and Hiroshima because they realized no mayor anywhere could protect their people in the event of nuclear war. This is an urgent issue as various wars are escalating around the globe including tensions with Russia once again. These resolutions and sentiments have a tremendous amount of grass-roots support but they want to get this out to a wider audience for wider support.

Committee Questions and Comments

Ald. Baker had some reservations about the Newton resolution which had additional language than that of the US Conference of Mayors resolution, which he felt he could support. He felt he didn't understand the additional reliefs requested and their consequences. Ald. Kalis had similar concerns stating that this is a national security issue and he's not sure of all of the policy issues and implications of all of the provisions. He does support the nature of the resolution, however.

Ald. Norton supported the resolution. Ald. Leary supported this as well as she feels these concerns are flying under the radar. The very existence of nuclear weapons is terrifying and awareness needs to be raised.

Follow Up

Ald. Sangiolo cautioned members that these types of Resolutions needs to be fully supported by the Committee before going to the full board in order to have the best chance of success. She suggested holding the item to give Ald. Kalis and Ald. Baker time to look into their concerns and become more comfortable with supporting this. Members of Newton Dialogues said she has direct contact with the head of Mayors for Peace and could reach out to her to provide any information the Committee would like.

Ald. Hess-Mahan asked members to send questions to the Committee Clerk so Newton Dialogues can get answers for them as soon as possible. Ald. Sangiolo would like to have the other resolutions (Mayors for Peace and the US Conference of Mayors resolutions) to compare and contrast with the Newton resolution. Ald. Hess-Mahan has since provided a letter of support for from Mayor Setti Warren (attached).

The Committee voted to hold this item and bring it back to Committee soon.

Meeting adjourned.

Respectfully Submitted,


Amy Mah Sangiolo

Open Meeting Law 

Open Meeting Law

M.G.L. Chap. 30A, Sec. 18-25
940 CMR 29.00: Open Meeting Law Regulations

January 21 & 28, 2014

Open Meeting Law 


“Balancing government transparency
with government efficiency”

Office of the Attorney General

Open Meeting Law 


- Section 18 – Definitions
- Section 19 – Division of Open Government
- Section 20 – Notice and Participation
- Section 21 – Executive Sessions
- Section 22 – Minutes & Records
- Section 23 – Complaints
- Section 24 – Investigations
- Section 25 – Regulations

Presented by:
David A.Olson, Newton City Clerk
Ouida Young, Associate City Solicitor

Open Meeting Law 

Section 19 – Open Government


There shall be in the department of the attorney general a division of open government.

Open Meeting Law 


Section 25 – Regulations

(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.


Open Meeting Law 

What do you need to know and do before you meet.

Open Meeting Law 

Section 20 – Notice & Participation

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


Open Meeting Law 

Section 18 – Definitions


“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;

continued

Open Meeting Law 


- (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;

Open Meeting Law 

Section 18 – Definitions


"**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;

- shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting (materials) or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

Open Meeting Law 


Section 20 – Notice & Participation

(b) 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 (agenda) that the chair reasonably anticipates will be discussed at the meeting.

Open Meeting Law 


CMR 29.03(b) – Posting Requirements

(b) The list of topics shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting. The date and time that the notice is posted shall be conspicuously recorded thereon or therewith.

Open Meeting Law 

Section 18 – Definitions

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

Open Meeting Law 

Section 20 – Notice & Participation

(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.


CMR 29.03 (2)(b)1– Posting Requirements

Public bodies may post notice of meetings on the municipal website;

Open Meeting Law 


Additional Posting Requirement – HUD

- Statement of ADA Compliance must be included.
The location of this meeting is handicap accessible and reasonable accommodations will be provided to persons requiring assistance. If you need a special accommodation, please contact the Newton ADA Coordinator, Joel Reider, at least two days in advance of the meeting: jreider@newtonma.gov or 617-796-1145. For Telecommunications Relay Service dial 711.


Open Meeting Law 

**Electronic Posting
on the City Website**

<http://newtonma.gov/gov/aldermen/epb/default.asp>

Open Meeting Law 

What do you need to do at the Meeting.

Open Meeting Law 

Section 20 – Notice & Participation

(e) After notifying the chair . . . , any person may make a video or audio recording of an open session of a meeting . . . , 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.

Open Meeting Law 

Section 20 – Notice & Participation

(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.

Open Meeting Law 

Section 21 – Executive Session

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

(1) to discuss the reputation, character, or health of an individual, or to discuss the dismissal of, or complaints against, them.

Open Meeting Law 

(2) to conduct strategy session in preparation for negotiations with nonunion personnel.


(3) to discuss strategy with respect to collective bargaining or litigation.

(4) to discuss the deployment of security personnel or devices.


(5) to investigate charges of criminal misconduct.

Open Meeting Law 


(6) to consider the purchase, exchange, lease or value of real property if there will be a detrimental effect.
 (7) to comply with any general or special law or federal grant-in-aid requirements.
 (8) To consider or interview applicants for employment by a preliminary screening committee.
 (9) to meet or confer with a mediator on any public business within its jurisdiction.
 (10) to discuss trade secrets.

Open Meeting Law 


(b) the public body can meet in executive session for any of the above reasons provided that
 (1) the body first convenes in an open session.
 (2) a majority of the members have voted by roll call to go into executive session.
 (3) before going into executive session the chair has stated the purpose of the executive session.
 (4) the chair will announce before the executive session if the general session will reconvene.
 (5) accurate records of the executive session shall be maintained.

Open Meeting Law 

Section 20 – Notice & Participation
 (d) The attorney general may . . . authorize remote participation by members of a public body not present at the meeting location;


Open Meeting Law 

What Happens after the Meeting.

Open Meeting Law 


Section 22 – Minutes and 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.

Open Meeting Law 


Section 22 – Minutes and Records

(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.

Open Meeting Law 


Section 22 – Minutes and Records

(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.

Open Meeting Law 


Section 22 – Minutes and Records

(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.

Open Meeting Law 


Section 22 – Minutes and Records

(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 . . . Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information:

Open Meeting Law 


(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.


Open Meeting Law 

Section 22 – Minutes and Records

(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 . . . , as long as publication may defeat the lawful purposes of the executive session, but no longer . . .


Open Meeting Law 

What if someone has a complaint?

Open Meeting Law 

Section 23 – Complaints


(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; . . . 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.

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Section 23 – Complaints

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;


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- (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.

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Section 24 – Investigations

(a) Whenever the attorney general has reasonable cause to believe that a person, including any public body . . . 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.

Open Meeting Law 

- Questions?
- Contact:
 - David Olson, City Clerk
 - Ouida Young, Law Department

Karyn Dean

From: Donnalyn B. Lynch Kahn
Sent: Friday, October 10, 2014 10:28 AM
To: Theodore M. Hess Mahan; David A. Olson
Cc: Amy Sangiolo; Karyn Dean; Linda M. Walsh
Subject: RE: Open Meeting Law

All,

As a follow up to the discussion regarding Open Meeting Law training, I have met in person with Linda Walsh and Maura O'Keefe to review the requirements for meeting minutes for the Licensing Board. Future minutes will have the appropriate legal reference at the top and will contain an appropriate summary of topics discussed. Any new note taker will receive detailed training as David Olson discussed.

We will also continue (with the Clerk's Office) in-depth training and advice for any Board, Commission or Committee needing assistance. Thank you for raising this important topic.

-Donnalyn Kahn

From: Theodore M. Hess Mahan
Sent: Thursday, October 09, 2014 9:13 AM
To: Donnalyn B. Lynch Kahn; David A. Olson
Cc: Amy Sangiolo; Karyn Dean; Dori F. Zaleznik; Linda M. Walsh; Ouida C. M. Young
Subject: Open Meeting Law

Dear Donnalyn:

Thank you for participating in last night's discussion of the Open Meeting Law requirements for meeting minutes in Programs & Services and for volunteering to reach out to the Licensing Board to make sure that the board's meeting minutes will comply with the law from now on.

I do want to make sure that other public bodies, and particularly the new neighborhood area councils, are also aware of all of their Open Meeting Law obligations. As Ouida Young knows, some members of the Waban Area Council have approached me and others looking for advice on how to get around OML. I referred them to Ouida to answer their questions, and she let me know that they had already been in touch with her and were informed of the OML requirements. This leads me to believe they were "shopping around" for a second opinion that would allow them to evade OML. It reflects poorly on our city when a public body seeks to evade its OML obligations, so I am hoping for continued vigilance and retraining where needed.

Thanks again. Please feel free to contact me if you have any questions.

Ted Hess-Mahan
Alderman-at-Large Ward 3
871 Watertown Street
Newton, MA 02465
(508) 847-4855
thessmahan@newtonma.gov

When responding, please be aware that the Secretary of the Commonwealth of Massachusetts has determined that email may be considered a public record, and therefore cannot be kept confidential.

"Sunlight is said to be the best disinfectant." --Louis D. Brandeis

Mayor Warren's Statement

September 20, 2014

I would like to welcome Dr. Helen Caldicott back to our city, for the address she will give here today, on a most critical subject: "Facing Our Nuclear Responsibilities." I'd also like to welcome the audience here today, and to thank you for taking the time to wrestle with a most difficult subject. I very much regret that I cannot be here in person today, but I truly value and encourage your actions.

Ever since 2005, the City of Newton has been a Member City of the Mayors for Peace, an international organization with 6,206 member cities in 160 countries. Its program focuses on a single goal: eliminating all nuclear weapons in the world by 2020. It calls on all nuclear nations to take their weapons off instant launch status, to commit to an unconditional No-First-Use Policy, to stop making nuclear weapons more destructive, and to commit never to target any city for nuclear destruction.

I as Mayor fully support the repeated, unanimous calls of the U.S. Conference of Mayors in its approval of the Mayors for Peace program. May the work of such organizations, and the actions of citizens like you, lead us out from this terrible threat

I fully support this effort. All the best to all of you.

Setti Warren
Mayor of Newton