



THE COMMONWEALTH OF MASSACHUSETTS
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July 14, 2022

OML 2022 – 132

John Stephens
Chair, Grafton Community Preservation Committee
c/o Joann Duncan, Administrative Assistant

By email only: duncanj@grafton-ma.gov

RE: Open Meeting Law Complaint

Dear Mr. Stephens:

This office received a complaint from Justin Wood on June 10, 2022, alleging that the Grafton Community Preservation Committee (the “Committee”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Committee on or about March 28, and you responded to the complaint, on behalf of the Committee, by letter dated April 17.¹ The complaint alleges that the Committee deliberated outside of a properly posted meeting when a quorum of the Committee attended and spoke at a posted meeting of the Grafton Select Board on March 15.

We resolve this matter by **informal action**, in accordance with 940 CMR 29.07(2)(a), and find that the Committee did not violate the Open Meeting Law. In reaching this determination, we reviewed the original complaint, the Committee’s response to the complaint, the complaint filed with our office requesting further review, and a video recording of the Select Board’s March 15 meeting.²

The Open Meeting Law was enacted “to eliminate much of the secrecy surrounding the deliberations and decisions on which public policy is based.” Ghiglione v. School Committee of Southbridge, 376 Mass. 70, 72 (1978). The Open Meeting Law requires that meetings of a public body be properly noticed and open to members of the public, unless an executive session

¹ All dates in this letter refer to the year 2022.

² A video recording of the May 15 Select Board meeting is available online at <https://www.youtube.com/watch?v=eFqKWbcKmt0>.

is convened. See G.L. c. 30A, §§ 20(a)-(b), 21. A “meeting” is defined, in relevant part, as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” G.L. c. 30A, § 18. A quorum of a public body may attend the meeting of another public body without posting notice “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.” Id.; see also OML 2020-18; OML 2012-6. The law defines “deliberation” as “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,” with limited exceptions not relevant here. Id. For purposes of the Open Meeting Law, a “quorum” is a simple majority of the members of a public body. Id.

The Select Board posted notice for a meeting to be held on March 15, which included the topic “CPC Membership/Bylaw Amendment.” Five members of the Committee—a quorum—attended the meeting. During the meeting, the Select Board discussed a request from the newly created Affordable Housing Trust to have additional representation on the Committee, which would reduce the number of “at-large” seats on the Committee and potentially required a town by-law amendment. The discussion lasted approximately 30 minutes, with members of the Committee engaging in conversation with the Select Board regarding the makeup of the Committee, a possible bylaw change impacting the Committee, and the interaction and relationship between the Committee and the Affordable Housing Trust.

The Committee does not dispute that a quorum of members attended and spoke at the Select Board’s March 15 meeting, which was not posted as a meeting of the Committee. However, the Committee asserts that the matters that were discussed during the meeting were solely within the jurisdiction of the Select Board, not the Committee, and therefore the Committee members’ discussions did not constitute “deliberation,” as that term is defined by the Open Meeting Law. We agree. We have explained in prior determinations that a discussion is outside a public body’s jurisdiction where it concerns a matter over which the public body has no authority. See OML 2021-90; OML 2018-1; OML 2017-88.³ For example, we explained that a public body’s discussion and suggestions of how a different entity should conduct its meetings was not a matter with the public body’s jurisdiction where the public body had no authority to take action regarding the matter. See OML 2021-90. Here, although the Select Board requested and the Committee members provided input regarding the proposal to designate a seat on the Committee for a representative of the Affordable Housing Trust, ultimately the Select Board alone has the authority to make such a change and to appoint the members of the Committee. We do not find that isolated comments about the Committee’s own operation made in the context of discussions of the Committee’s membership—such as a Committee member expressing that the treasurer, whose term next expires and could be replaced with a representative of the Affordable Housing Trust, is integral to the Committee’s operation—constituted improper deliberation.

For the reasons stated above, we find that the Committee did not violate the Open Meeting Law. We now consider the complaint addressed by this determination to be resolved.

³ Open Meeting Law determinations may be found at the Attorney General’s website, <https://www.mass.gov/the-open-meeting-law>.

This determination does not address any other complaints that may be pending with our office or the Committee. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



Carrie Benedon
Assistant Attorney General
Division of Open Government

cc: Justin Wood – By email only: callek@gmail.com
Grafton Community Preservation Committee – By email only: duncanj@grafton-ma.gov

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.