



Town of Fairhaven
Massachusetts
Office of the Select Board
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March 26, 2024

Robert Espindola
Via email: respindola@fairhaven-ma.gov

RE: Open Meeting Law Complaint

Dear Mr. Espindola:

Please be advised that the Select Board is responding to an improperly filed complaint received on March 11, 2024; per the Open Meeting Law (OML) Complaint Form instructions that indicate, in part, "To file the complaint: For a local or municipal body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk." You did not file with the municipal clerk.

Your request (*Exhibit A*) referred to items of correspondence sent to the Select Board on February 16, 2024, February 21, 2024 and February 23, 2024 as well as an Executive Session and the minutes of that Executive Session of February 26, 2024 and states in part:

"I believe the actions taken in executive session to discuss goals after receiving written notice by email and then verbal notice during the Open Public meeting as well as the complaint to the rest of the Board with me absent and without proper notice, show a blatant disregard for the Open Meeting Law. I believe it is my responsibility to file a formal complaint in an effort to stop this sort of thing from happening in the future."

After review of your complaint, please see our response:

We take matters related to compliance with the Open Meeting Law very seriously. On February 26, 2023 the concern was raised in Open Session and Ms. Ellison addressed the exemption for executive session as provided by Labor Counsel Rich Massina for the agenda: "*Pursuant to MGL Chapter 30A, Section 21 (a)(2): To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel – Town Administrator.*" She explained that to negotiate terms within her contract it would be standard practice to do so in an executive session and then bring the results back to open session.

Ms. Ellison further read the language under section 5 within her contract "...The Town Administrator shall prepare and submit for the Select Board's approval a written document summarizing said goals and objectives which shall be signed by both parties" (*Exhibit B*). Ms. Ellison reiterated that to come to mutual agreement regarding contract terms it would be in an executive session and then brought forth in an open session after agreement. She also reminded the Board that to ease the transition in Town Administrators, she had accepted the established

goals in years one and two and that due to their exhaustion a new negotiation needed to take place.

Mr. Correy referred to Attorney Rich Massina being present to help facilitate the negotiations in the aforementioned Executive Session and that the Board should ask Atty. Massina about the exemption reason, which he did address in both the executive session and in open session when the Board returned. Due to the fact that executive session minutes have not been released, the Select Board cannot address your assumptions without violating the statute.

In closing, the Select Board along with Labor Counsel followed the exemption guidelines outlined in MGL Chapter 30A, Section 21 (a)(2). Town Administrator contract items are to be discussed in executive session and once a decision has been reached, the Board will make that known to the public.

Sincerely,

Leon E. Correy, III
Select Board Chair

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Exhibits:

- A. Open Meeting Law Complaint Form, Robert Espindola
- B. Town Administrator Contract Section 5, Performance Evaluation