

## THE PUBLIC'S RIGHT TO KNOW: OPEN MEETING AND PUBLIC RECORDS LAWS

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You've just been elected to public office, or you've been appointed to a committee by either the selectmen or the town moderator. Congratulations, but some responsibility comes with that office. You'll be sworn in by Town Clerk Eileen McCracken and handed copies of the Massachusetts Open Meeting Law and the Conflict of Interest statute. You'll sign a form proving you've received them, and you're expected to know these laws and to follow them. Let's use the (elected) Recreation Commission as an example.

Anyone can attend meetings your commission holds under the Open Meeting Law. And a quorum of your commissioners cannot meet in private anywhere to deliberate toward a decision or vote. There are exceptions to this rule: for example, if you meet your fellow commissioners at a cocktail party or soccer game. You can also meet in executive session behind closed doors in private.

But you can do this only if you are: discussing the reputation, character, physical condition or mental health of an employee; disciplining or dismissing an employee; discussing collective bargaining strategies; discussing the deployment of security personnel; investigating charges of criminal misconduct; considering the purchase, exchange, lease or value of real property; or considering and interviewing applicants for employment by a preliminary screening committee.

Someone on the commission must take minutes of all your public meetings, noting who was present and how they voted, and the minutes must be ready for the next meeting, read, and approved. Meeting minutes are public record open to inspection. Minutes must be taken of an executive session, including the votes taken by roll call vote, but don't have to be released publicly until doing so will no longer defeat the purpose of the executive session.

A member of the public can tape record or videotape your commission meetings if it won't interfere with proceedings. But members of the public don't have a right to speak unless that meeting is also a public hearing. Someone on your commission must post a meeting with the Town Clerk at least 48 hours in advance, and if an executive session is planned during the meeting, this must be noted.

Let's say your commission does plan an executive session to talk about personnel issues. Someone makes the motion, a roll call vote is taken, and if there's a majority in favor, the chairman announces if the open meeting will resume after the executive session concludes. The public is asked to leave the room and a sign is posted on the door: In Executive Session. Closed to the Public.

What if someone suspects your commission violated the Open Meeting Law? It takes a minimum of three registered voters, the Massachusetts Attorney General or the County District Attorney to file a complaint with the state Superior Court alleging that a meeting wasn't properly noticed, or was improperly closed to the public, or the minutes were

not kept properly. If the law was violated, The Court can invalidate any action taken, and can even order the reinstatement of a fired employee. The Court can order records be made public, and it can levy a fine of up to \$1000 for each invalid meeting. State District Attorneys have prepared manuals that spell out in detail the kinds of issues and their resolution that may arise under the Opening Meeting Law.

A related law concerns public records. Anyone can request to see any public record, and can obtain copies for a reasonable fee. Ten days is the usual waiting period. Towns have to maintain public records for seven years, and then can destroy them. Requests for public documents should be in writing and must specify exactly what record you want. Some towns charge both copying fees and the costs of the clerk's time to locate the record. Personnel files and medical records of employees, proposals and bids prior to bid opening, appraisals of real property until a final agreement to buy or sell is reached are all exceptions to what is "public" record.

The Conflict of Interest law applies to town employees and public officials alike, in other words, to the paid Recreation Director and to you as a Recreation Commissioner. You need to be impartial and not use your office for public gain. Town employees cannot:

- \* Work at additional jobs that will impair their judgment.
- \* Accept employment that will cause them to reveal confidential information,

use information to further their personal interests, use their official position to get unwarranted privileges or exemptions for themselves or others.

\*Give the impression they can be improperly influenced while working for the town.

Town employees are entitled to an opinion of Town Counsel on any question under the conflict law. The State Ethics Commission has jurisdiction over enforcement of this law and has issued fact sheets that clearly outline the rules and how the Commission interprets them. The fact sheets provide guidance to public officials and employees on the conflict law.

For information about membership in the Hingham League of Women Voters, please contact Christine Dietterich at [coed@verizon.net](mailto:coed@verizon.net). or visit our web site at [www.hingham.ma.lwvnet.org/](http://www.hingham.ma.lwvnet.org/).