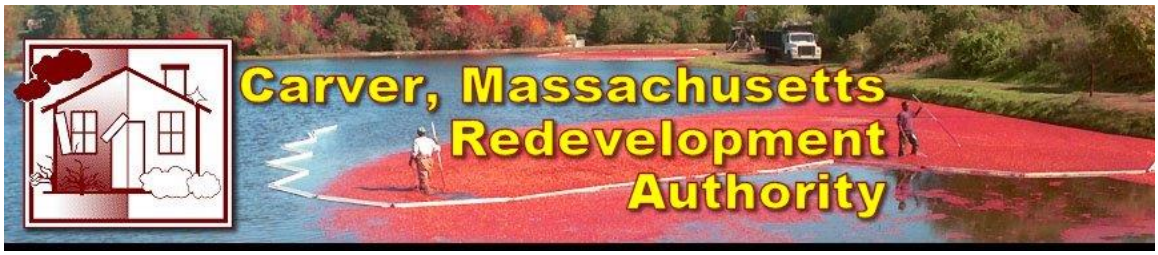
Approved 2/20/24
4-0



Meeting Minutes for December 13, 2023, at 6:30 PM,

This public meeting notice is being held in accordance with the provision of MGL Chapter 30A, Section 20B, in meeting room #4 at the Carver Town Hall
This meeting is being videotaped and rebroadcast by Area 58 TV.

Attendees: Johanna Leighton, Chair, Savery Moore, Vice Chair; Pat Meagher, Treasurer; Roger Noblett, Member; James Elliman, Member

Also in attendance: Gregg Corbo, KPLaw

Absent:

Meeting opened by Ms. Leighton at 6:31 PM

Discussion and possible vote(s):

- Open Meeting Law Complaint – discussion and possible vote concerning Open Meeting Law Complaint filed by Robert Belbin on December 4, 2023

Ms. Leighton - Mr. Gregg Corbo, Town Counsel, is here with us tonight. There are two Open Meeting Law violations.

For the Open Meeting Law complaint document, Attorney Corbo satisfied the first complaint which was sent into the Attorney General's office. He requested a review of the Open Meeting Law complaint. He previously discussed this matter with Mr. Moore and he approved Letter. After reviewing the recording of the meeting, Attorney Corbo did not believe that the RDA voted to hire Ms. Clarke as a Consultant. I believe that the RDA only voted to invite her to submit a resume. The vote was to ask Ms. Sharon Clarke, former Chair of the RDA, to submit a resume for the purpose of becoming the Consultant for the RDA.
This would primarily be for the Urban Renewal Plan for the North Carver Site, but also on a number of smaller items that she was involved in her prior role with the RDA that are still open. There is a third paragraph, that references myself, Johanna Leighton.

Complaint, Paragraph 3:
In an email that you sent on 8/3/23, you informed Attorney O'Donnell that the RDA voted to hire Ms. Clarke. This email contradicts the explanation that was provided to the Attorney General and is not consistent with a vote that was taken.

Attorney Corbo's reply - In any event, at its meeting on September 5, 2023, the RDA made it clear that it did not vote to hire Ms. Clarke and it approved the issuance of an RFQ for Consultants.

Attorney Corbo's email: In regard to the hiring of Ms. Clarke on your agenda for 12/5, did the RDA vote to hire her at that meeting? Due to the confusion that this new complaint is going to cause, I recommend that I meet with the RDA so that we can discuss the matter and you can authorize me to respond. Please let me know when your next meeting is.

Ms. Leighton – Attorney Corbo stated that the vote to hire Ms. Clarke was contradictory. I will admit that the grammar was incorrect. However, I need you to watch the video again to see how I conjected that all together to make this all understandable.

Attorney Corbo –

I am Town Counsel for the Town of Carver and the Carver Redevelopment Authority. That was a good summary. I sent that email to you, before we spoke. Once we spoke and you explained what you meant, now that I read it, it seems much clearer to me, but I can also see how it could be misconstrued.

What this all evolves around is that back in August, you had an agenda item that indicated that you were going to discuss the possibility of hiring a consultant. That meeting led to an Open Meeting Law Complaint alleging that your meeting notice was not specific enough to warn the public as to what the nature of your discussion was going to be. The requirements of the law in the Attorney General's regulations are that the meeting notice has to have enough detail in it that a reasonable person can look at this notice and have an understanding of what you are going to discuss. In the context of hiring contractors or employees, the Attorney General has advised that if you are going to discuss the hiring of a specific party, you should disclose that in the meeting notice so that if people are interested in that particular party, they can decide whether or not to attend. During that August meeting, there was a discussion, generally speaking, about whether or not you should hire a consultant with respect to the Rte. 44 Development and other complicated projects that you were going to have. Ms. Sharon Clarke, was present, participated in some conversation and was invited to submit a resume. My interpretation of what occurred at that meeting was that you were having a general discussion concerning the hiring of a consultant, Ms. Clarke was here. She was invited but it was made very clear that every member of the public was invited to submit a resume for that position. That was further reinforced at your next meeting in September where you not only explained what the purpose of the earlier meeting was but you then went on to discuss the request for qualifications that you were going to issue and again invited members of the public to apply. Request for Qualifications was posted on the Town website. It was clear to me that, at that August meeting, the board was not going into that meeting intending to discuss hiring a specific individual but rather that you were intending to discuss the hiring of consultants, generally. I responded to the complaint in that manner.

Subsequent to that, I was not privy to this, but I guess there was a public records request. As part of that response, several emails between the Chair and Attorney O'Donnell were disclosed as part of that request. One of those emails contained a summary of what happened at the August Meeting.

"Our committee voted to hire a Consultant and Sharon was present/asked/accepted/is sending in a resume" As a result of this, the complainant now filed a second complaint stating that our response to the first complaint was dishonest and that this email, in fact, was evidence of the fact that you hired Ms. Clarke as an expert, at that prior meeting. After hearing the Chairs explanation, it is clear that this sentence was to convey two different thoughts. 1. You voted to hire a consultant. 2. Sharon was present and asked to submit a resume. Both are true. It is my position that nothing has happened to change our original position, that the meeting agenda for the August meeting was sufficiently detailed. With your approval I will submit a response to the Attorney General, to that affect.

There is a second aspect to this complaint that does raise an issue. When the chair sent those two emails to Attorney O'Donnell, she also copied a quorum of the Board. It is clear she is doing that for informational purposes. She did not ask questions nor ask or receive a response. However, the Attorney General has interpreted the Open Meeting Law that any time a member of a body with their own original thoughts and they copy those thoughts to a quorum of the Board, that constitutes a deliberation subject to the Open Meeting Law. In that respect, it is my opinion, that it was an error to copy a quorum of the Board on those email messages. In the future, if you are going to communicate with Attorney O'Donnell or myself, it should be from only one member and if you want the other members to be aware of those communications you would have to address them at public meeting of the Board. The Attorney General office has addressed situations like this; they happen all the time, they are a very easy and common mistake to make. The way you rectify such a mistake is to disclose the emails to the public. In this case, that has already been done. They are part of a response to a public records request; they are attached to the complaint that you are discussing today. I recommend that the complaint be attached to the minutes of this meeting. In my opinion that would fully disclose any issues that arose as a result of those emails.

Mr. Noblett – Ms. Leighton distributed a copy of "Reasons for convening Executive Sessions" previously. I reference to #8. In essence, could we have had those discussions in an open meeting and be allowed to discuss her qualifications as she would pass a preliminary screening so that her documents and her qualifications could be reviewed. Attorney Corbo – That provision has a very limited application. When a public body is going through a hiring process, they could create a separate screening committee for the purposes of vetting the applicants. That separate committee can meet in Executive Session. The reasoning for that is that an applicant may not want to disclose that they are applying for this job to his/her current employer. They still have to post notice of the fact that they are meeting in Executive Session. Once they have a finalist list, to the hiring authority, then those names become public and the hiring authority conducts the interviews and further decision making in public session.

Mr. Noblett – I understand that, but the last sentence, "This clause should not apply to any meeting for applicants that have passed a prior preliminary screening. She had already been the Chair for many years we would be able to discuss openly those kinds of topics. Mr. Belbin indicated that we were discussing things and making decision. Anyone would do that in Executive Session but we would do in a public meeting and not violate anything. Attorney Corbo – The issue is not whether you could have this discussion. It was an appropriate conversation. The issue is that the meeting notice should have said "interview with potential consultant, Sharon Clarke." Instead, the notice was very broad. My review of that meeting indicates that you did have a very broad discussion. Nothing in that meeting indicated an intent on the part of this Board to only talk about a specific person. Mr. Noblett – I just seemed like a normal flow of conversation that is appropriate in a public meeting. Attorney Corbo - Your subsequent meetings really bare that out. The following meeting, you discussed the RFQ; this was also on the agenda for several other meetings. It's not that you couldn't talk about it in open session; it is that you didn't disclose any specific people. Mr. Moore – I don't know that we knew any specific people at the time this agenda was written. You have this line to walk; you can't print everything that will be discussed in a meeting. In my opinion it was a very broad discussion. Ms. Clarke was here. Her qualifications were discussed and did have some input on the need for a consultant.

Mr. Noblett – When reading a post by Mr. Belbin in CHC, "speaking of the RDA, they are being investigated by the AGO for filing a response that contains lies" He's making this post, relying on his complaint, as the basis to stand on and shout out to the public. He is misleading everyone else who is reading this and it is detrimental to our organization. He should be held accountable for that statement. He also spoke about how bad the elected officials are with no basis. This hurts the Town. He should be held accountable. Attorney Corbo – There is very little accountability for things posted on social media. With the First Amendment, people have a right to say what they want to say. I know it is difficult; you need to just ignore the noise and do your job. Yes, you are being investigated on a claim that is based on false allegations. I am going to defend you in that complaint so that the Attorney General sees what actually happened. A decision will be rendered accordingly. Your meetings are recorded; anyone who wants to see what happened at that meeting can see the recordings.

Mr. Meagher – I have dealt with the Open Meeting Law for many years. You mentioned the "reasonable person concept" but that should hold on both sides. The person doing this is not a reasonable person and has spent years doing this, going over every little thing. He has cost the Town 10's of thousands of dollars There has never been a significant issue or a situation where a Board has, with intent, tried to circumvent the Open Meeting Law. He does this will all the Boards; what is his end game? What has been the betterment of all these complaints? Mr. Noblett – This is an example of slander being raised to harassment. Maybe there is a case to be made for that.

Ms. Leighton – He stated in the Open Meeting Law Complaint that the "RDA conspired", that is heavy word. He wants investigation into illegal actions, criminal charges, fines. "This type of fraud and corruption in any government should not be allowed in those part of the actions must be held accountable." Those are pretty strong words. What is our recourse? We want to stop this. All he should have done, if he has a problem with Sharon Clarke, he should come to a meeting and let us know how he feels. He doesn't, he hides behind Social Media. Based on what he says, what is our recourse. Mr. Moore – Our recourse is what we are doing right now and sending a response to the Attorney General's office. We know that we have done everything the right way. We still have not voted; we didn't vote on 12/5/23, what is our next steps? Should we wait until a decision? Mr. Belbin does not have a good track record with filing these complaints. We need to let the courts and Attorney General office do their due diligence. I think it's clear that we didn't conspire. We were learning the rules of engagement with the Consultant as we were going and learning new things that we needed to do, including posting the RFQ, giving a timeline for qualifications; adhering to that timeline, posting an agenda for a vote on 12/5 and then tabling that vote until our meeting with Attorney Corbo today. Is there anything else we should do? Attorney Corbo – I understand your frustration; the reality is that when you sit where you are, you have to be able to withstand a certain amount of criticism and comments being made that may or may not be true. People have a right to criticize their government. This does cost a lot of money and takes away time you could be doing other important work. With my experience with the Attorney General office, they are not looking to punish public officials who are acting in good faith. This is a very complicated law; they look at their role as being educators. With respect to the emails, it was a mistake to copy the other members of the Board but we are here to fix that. Mr. Elliman – If we think we are acting in good faith do we have to respond to this individual every time? Attorney Corbo – It's not your option, if a complaint is filed, the law requires that you respond. Mr. Meagher – We are just a bunch of people who volunteer our time and want the Town to be a better place. I agree with Ms. Leighton, if someone has an issue, they should come into a meeting and discuss it.

Ms. Leighton – On the email that I am sending an email now it says, "Confidential, not a public document Attorney/Client Privilege". Had that been on my email, I am thinking that these emails should have had a second opinion. Why didn't the Recordkeeper get a second opinion? That needs to be fixed. I believe that Bob Belbin knew Kathleen was our attorney and he sent it in anyway. What was Bob's criteria when he made that request? The Records Keeper had to reach out to Mr. Neely for this request because it's on a different server. What was his procedure? Was it

followed correctly? The Records Keeper should have obtained a second opinion before sending these emails out. They missed the second step. I don't know if Bob Belbin still has an email in this Town. If he does, he should not; he doesn't deserve it. He serves on other committees in our Town; can he get access to the website; can he edit anything? We need to look at some things in regard to Mr. Belbin as well as the entire Record Keeping procedure. I am not satisfied and I will be filing a complaint. Attorney Corbo – I do understand your frustration. This is not the appropriate forum to resolve some of those issues. I will work with Town Administration on a procedure for records requests. I have also recommended to you that if you are going to have communications with counsel, that you label them as such so that people who are reviewing records request are aware. In this particular case, to someone that didn't know, there is no real indication on there that you were communicating with counsel. The public records law does exempt from disclosure any communication that are protected by the attorney/client privilege. Any communication that you have with your attorney that is intended to be confidential, is not subject to disclosure under the public records law.

Mr. Moore – In full disclosure, when Ms. Leighton sent the email in July; she had only been Chair for 3 weeks. The predecessor was not even available to hand over the reins. Attorney Corbo – My job is not to cast blame on anyone here. You are volunteers, acting in good faith. My goal is to teach you what the law is.

Ms. Leighton – At the very end, he asked for draft minutes. Why do we allow unapproved minutes to be given? Mr. Meagher – Is a draft a public record? Attorney Corbo – The Supervisor of public records takes the position that draft minutes are public records until they are voted and approved. Once they are voted on and approved, the approved minutes now become which then become the official record of the minutes and the draft can be discarded. The draft minutes need to be very clearly marked as "draft" minutes. Mr. Moore – What constitutes the draft minutes being ready? Attorney Corbo – There is a chain of events. Once the draft minutes are recorded, they are public record. Mr. Moore – So at the end of tonight's meeting, those minutes are public record? Attorney Corbo – Yes. Once the draft minutes are created and exist in the files of the Town, then those notes and recordings can be deleted and the draft minutes become the record. Once the draft minutes come to the Board and they are approved, the draft minutes can be discarded and the approved minutes become the final minutes become the official record of the meeting. The definition of public record is "any record made or received by a public official". Mr. Meagher – I know that Boards or Committees have approved minutes but not release them? Attorney Corbo – Only in Executive Session minutes, they do not have to be released until the Executive Session purpose has expired.

Ms. Leighton – Years ago, the Planning Director disseminated a package that included everything for a meeting. Now, we are electronic. Once the agenda is prepared, as the Chair, could I pull together all the items pertinent to the agenda and send it electronically to the Board? Would it have to be sent individually or could I send it to the Board? Attorney Corbo – You can send materials that will be discussed at the meeting as long as you don't add your commentary to that. Many boards will actually post that packet online. Mr. Meagher – As members no one can comment back. Mr. Moore – What if this email was sent individually? Attorney Corbo – It would still be a violation as it contains her thoughts.

Motion to acknowledge receipt of Open Meeting Law complaint dated 12/4/23 and authorize Town Council to respond on our behalf: Mr. Moore
Second: Mr. Noblett
Approved: Unanimous (5-0)

Mr. Moore – Would it be counsel's recommendation to delay this as we are not in any rush? Attorney Corbo – That is up to you. The existence of these complaints doesn't have any bearing on your decision making. Mr. Moore - What is the general timeline on these issues? Attorney Corbo – It could be months. You could put this on your agenda for your next meeting to decide how you want to proceed, that would be fine.

Next meeting:

Our next meeting will be held on January 9, 2024

Adjournment:

Motion to adjourn at 7:20PM: Mr. Moore
Second: Mr. Meagher
Approved: Unanimous (5-0)

Exhibit(s)

A: Open Meeting Law Complaint

B: “Reasons for Convening Executive Session”

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Reasons for Convening Executive Session (M.G.L. c.30A, Sec. 21(a))

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 brought 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 nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion 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.

6. 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 clause 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.

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Procedures for Convening Executive Session

1. The meeting must be convened in an open posted session, with executive session listed on the agenda when reasonably anticipated by the chair.

2. A majority must vote in a recorded roll call to go into executive session and the vote must be recorded.

3. The chair must state the purpose for the executive session, including all subjects that may be revealed without compromising the purpose of the executive session (and, under exemptions 3, 6, and 8, makes the required declaration).

4. The chair must announce whether the meeting will reconvene in open session.

5. Accurate minutes and other records of the executive session must be maintained, with all votes recorded by roll call.

Rights of Individuals

1. When a governmental body wishes to discuss: (a) the reputation, character, physical or mental health of an individual; or (b) the discipline or dismissal of or complaints or charges brought against a public officer, employee, staff member or individual, it must notify that person in writing at least 48 hours in advance of the meeting, not including Saturdays, Sundays or holidays.

2. Written notice may be waived by the individual.

3. The individual may choose to instead have the meeting held in open session.

4. If an executive session is held, the individual has the right to be present for deliberations, to speak, and to have counsel or a representative of choice present for the purpose of giving advice but not for active participation.

5. The individual may have an independent record of the executive session created by audio recording or transcription, at the individual's expense.

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THE PUBLIC RECORDS LAW
G.L. c.66, §10 and G.L. c.4, §7(26)

Basic Facts

- A presumption exists that all governmental records are public records subject to mandatory disclosure upon request, unless a statutory exemption is applicable.
- The law applies to any kind of "document" made or received by a public officer or employee, regardless of its format, such as papers, maps, recordings, e-mails, computer generated or stored records, etc.
- The law applies to records in existence and in the custody of the public entity. Therefore, a public entity is not required to either create a record in response to a public records request, or answer questions posed by the requester.
- A public records request may be made in person or in writing; a public entity is not obligated to respond to requests made by telephone only but may do so in its discretion.
- A Records Access Officer ("RAO") or other custodian of public records is presumed to have superior knowledge of the records in his or her custody or in the custody of the public entity generally, and even if a records request is not precise, RAOs/records custodian should use their superior knowledge of the records to attempt to identify and provide responsive records.
- Generally, requesters may not be asked why they are seeking a particular record, subject to limited statutory exceptions.

The Response

- A public entity ***must*** respond to a records request within 10 business days following receipt of the request.
- A public entity must provide a written response if any record(s) sought by the requester will not be produced or will be redacted. That written response has specific required elements. *See KP Law reference card, "New Public Records Law - Responding to a Public Records Request" for more information.*
- Pursuant to the Public Records Access Regulations, 950 CMR 32.00 et seq., a public entity may charge a requesting party the following fees:

  (1) Photocopies (black and white) single or double sided, $.05 per page; computer printouts (black and white), $.05 per page, unless otherwise specified by statute; and for records not susceptible to ordinary means of reproduction, the actual cost to provide a copy.

  (2) Search time (i.e., the time necessary to search for and copy responsive records) or segregation time (i.e., the time necessary to delete or redact protected information from records otherwise subject to disclosure); such fee to be determined at the pro-rated hourly rate of the lowest paid employee capable of performing the search, but no more than $25 per hour. Municipal RAOs may seek permission of the Supervisor of Records to charge a higher rate, however.

  NOTE: Municipalities with 20,000 or more residents may not charge for the first two hours of work. There may be further limitations upon the time that may be charged for segregation and redaction.
- The analysis a public entity undergoes upon receipt of a public records request is generally the same regardless of the identity of the requester, except in certain limited circumstances, such as where the requester or requester's representative has a "unique right of access" as a result of statutory, regulatory or other judicial means (i.e., requests for abutters' lists in land use permitting matters, union information requests pursuant to G.L. c. 150E, and requests from litigants in civil or criminal cases).

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Frequently Asserted Exemptions

- Exemption (a) allows withholding of records that are "specifically or by necessary implication exempted from disclosure by statute."
- Exemption (c) allows withholding of "personnel and medical files or information any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy; provided, however, that this subclause shall not apply to records related to a law enforcement misconduct investigation."
- Exemption (d) allows withholding of "inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based."
- Exemption (e) allows withholding of "notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit."
- Exemption (f) allows withholding of "investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest."
- Exemption (h) allows withholding of "proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person."
- Exemption (i) allows withholding of "appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired."
- Exemption (n) allows a records custodian, who reasonably believes that disclosure is "likely to jeopardize public safety" to withhold records including, but not limited to, "blue prints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety, or cyber security, of persons, buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth."
- Exemption (o) allows withholding of "the home address, personal email address and home telephone number of an employee of the judicial branch, an unelected employee of the general court, an agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of a political subdivision thereof or of an authority established by the general court to serve a public purpose, in the custody of a government agency which maintains records identifying persons as falling within those categories; provided that the information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180, or a criminal justice agency as defined in section 167 of chapter 6."

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Gregg J. Corbo
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September 4, 2023

Ms. Carrie Benedon
Assistant Attorney General
Director, Division of Open Government
Office of Attorney General
One Ashburton Place, 20th Fl.
Boston, MA 02108

Re: Town of Carver Redevelopment Authority -
Open Meeting Law Complaint Dated August 7, 2023

Dear Ms. Benedon:

KP Law, P.C. represents the Town of Carver Redevelopment Authority (the "Authority"). The Authority (the "Authority") received the attached Open Meeting Law Complaint on August 7, 2023, concerning the notice for the Authority's August 1, 2023 meeting. The Authority met on September 5, 2023, acknowledged receipt of the complaint and authorized this response.

The Complainant alleges that the notice for the August 1, 2023 meeting did not comply with the posting requirements of the Open Meeting Law because the notice did not contain sufficient detail concerning the Authority's discussion and vote to invite resumes for the position of consultant. Specifically, the Authority's meeting notice contained the item "Utilization of Consultant". Discussion of the item began at approximately the 7:54 minute mark of the meeting.[1] During the discussion, the Authority discussed its need for the expertise of consultants on certain projects, its authority to retain consultants and the procedure for doing so. During the discussion, at approximately 10:00 into the meeting, Authority member Leighton invited all members of the public to apply for the position.

Former RDA member Sharon Clarke was in attendance at the meeting and was invited by the chair to participate in the discussion. As the discussion progressed, Authority Member Leighton stated to her that "it is amazing that you're here" (See discussion at 15:00) and asked her if she would be interested in applying for the position. After further discussion, at approximately 17:39 minutes into the meeting, the following motion was voted "To ask Ms. Sharon Clarke, former Chair of the RDA to submit a resume for the purpose of becoming the consultant for the RDA primarily on the urban renewal plan for the North Carver site but also on a number of other smaller items that she was involved in in her prior role here that are still open." The Authority did not vote to award the position to Ms. Clarke or any other person and after taking that vote it moved on the other matters.

[1] The Authority's August 1, 2023 meeting can be viewed in its entirety via the following link: http://area58.tv/video/carver-redevelopment-authority-august-1-2023/

A public body must post notice of every meeting at least 48 hours in advance, not including Saturdays, Sundays, and legal holidays. G.L. c. 30A, § 20(b). Meeting notices must contain the date, time, and place of the meeting, as well as a listing of topics that the chair reasonably anticipates will be discussed. G.L. c. 30A, § 20(b). The list of topics shall have "sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting." 940 CMR 29.03(l)(b). A topic is sufficiently specific when a reasonable member of the public could read the topic and understand the anticipated nature of the public body's discussion. See Attorney General Open Meeting Law Determination, OML 2015-35. When reviewing a meeting notice for sufficiency, unless it is clearly insufficient on its face, the notice is not reviewed standing alone. See Attorney General Open Meeting Law Determinations, OML 2016-149; OML 2015-109; OML 2014-155. Rather, the sufficiency of the notice is based on what was actually discussed at the meeting to determine if the notice was sufficiently specific to make the public aware of topics that were discussed. See Attorney General Open Meeting Law Determination, OML 2016-149.

In this matter, the Authority's notice stated that it intended to discuss the utilization of consultants. During its deliberation of the matter, the Authority engaged in a general discussion concerning its need for input from outside consultants, its authority to hire consultants and the procedures that would be used. The Authority discussed the creation of a job description and made an open invitation to all members of the public to apply. Former Authority member Sharon Clarke was in attendance during the meeting and was allowed to provide input to the Authority as to the procedures used in the past. As a result of the discussion, Ms. Clarke was invited to apply for the position. No decision was made as to whether or not to accept her application and neither Ms. Clarke nor any other person was hired as a consultant.

Based on the discussion that occurred during the meeting, the topic "utilization of consultant" was sufficiently detailed to inform members of the public that the Authority intended to have a broad discussion of the topic, which it did. During its discussion, although a specific individual who was in attendance at the meeting was discussed, no binding decisions were made. The Open Meeting Law does not require a public body to list all tangential topics related to a discussion. See Attorney General Open Meeting Law Determination, OML2021-153. Here, it was clear from the course of the discussion that the Authority had no intention of hiring a specific individual for the position of consultant and it did not do so. Rather, it simply invited one person to apply, along with all other members of the public. Through this response, the Authority acknowledges that it cannot hire a particular person as a consultant unless it votes to do so at a duly noticed public meeting, which notice should include the name or names of persons who may be voted upon. Therefore, based on the discussion that actually took place at the meeting, there was no violation of the Open Meeting Law as to the Authority's August 1, 2023 meeting notice.

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Thank you for your attention to this matter.

Very truly yours,

Gregg J. Corbo