

HEARINGS, MEETINGS, LICENSES
7-12-10



**Reasons for Convening Executive Session
(M.G.L. c.30A, Sec. 21 – Effective July 1, 2010)**

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual. (*See Rights of Individuals on reverse.*)
2. To conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel.
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.
4. To discuss the deployment of or strategy regarding security personnel or devices, e.g., a sting operation.
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints.

To consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.
8. To consider or interview applicants for employment by a preliminary screening committee, if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants. This shall not apply to any meeting regarding applicants who have passed a prior preliminary screening.
9. To meet with a mediator regarding any litigation or decision; provided that (i) any decision to participate in mediation shall be made in open session and the parties disclosed and (ii) no action shall be taken with respect to the issues involved without deliberation and approval of the action at an open session.
10. To discuss trade secrets or confidential or proprietary information regarding activities by a governmental body as energy supplier, municipal aggregator or energy cooperative, if an open session will adversely affect conducting business relative to other entities making, selling or distributing energy.

For more information please contact Len Kopelman at 800-548-3522, ext. 1701 or lkopelman@k-plaw.com.

(over)



TOP 10 CHANGES IN THE NEW OPEN MEETING LAW

10. All persons serving on "public bodies" to receive Attorney General's version of Open Meeting Law, regulations and educational materials. Town or City Clerk or designee shall maintain written certifications of receipt.
9. 48 hour notice – still required, but now cannot count Saturdays, Sundays or holidays. Example: Monday night meeting must be posted before Thursday night.
8. Notices must (1) include list of topics chair reasonably anticipates will be discussed, i.e., an agenda, and (2) be posted in or on municipal building to be visible to public *at all hours*.
7. Emails are expressly included in definition of "deliberation," which is prohibited outside of open session; but distribution of agendas, scheduling information or reports to be discussed at future meetings is permitted.
6. Attendance by a quorum at a location is not a "meeting" if not intended to conduct business and no deliberation occurs – for example, attending a conference, social event, or a meeting of another municipal board. In addition, a meeting of a quasi-judicial board solely to make a decision required in an adjudicatory proceeding is not a "meeting".
5. Minutes must contain more detailed information. In addition to date, place, time and matters discussed, they must include summaries of matters discussed, list of documents used, and all decisions made and actions taken, including a record of all votes (yeas, nays and abstentions).
4. 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.
3. Chair required to periodically review executive session minutes and determine if they should be released, or if purpose for executive session is still ongoing to keep minutes confidential.
2. Attorney General will assume broad interpretation and enforcement authority over Open Meeting Law; District Attorneys no longer involved.
1. Citizens making complaints of Open Meeting Law violations must file written complaint with the public body first. Then the body submits reply to complainant and Attorney General's office.

Contact Us:
617-556-0007
800-548-3522
www.k-plaw.com



KOPELMAN AND PAIGE, P.C.
The Leader in Public Sector Law



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

January 20, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: The New Open Meeting Law – Role of the Attorney General

One of the most compelling changes included in the new Open Meeting Law [G.L. c.30A, §§18-25, effective July 1, 2010; hereafter “the Law”] is the removal of District Attorneys as the interpreters and enforcers of the Law and the centralization of this authority in the Office of the Attorney General. We do not anticipate that the Attorney General will adopt significantly different readings of the provisions of the Law that carry over from the current version. Based on the many new provisions and some new and far-reaching enforcement authority, however, municipal boards and officials should be aware of the Attorney General’s role under the new Law. We expect that the Attorney General will issue regulations and advisories regarding the new Law. This memorandum will address the principal changes in the enforcement of the Open Meeting Law taking effect in July.

Under the new Law, all enforcement authority will be under the Attorney General. A Division of Open Government will be created within the Office of the Attorney General, led by a Director of Open Government, which will handle all of the responsibilities created under the new Law. An “Open Meeting Law Advisory Commission” will also be created, consisting of representatives of state government, the Massachusetts Municipal Association, the Massachusetts Newspaper Publishers Association and the Attorney General. The Commission will analyze the new Law and make recommendations to the Attorney General for regulations and for training initiatives for state and local bodies subject to the Law.

Under the current Law, an individual that believes a public body has violated the Law may submit a written complaint to the local District Attorney. The District Attorney investigates the complaint, assesses whether there has been a violation, and issues a determination to the body as to any actions necessary to remedy the violation. While rarely used, the District Attorney could also enforce violations through civil or criminal actions. Under the new Law, however, the complainant must first file a written complaint with the *public body itself*. The public body shall, within 14 days of receipt, forward a copy of the complaint to the Attorney General and inform the Attorney General of any remedial action taken. The Attorney General may authorize an extension of the time to respond for “good cause.”

Memorandum to Municipal Clients
Page 2

Not less than 30 days after the date the complaint is filed with the public body, the complainant may file a complaint with the Attorney General if he or she believes the public body has not sufficiently addressed the alleged violation. The Attorney General must then determine whether there has been a violation and, before imposing a civil penalty, shall hold an administrative hearing on the complaint. Following a determination that a violation has occurred, the Attorney General shall determine whether the public body, or one or more of the members, or both, are responsible and whether the violation was intentional or unintentional.

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 (i.e., conducted by the Division of Open Government or other authorized source);
3. nullify in whole or in part any action taken at the meeting;
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.

Remedy 5 in particular is a significant departure from the current Law. While a District Attorney could, in theory, request that a court reinstate a terminated employee for Open Meeting Law violations in the termination process, the new Law authorizes the Attorney General to make such an order directly to the public body. This remedy could obviously have substantial consequences if a terminated employee is suddenly entitled to reinstatement, based only upon what is determined to be an improper open meeting or executive session. While it is, of course, important that *every* meeting be conducted in accordance with the Law, public bodies should take particular care to insure that any meeting that may lead to a suspension, termination or other disciplinary measure comply with all notice and posting requirements and that all executive session procedures are followed and documented.

A public body or any member of a body aggrieved by any order issued by the Attorney General may obtain judicial review of the order through an action in Superior Court. Any such action, however, must be commenced in Superior Court within 21 days of receipt of the order. Any order issued by the Attorney General that is appealed will be stayed pending judicial review. In addition, however, if the order nullifies an action taken by the public body, the body also cannot implement such action pending judicial review.

Memorandum to Municipal Clients

Page 3

If any public body or member fails to comply with the requirements set forth in any order issued by the Attorney General, or fails to pay any civil penalty imposed within 21 days of the date of issuance of such order (or within 30 days following the decision of the Superior Court upholding the Attorney General's order), the Attorney General may file an action in Superior Court to compel compliance. It should be noted that if the public body does not appeal the Attorney General's order and also fails to comply with such order and the Attorney General brings litigation to compel compliance, the body is prohibited from contesting the merits of the order in court. The Court may also impose any of the remedies given to the Attorney General listed above.

In the alternative, the Attorney General or three or more registered voters of the municipality may initiate a civil action in Superior Court to enforce the Open Meeting Law. In any court hearing, the burden will be on the public body to show, by a "preponderance of the evidence," that the action complained of in such complaint was in accordance with and authorized by the Law. It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel. The courts will have an expedited hearing process on such actions, requiring an answer to be filed within 10 days and setting a hearing date to provide "the speediest possible determination of the cause consistent with the rights of the parties."

Finally, the Attorney General has authority to initiate an independent investigation of an alleged Open Meeting Law violation and to conduct an administrative hearing and penalty procedure, at which it may compel testimony and the production of documents.

As with many other aspects of the new Open Meeting Law, the Attorney General will likely be issuing regulations and advisories as to how the enforcement process will be implemented. By becoming familiar with the Law's provisions and following them, however, public bodies will be better able to avoid actual or apparent violations and responding to complaints will be made easier as well.

Very truly yours,



Brian W. Riley



Lauren F. Goldberg



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

January 20, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: The New Open Meeting Law – Taking and Maintaining Minutes

The revised Open Meeting Law [G.L. c.30A, §§18-25], which takes effect on July 1, 2010, will continue to require that multi-member bodies subject to the law take minutes of all meetings, including executive sessions. There are new requirements, however, that municipal boards and their recording clerks must be prepared to follow to comply with the Law. This memorandum will address the responsibility for keeping minutes generally and highlight the major new provisions that will become law in July.

The Open Meeting Law and the Public Records Law require public bodies to prepare accurate meeting minutes to serve as a permanent record of the meeting, but do not require that a transcript, written or otherwise, be prepared. The current Open Meeting Law, G.L. c.39, §§23A-23C, applies to all “governmental bodies,” which are statutorily defined to include every multiple member municipal board, commission, committee or subcommittee, whether elected, appointed or otherwise constituted, but excludes Town Meetings. The new Law, while changing the name to “public bodies,” covers the same entities (and in fact broadens the scope of covered bodies, as discussed in our “Overview” memorandum). The current law provides that, at a minimum, minutes must set forth the date, time and place of the meeting, the identity of the members present or absent and all action taken. *In addition* to these requirements, the new Law calls for the following information to be included:

- 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.

The minutes still need not be a verbatim transcription of everything that was said at the meeting. Rather, the minutes must reflect a summary of each discussion. When votes are taken at a meeting, however, the Public Records Law, G.L. c.66, §5A, requires that the minutes record exactly each vote taken.

The new Law also requires that “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.” While many boards maintain copies of large plans and maps, for example, as part of a particular project file,

Memorandum to Municipal Clients

Page 2

these documents may at some point be disposed of pursuant to the Public Records Law. Minutes, however, are permanent records that municipalities must maintain forever. If all documents used during a particular meeting or hearing must be maintained as part of the minutes, this could clearly pose a significantly greater storage problem than city and town boards already face. In addition, this potentially includes records brought and referred to by members of the public at an open meeting, presenting challenges for access to and replication of such documents. We have raised these issues with the Office of Attorney General and are hopeful that they will be addressed by regulation.

While meeting minutes in general are public records, the new Open Meeting Law adds express limitations as to the portions of minutes that are exempt from disclosure, and also adds obligations to boards to make executive session minutes available to the public as soon as practicable. The new Law provides:

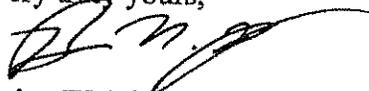
- That minutes of open meetings shall not be able to be withheld under any of the exemptions to the Public Records Law, except:
 - the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on 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.
- That executive session minutes shall be disclosed in their entirety when the purpose of the exemption has been met, provided, however, that the minutes or portion thereof may be withheld if protected by the attorney-client privilege or subject to one of the exemptions to the Public Records Law.
- That the chair of the governmental body must periodically review executive session minutes for the purpose of evaluating whether they should be released, that the chair shall make a statement concerning the same at an open meeting, and that the statement be included in the minutes of that meeting;
- That minutes from an executive session, the purpose of which has been completed, be provided in response to a request for them within 10 days unless the "review" discussed above has not been undertaken, in which case, the governmental body must undertake the same and provide the minutes if required not later than the board's next meeting or 30 days, whichever occurs first.

Memorandum to Municipal Clients
Page 3

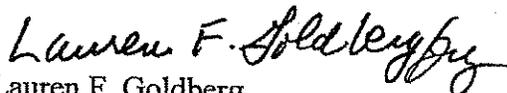
This latter provision will require a regular and systematic review of outstanding executive session matters. For example, it appears that a board could be required, within 10 days of a request for executive session minutes, to turn over a copy of the minutes even if the board has not yet determined that the purpose of the executive session is completed. In addition, the previous requirement seems to give the chair of the body authority to make that determination individually, which is a broad departure from the current practice of evaluating executive session minutes *within* an executive session. Minutes from executive sessions that have not been completed will still be exempt from disclosure. The new Law is clearly aimed, however, to address concerns about boards not going back and completing the process of wrapping up executive session matters and releasing such minutes to the public in a timely manner.

As with certain other aspects of the new Open Meeting Law, we anticipate that the Attorney General will issue regulations or advisories as to how the amended minutes requirements should be implemented. All multi-member boards and their recording clerks should begin to familiarize themselves with these requirements now, however, to prepare for their implementation on July 1, 2010.

Very truly yours,



Brian W. Riley



Lauren F. Goldberg



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

January 20, 2010

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: The New Open Meeting Law – An Overview

On July 1, 2009, Governor Patrick signed into law Chapter 28 of the Acts of 2009, entitled “An Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying.” The Act made extensive changes to the lobbying laws and Chapter 268A, the Conflict of Interest Law (we issued Memoranda on the Chapter 268A changes dated September 3 and November 6, 2009), as well as an overhaul of the Open Meeting Law. However, the portions of the Act relative to the Open Meeting Law (“the Law”) were expressly designated to go into effect on July 1, 2010. Prior to that date, it is anticipated that the Office of the Attorney General will issue detailed educational materials, regulations, and guidance regarding the manner in which the law will be implemented. Given the importance of the Law to all municipal boards, however, board members and other municipal officials should begin familiarizing themselves with these important changes.

As of July 1, 2010, the current Open Meeting Law provisions, G.L. c.39, §§23A-23C will be repealed. The revised Open Meeting Law will be found at G.L. c.30A, §§18-25. Some of the important differences are highlighted below. We will provide separate memoranda, however, regarding new requirements for taking and maintaining minutes and the transition of enforcement authority from the District Attorneys to the Attorney General.

1. Definitions

The revised Law contains some significant changes to defined terms, highlighted below:

- “Deliberation” is communication between or among a quorum of a public body.
 - Explicitly includes communications by e-mail and other written medium;
 - The following are specifically excluded from the definition, provided no opinions of members are expressed:
 - distribution of a meeting agenda;
 - scheduling information; or
 - distribution of other procedural meeting materials, or reports or documents that may be discussed at the meeting.

It is significant that the Law specifically refers to “email” as constituting deliberation. Be advised, however, that similar types of electronic communication, such as blogging,

electronic chatrooms, and social networking sites will also likely fall within the scope of the new definition if a quorum of the public body is involved.

- “Meeting” is a deliberation by a public body.
 - specifically excludes:
 - on-site inspections, provided there is no deliberation;
 - attendance by a quorum of a public body at a conference of training program, or a media, social or other event, provided that the members do not deliberate;
 - attendance by a quorum, without posted notice, at a meeting of another governmental 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;
 - a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision in an adjudicatory proceeding brought before it.

The latter exception represents a significant change from the current Open Meeting Law. A “quasi-judicial” body is one that holds a public hearing to make a determination affecting an individual’s rights or privileges – for example, hearings on applications for licenses or permits. Under the current Law, there has been no ability of such a board to meet in executive session to make a decision following the public hearing on a licensing or permitting matter. Under the new statute, however, such a convening of the board does not even fall within the definition of a “meeting” for purposes of posting notice, taking minutes, etc. It remains to be seen how the Attorney General will interpret this exception, and a permit applicant (for example) might be expected to complain about a “private” gathering of board members to make and prepare a decision. Boards may prefer to continue to make such decisions in an open meeting, or delegate the drafting of a decision to an individual, while the new language is interpreted by the Attorney General. You should be aware of this significant change in the definition of “meeting,” however, as well as the potential issues that may arise if a public body chooses to utilize this exception for quasi-judicial matters.

- Governmental Body
 - now known as a “public body”;
 - includes any multiple-member body “within” any town (as compared to a governmental body “of” any town). It appears that this change was specifically designed to eliminate a judicially created exception that a committee appointed by a single official [Mayor, Town Manager, Superintendent of Schools] to be advisory to that official was not a governmental body subject to the Open Meeting Law. With the new Law, virtually any board, committee, subcommittee or other multiple-member body within a municipality will be subject to the Open Meeting Law.

2. Notice

Certain notice requirements have been revised and are summarized below:

- Any public meeting (except for emergencies) must still be posted at least 48 hours in advance of the meeting. It should be noted, however, that in addition to Sundays and holidays not being counted, *Saturdays* cannot be counted for this purpose under the new Law. This means, for example, that for any meeting scheduled for a Monday evening at 7:00 p.m., notice must be posted not later than 7:00 p.m. on the preceding Thursday.
- Notice of any open meeting shall include "a listing of topics that the chair reasonably anticipates will be discussed at the meeting." Many boards already have a practice of posting an agenda as part of the notice, although agendas were not required under G.L. c.39, §23B. Under the new Law, a list of anticipated topics must be included. Boards will still be able to accommodate last-minute and/or unforeseen matters (i.e., not anticipated), as the Law does not prohibit a board's consideration of such matters. Boards may wish to include in their posted agendas entries for "New Business" and "Old Business" to provide notice to the public that matters not specifically named on the agenda may be handled.
- Notice must be 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." (emphasis added). While the new Law expressly recognizes electronic posting (i.e., on a city or town website), it also requires posting in a form visible at all hours to passers-by at City or Town Hall. For those buildings that do not already post written notices in a glass case or on the front door, some visible posting location must be devised to comply with this new requirement.

3. Remote Participation

Most District Attorneys have interpreted the current Open Meeting Law as prohibiting participation by a board member by electronic means, such as speaker phone, teleconferencing or videoconferencing. The new Law provides that the Attorney General may permit such remote participation, but only by issuing a regulation or a "letter ruling" setting forth the permitted procedure. It is likely that the Attorney General will allow some form of remote participation, but the Law provides that all members and the public must be able to hear each other and that there must be a quorum of the body physically present in the room. The Law also prohibits the chair from participating remotely. In our opinion, this means that if the chair is not present, the vice-chair or another member designated as temporary chair should run the meeting from the meeting room. Remote participation should not be used until authorized by the Attorney General.

4. Public Recording

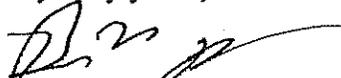
Just as the current Open Meeting Law allows members of the public to make audio or video recordings of open meetings (provided such recording does not interfere with the meeting), the new Law also permits this practice. The new Law requires that the person desiring to record a meeting notify the chair, however, and that the chair inform everyone in the room of the recording. This provision addresses the conflict between the current Open Meeting Law that permits recording and the so-called "Anti-Wire Tap" law [G.L. c.272, §99], which prohibits the recording of an individual without his or her knowledge.

5. Executive Sessions

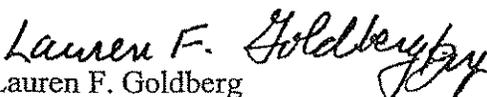
In general, the new Open Meeting Law does not make significant changes in the circumstances that authorize the holding of an executive session. Exemptions (1) and (2) [concerning the discussion of individuals] will be combined into one exemption, while exemption (3) [concerning the discussion of litigation or collective bargaining strategy] will be divided into two exemptions. One notable new provision, however, concerns the form of a motion to go into executive session for certain purposes. Under the current Law, many boards have voted to enter executive session by referring only to the number of the exception in G.L. c.39, §23B (for example, "meet in executive session for Purpose 3") or quoting the purpose from the statute ("to discuss litigation strategy"). Under the new Law, if the board intends to discuss strategy concerning collective bargaining or litigation, the acquisition, lease or value of real property, or to consider or interview applicants for employment, the chair must not only state this purpose but must also expressly state that conducting the business in open session will have a detrimental effect on the public body's strategic or negotiating position. A failure to do so could lead to the Attorney General finding that the session was improper and trigger the enforcement process.

The changes to the Open Meeting Law summarized above were adopted by the General Court as part of a sweeping effort to promote ethics and transparency in all levels of government. Municipal boards are used to dealing with the restrictions and procedures of the existing Open Meeting Law and most of these will continue as is after July 1st. Instead of the District Attorneys, however, the Attorney General will now be enforcing all provisions, and all municipal officials need to become acquainted with the differences over the next few months and be prepared to comply with them beginning in July 2010.

Very truly yours,



Brian W. Riley



Lauren F. Goldberg

ENERGY CONSERVATION RECOMMENDATIONS FOR MIDDLEBOROUGH MUNICIPAL BUILDINGS

The Green Energy Committee for the Town of Middleboro has been visiting many of the municipal buildings in town to evaluate the systems and practices that affect energy consumption in town buildings. We have found a general need to improve both the energy use practices and the mechanical systems that provide energy in town buildings. The deficiencies in these areas lead to uncomfortable working conditions for staff and citizens, heating and air conditioning systems that are difficult or impossible to control, and inefficient and unnecessarily expensive energy use that impacts the costs of operation and our local and global environment. Energy cost is close to a million dollars per year for all town departments, not including the schools. We would anticipate that savings in the range of 10 to 20% could be realized through careful use of the present systems. Improving the controls and mechanical systems in major building could gain another 10 to 20% of energy costs. These improvements will not last if the town fails to support these buildings with proper maintenance and control. Changing the culture of energy use requires ongoing support. Staffing changes and additions may be necessary to establish lasting efficiencies in energy use and savings in energy costs.

BELOW IS AN OUTLINE OF RECOMMENDATIONS :

1. USE OF ENERGY-

A. Establish clear hours of operation during which heating and cooling levels will be followed for each building and office space.

B. Establish heating and cooling temps for operating times and clear set back temps for all non operational hours.

C. Create specific shut down steps for lights, office equipment, and all electrical devices for all non operating hours.

D. Implement a support system that checks on compliance of energy use recommendations and encourages compliance with conservation practices

E. Find ways to manually control heating and air conditioning systems in buildings so staff can directly monitor and control the systems in their building.

F. Monitor energy use in all buildings and report to employees, management, and town government on monthly progress.

2. MECHANICAL AND SYSTEMS IMPROVEMENTS-

A. Complete full "energy audits" on all municipal buildings

B. Prioritize repairs of existing systems to get systems under basic control

C. Resize systems to reflect actual use of spaces in buildings

D. Repair systems to proper function for individual spaces with repairs going first to most wasteful systems.

E. Develop a maintenance and ongoing repair plan

E. Educate key staff in controlling systems in accordance with heating and cooling guidelines and hours of operation.

3. STAFFING ISSUES-

A. Identify staff in each office and/or department who are willing to help with energy management in their building.

B. Review energy issues with all department managers and interested staff.

C. Train staff in approaches they can make to control energy use in their building with clear temperature settings, means of controlling systems, etc.

D. Provide ongoing support for staff in energy conservation activities through regular reporting, monitoring, and meetings.

E. Hire staff with expertise in energy conservation and the control, maintenance, and repair of energy systems to keep systems working and to maintain control of those systems.



TOWN OF MIDDLEBOROUGH HEALTH DEPARTMENT

Jeanne Spalding, RS, CHO
Health Officer
Hours: 9am-5pm

PH: 508-946-2408
FX: 508-946-2321

MEMO

TO: Board of Selectmen

FROM: Jeanne Spalding, Health Officer

DATE: July 6, 2010

RE: 20 Pine Grove Ave., Septic Repair Variances

The septic system repair plan for this location has numerous variances to property line and wells as outlined by the engineer. As the Board can see, this site is limited in size and does not provide any options for location of the system due to the surrounding wells.

The plan is for a single bedroom house which requires it to be deed restricted. At the request of the Health Officer, Foresight Engineering has made an additional modification to the plans in front of you by reducing the leaching area so it more closely meets "maximum feasible compliance" as required by the state.

The Health Officer recommends approval of the variances with the following conditions:

- *Deed restriction to one bedroom filed with the Health Dept.*
- *Wells less than 100 ft. to system to be tested*
- *Notification to all affected abutters*

(Town Seal)

The Board of Selectmen will hold a public hearing in the Selectmen's Meeting Room at the Town Hall, 10 Nickerson Avenue, Middleborough, MA on Monday July 12, 2010 at 8:50 PM, for the purpose of adopting rules and regulations pertaining to the hiring of consultants to assist the Board in carrying out its responsibilities under the Water Resource Protection Districts By-Law. Anyone wishing to be heard on this matter should appear at the time and place designated. Copies of the proposed regulations may be obtained by calling the Selectmen's office at 508 946-2405.

Marsha L. Brunelle
Alfred P. Rullo, Jr.
Muriel C. Duphily
Stephen J. McKinnon
Steven P. Spataro
BOARD OF SELECTMEN

Please bill the Town of Middleborough, Board of Selectmen's office advertiser # 300074

FILE

DRAFT

JUL 12

BOARD OF SELECTMEN
REGULATION - OUTSIDE CONSULTANTS - SPECIAL ACCOUNT

Section 1. The Board of Selectmen (hereafter the Board) may employ outside consultants to assist the Board in carrying out its responsibilities under Section XII of the Zoning By-Law (Water Resource Protection Districts By-law-WRPD). The Board may require an applicant for a special permit under said Section XII to pay to the town reasonable fees for the employment by the Board of outside consultants to assist the Board with respect to its responsibilities under law and arising out of or in connection with an application for a special permit or the grant of a special permit.

Section 2. Upon receipt by the Board of an application for special permit, the Board may send a bill to the applicant for the estimated cost of reasonable fees for employment by the Board of outside consultants. The Board may send a bill to the applicant for the cost of reasonable fees for employment by the Board of outside consultants if the amount in a bill for the estimated cost is not sufficient to pay for employment of outside consultants or if a bill for estimated costs has not been sent by the Board. The applicant shall pay all bills sent by the Board within thirty days of the date of the bill..

Section 3.

The Board shall notify the applicant in writing of the Board's selection of each consultant. The applicant shall have an administrative appeal from the selection of any consultant. The appeal shall be to the Board. The grounds for such appeal shall be limited to claims that a consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in or related to the field at issue or three or more years of practice in the field at issue or a related field. The required time limits for action upon an application by the Board shall be extended by the duration of an administrative appeal. In the event that no decision is made by the Board within one month following the filing of an appeal, the selection made by the Board shall stand. All appeals shall be in writing and filed with the Town Clerk not later than fourteen days after the date of the notice to the applicant of the selection of a consultant.

Section 4. The Treasurer shall establish a separate special account into which all fees received from applicants with respect to consultants shall be deposited. The special account including interest, if any, shall be expended at the direction of the Board without further appropriation provided that such funds shall be expended only in connection with carrying out the Board's responsibilities under law. Any excess amount in the account attributable to a specific project including accrued interest, if any, shall be paid to the applicant or to the applicant's successor in interest, if applicable. The Board shall provide a final report of the account attributable to the project to the applicant or to the applicant's successor in interest, if the successor in interest is entitled to receive any excess. The Board may require proof that an applicant's successor in interest is entitled to receive any excess amount before authorizing payment of any excess to a successor in interest.

AUTHORITY FOR REGULATION: General Laws, Chapter 44, Section 53G and Chapter 40A, Section 9.