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January 25, 2019

OML 2019 – 4

Thomas J. Calter
Town Administrator
Town House
26 Evergreen Street
Kingston, MA 02364

RE: Open Meeting Law Complaints

Dear Mr. Calter:

This office received three complaints from Susan Munford on December 6, 2018 and December 10, 2018 alleging that the Kingston Board of Selectmen (the "Board") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaints were originally filed with the Board on October 22, 2018; and you responded, on behalf of the Board, by letter dated January 15, 2019.¹ The complaints allege that the Board failed to timely approve minutes of meetings it held on November 28, 2017; March 9, 2018; and April 20, 2018.

We resolve these complaints by **informal action** in accordance with 940 CMR 29.07(2)(a), after reviewing the original complaints, the Board's response to the complaints, the complaints filed with our office requesting further review, and the notice and open session minutes of the Board's October 30 meeting. We find that the Board violated the Open Meeting Law as alleged.

The Open Meeting Law requires that a public body "create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, 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." G.L. c. 30A, § 22(a). The meeting minutes must be reviewed and approved in a timely manner. G.L. c. 30A, § 22(c). "Timely manner" means "within the next three public body meetings or within 30 days, whichever is later, unless the public body can

¹ We remind the Board that the Open Meeting Law requires that within 14 business days of receipt of a complaint, the public body must to review the complaint's allegations; take remedial action, if appropriate; send to the complainant a response and a description of any remedial action taken; and send to the Attorney General a copy of the complaint and a description of any remedial action taken. G.L. c. 30A, § 23(b); 940 CMR 29.05(5).



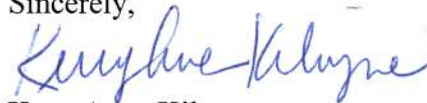
show good cause for further delay.” See 940 CMR 29.11; OML 2018-48.² Whenever possible, we recommend that minutes of a meeting be approved at the next meeting. See OML 2018-67; OML 2017-133.

During an October 30, 2018 meeting, the Board approved minutes of its November 28, 2017; March 9, 2018; April 20, 2018; October 2, 2018; and October 16, 2018 open session meetings. The complaint alleges that the minutes of Board meetings held on November 28, 2017; March 9, 2018; and April 20, 2018 were not approved in a timely manner because they were not approved either within the next three public body meetings or 30 days. Here, the Board was required to approve the minutes within the next three public body meetings or 30 days, whichever is later. See 940 CMR 29.11; OML 2018-48. However, the Board did not approve the minutes of its November 28, 2017 meeting until its 31st meeting thereafter, and 336 days had passed; did not approve its March 9, 2018 minutes until its 22nd meeting, thereafter, and 236 days had passed; and did not approve its April 20, 2018 minutes until its 18th meeting, thereafter, and 194 days had passed.

The Board suggests that it had good cause for delay because of staffing changes. We understand the demands on a public body with limited staff; however, the Board is still obligated to timely approve minutes. See OML 2018-111; OML 2017-115. The responsibility for complying with the Open Meeting Law rests with public bodies and members of such bodies, not with individual public employees, such as administrative staff. See OML 2018-105. We conclude that the Board did not provide good cause for the delay and therefore it violated the Open Meeting Law by failing to approve the minutes in a timely manner. See OML 2018-133.

We order the Board’s immediate and future compliance with the law’s requirements, and we caution that similar future violations could be considered evidence of intent to violate the law. We now consider the complaints addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Board. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



KerryAnne Kilcoyne
Assistant Attorney General
Division of Open Government

cc: Susan Munford
Kingston Board of Selectmen

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.

² Open Meeting Law determinations may be found at the Attorney General’s website, www.mass.gov/ago/openmeeting.