

HAMILTON TOWN MANAGER MEETING

MINUTES OF OPEN MEETING LAW (OML) PRESENTATION

Teleconference

March 29, 2021

Selectmen Present:	BOS Vice Chair William Olson, Rosemary Kennedy, and Jamie Knudsen
Selectman Absent:	Chair Shawn Farrell and Darcy Dale
Human Rights Commission Members Present:	Nancy Stehfest, Alaina Walsh, Jared Hughes, Anne Brady, Christina Holz, Jamie Knudsen and Maya Beach (student/associate member)
Human Rights Commission Members Absent:	Police Chief Russel and Jo Anne Copeland
Town Manager:	Joe Domelowicz Jr.
Other Town Staff Present:	Pat Shannon, Assistant to the Town Manager and Community Preservation Committee Coordinator
Town Counsel:	Tom McEnaney

** This meeting was conducted via Zoom teleconference with all the above participants remaining in their homes.*

Call to Order

The meeting was opened by Town Manager Joe Domelowicz Jr., who was in his car. He turned the virtual floor over to Town Counsel Tom McEnaney of KP Law at 6:10 p.m. Attorney McEnaney, who was conducting the Open Meeting Law (OML) presentation, noted that a quorum of the Board of Selectmen (BOS) and a quorum of the Human Rights Commission were present and advised the Chairs to call their respective boards to order.

BOS Vice-Chair William Olson called the BOS to order and took a roll call. Three BOS members were present: Mr. Olson, Rosemary Kennedy, and Jamie Knudsen.

Mr. Domelowicz called the Human Rights Commission (HRC) to order for the Commission because the Commission does not yet have a Chair. A roll-call was taken. HRC members

present were Nancy Stehfest, Anne Brady, Maya Beach (student/non-voting), Alaina Walsh, Christina Holz, Jared Hughes, and Mr. Knudsen.

Mr. Domelowicz said the presentation this evening was an opportunity to have a refresher on OML. He turned the floor back to Mr. McEnaney and then left the meeting. Mr. McEnaney introduced himself as a shareholder with the KP Law firm. He is Hamilton's Town Counsel and also represents the Town of Wenham. He said the seminar was designed to be an overview of issues that arise and wasn't to serve as legal advice for any specific issues.

AGENDA

Mr. McEnaney's PowerPoint presentation was shared onscreen. The slide deck is available on the Town website. KP Law agenda items included:

- **Overview of Sunshine Laws**
- **Definitions and Application of the Open Meeting Law**
- **Meeting Notices**
- **Executive Session**
- **Meeting Minutes**
- **Remote Meetings during COVID-19**
- **Public Records and Conflict of Interest Laws**

Mr. McEnaney covered each agenda item and provided detail from his slides. Some takeaways from the meeting:

- OML falls under the category of Sunshine Laws. Conflict of Interest and Public Records Law also fall under this category. The purpose of Sunshine Laws is to ensure governmental transparency. Under OML, public bodies can only conduct public business through public meetings unless an exception exists.
- Meeting minutes are not a transcript, but must include sufficient detail to allow a person who did not attend the meeting to understand what was discussed and how a board came to its decision. They must include the roll-call votes taken at the meeting, as well as a list of documents "used" at the meeting. ("Used" is defined as physically present, verbally identified, or discussed by the members.) This list needs to be made available to the public as part of the record. Therefore, consideration should be given when documents are discussed as they will become public record.
- A meeting is defined as *a deliberation amongst a quorum of a public body to discuss matters within the jurisdiction of the body*. A deliberation is defined 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*. Members are cautioned against using "reply all" when responding to an email.
- One OML violation ruling by the Attorney General discussed by Mr. McEnaney as surprising was just saying "unanimous" when recording an official vote in the minutes was not sufficient. Doing so was determined to be in violation of OML. Each member's name needs to be listed out to show how each member voted. This needs

to be done even if the vote is unanimous and all the members are listed elsewhere in the document.

- While recordings of meetings are typically made and are available to the public, a written document of meeting minutes is required for each meeting and is to be posted with the Town Clerk's office.
- Even in draft form, minutes are considered a public record subject to disclosure if someone makes a public request for them.
- If the minutes taker makes an audio recording to work from, it may be destroyed after the minutes are filed unless there has been a public request for those minutes in which case it should be kept (in case there are questions).
- Executive Session minutes should be reviewed on a periodic basis to determine whether they can be approved and released to the public.
- Executive sessions can happen for one of only 10 purposes, which Mr. McEnaney listed, and there is a specific procedure that needs to be followed when entering into Executive Session, which Mr. McEnaney reviewed.
- Executive Session meeting minutes should ideally be reviewed within an executive session to avoid having things inadvertently disclosed that haven't yet been made public.
- When posting agenda items, one should be as specific as possible and acronyms or abbreviations should be avoided since the public might not be familiar with them.

Mr. McEnaney said Public Records Law would require another session if it were to be discussed in detail, but he thought it important to note that all records made by a governmental body are considered public records with some exceptions. Documents should not be disposed of. He noted that if a board member makes or receives an email relating to board business, in most cases, the email will be considered a public record, even if it was sent via one's personal email account. If it involves public business, it should be considered public record, he said, although this doesn't necessarily mean it would be ruled that the document needed to be released. He added that this would also include social media posts.

Mr. McEnaney recommended the Attorney General's website as a good resource for OML guidance, as well as KP Law's website. He said one of the firm's most popular handouts involves instructions for entering into Executive Session and is available for download. He invited questions from the attendees.

Assistant to the Town Manager/Community Preservation Coordinator Pat Shannon said there was one question in the chat, which asked if any of the violations discussed had been done by Hamilton. Mr. McEnaney said no, he didn't believe so.

Mr. Knudsen asked about the social media issue mentioned. He asked, concerning the Hamilton-Wenham community pages, whether it was important that the Selectmen or board and committee members not comment on those sites since they might be seen by two or more other board members. Mr. McEnaney said they could comment on social media, but should be cautious because communicating directly with other board members

or commenting on or liking their posts could be problematic. He said it wasn't necessarily that there would be a filing of a violation, but there is a risk that a violation might be found if there is serial communication there. He said if one member of a board posts something, another member of that board might want to refrain from commenting, especially if it is about a matter that is going to come before the board.

Mr. McEnaney invited the meeting attendees to email him with any other questions they had. His email address was provided on the last page of the slide deck, which he said Mr. Shannon would make available soon.

Adjournment

Mr. Knudsen made a motion to adjourn the meeting for the BOS at approximately 7:48 p.m. Ms. Kennedy seconded the motion. A roll-call vote was taken with "ayes" from Mr. Knudsen, Ms. Kennedy, and Mr. Olson, (3-0) unanimous among those present.

Mr. Hughes made a motion to adjourn the meeting for the Human Rights Commission. A roll-call vote was taken with "ayes" from Ms. Holz, Ms. Stehfest, Ms. Brady, Mr. Knudsen, Ms. Walsh, and Mr. Hughes, (6-0) unanimous among those present.

Prepared by:

Mary Alice Cookson / 5-19-2021
Mary Alice Cookson Date
Minutes Secretary

Attest:

Dargy Dale / 05-19-2021
Dargy Dale Date
Selectboard Clerk

Documents Discussed at Meeting:

- PowerPoint slide deck / Open Meeting Law presentation by Attorney Tom McEnaney of KP Law.