



**BOARD OF SELECTMEN
Working Session
Town Hall Offices
461 Boston Street, Topsfield
Minutes of Wednesday, December 6, 2017
4:00 PM**

Board members present included Chairman Boyd Jackson, Clerk Mark Lyons, and Selectmen John K. Spencer and Richard Gandt. Selectman Laura Powers was not in attendance. From the Selectman's staff, Town Administrator Kellie Hebert and Administrative Assistant and Recording Secretary Susan Winslow, were in attendance. Topsfield Fire Chief Jenifer Collins Brown was also in attendance as were residents David Larson and Kim Sherwood.

CALL TO ORDER

Chairman Boyd Jackson called the meeting to order at 4:05 PM.

ANNOUNCEMENTS

Chairman Jackson made the following announcements:

- "Please be informed that the meeting is being recorded by the Board's Recording Clerk with a device for her record-keeping. Is there anyone else present who wishes to record the meeting?"

Selectman Gandt responded that he would be making an audio and video recording of the meeting with his personal camera.

- "Please remember to sign the attendance sheet that is circulating."
- "The Board will meet in Executive Session under Exemption #3 to discuss strategy with respect to collective bargaining for the Full Time Police, Full Time Firefighters and Call Firefighters since an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares. The Board will not return to open session following Executive Session."

NEW BUSINESS

Open Meeting Law Complaint Acknowledgement:

Chairman Jackson read the Open Meeting Law Complaint submitted to the Office of the Attorney General by Kim Sherwood, dated November 27, 2017 concerning an alleged violation of the Open Meeting Law (see attached).

Selectman Jackson also read the following statement,

“The Town Clerk received an Open Meeting Law Complaint from Ms. Kim Sherwood, dated November 27, 2017 and received on November 27, 2017 concerning an alleged violation of the Open Meeting Law.

The Board must formally acknowledge receipt of Ms. Sherwood's complaint and briefly summarize the summary of her complaint.

The Board should discuss a position on the application of the Open Meeting Law to the Town Administrator's financial policies working group.

Town Counsel has prepared a draft response to Ms. Sherwood's Open Meeting Law complaint.

The Board should discuss whether we feel that Town Counsel has adequately summarized the Board's position, and entertain whether any change should be made.”

Chairman Jackson made a motion that the Board vote to adopt the response to Ms. Sherwood's Open Meeting Law complaint as prepared by Town Counsel, and authorize Town Counsel to send the response on its behalf. Seconded by Clerk Lyons.

Selectman Spencer noted that on the first page of the complaint filed by Ms. Sherwood, she referred to the working group as “a subcommittee” and he asked Town Administrator Hebert if that was the case. Town Administrator Hebert responded that Ms. Sherwood's statement in the complaint was not accurate, that the group was not a subcommittee of the Board of Selectmen. Ms. Hebert informed the Board that she was directed to work with a group to review a document from the Collins Center to make it more relevant to the Town of Topsfield.

Clerk Lyons read from a decision from the Attorney General's Office citing *Conley v. School Committee of Hanover*, and the Clerk noted his view that the ruling in that case further supports the Town's position that there was no violation of Open Meeting Law. He also stated that because the group was assisting with editorial and organizing in an administrative capacity to advise the Town Administrator alone, it appears to meet the exclusion for Open Meeting Law, similar to the finding in *Conley v. School Committee of Hanover*.

Chairman Jackson called for a vote. So voted 3-1 with Selectman Gandt voting in the negative.

Chairman Jackson made a motion to enter into Executive Session. Seconded by Clerk Lyons. So voted in a roll call vote:

Jackson – Yes

Lyons – Yes

Gandt – Yes

Spencer – Yes

The Board entered into Executive Session at 4:23 PM.

Respectfully submitted

Susan Winslow

Recording Secretary

Documents

1. Agenda
2. Detailed Agenda
3. Document, "Open Meeting Law Complaint Form"
4. Document, "Town of Topsfield Request for Public Records – RAO Response Form"
5. Email from Kim Sherwood to Town Administrator Hebert dated 11/30/17
6. Letter to Jonathan Sclarsic, Esquire, Director of the Division of Open Government, Office of Attorney General Maura Healey from Michelle E. Randazzo, KP Law
7. Letter to Mary Jane Handy, Director of Accounts, Division of Local Services/MA DOR from Selectmen

These Minutes were accepted as written at the January 8, 2018 Board of Selectmen Meeting.

Pursuant to the 'Open Meeting Law,' G.L. 30A§18-25, the approval of these minutes by the Board constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Board as to the completeness or accuracy of such statements.