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MEMORANDUM

To: Board of Selectmen  
  
Conservation Commission  
  
Planning Board  
  
Zoning Board of Appeals  
  
Finance Committee  
  
School Committee

From: Christopher J. Petrini

Date: July 25, 2011

Re: Open Meeting Law: Recent Attorney General Ruling Regarding Contract Approval

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On May 16, 2011, this office issued an advisory the Attorney General's issuance of letter rulings to various local boards and committees regarding complaints under the new Open Meeting Law. These letters are publicly posted on the Attorney General's website. This

A number of these rulings have dealt with the issue of the level of specificity required in the posted agenda for a public meeting. Since these rulings have implications for all municipal boards and committees, we are advising our clients of the guidelines that have been set down by the Attorney General's office. As described below, the Attorney General's office

has made it clear that vague agenda items such as “town meeting update” and “renewal of soil permits” will not suffice to comply with the law. The examples described below provide guidance as to the level of detail required under the new law, and should be followed by all town boards and committees when posting meeting agendas.

The Open Meeting Law provides that, except in an emergency, a public body shall post notice of every meeting at least 48 hours in advance, and the notice “shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.” G.L. c. 30A §20(b). The Attorney General’s regulations further state that boards and committees must a meeting notice that sets forth with “sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.” 940 CMR 29.03.

In a letter to the Freetown Soil Conservation Board dated February 15, 2011, the Attorney General ruled that an agenda item listed as “Renewal of Fall Soil Permits” did not meet the specificity requirement of the Law. The Attorney General found that the chair of the board reasonably anticipated that certain specific permits were to be discussed at the meeting, and the agenda item did not provide enough clarity. The Attorney General determined that the agenda should list the details of each permit that was to be considered for renewal at the meeting. The information to be included on the posting should include the name of the applicant, permit number, and the location of the land to which the permit applied. Further, if a permit renewal should be inadvertently omitted from the listing on the agenda, the Attorney General advised that such a permit could be considered at a subsequent, adequately posted meeting. Although the Law allows items not reasonably anticipated by the chair and therefore not reflected on the notice to be considered by the board, the Attorney General noted that whenever possible a board should postpone action on an item that was not listed on the meeting notice.

Accordingly, the practice of some boards and committees to have an agenda item for annual renewal of permits no longer complies with the requirements of the Open Meeting Law. Unless other guidance is forthcoming from the courts or the Attorney General’s office, each permit that is to come before a board or committee at annual renewal time should be listed on the agenda with sufficient information to inform the public of the applicant’s name and the premises to which the permit or license applies.

Similarly, in a letter to the Natick School Committee dated February 1, 2011, the Attorney General's office found that the School Committee did not provide adequate notice for one of its meetings. The agenda listed under the Superintendent's Report the following item: "Town Meeting Update". The School Committee discussed seven different warrant articles under this agenda item. The Attorney General found that the Committee was aware more than 48 hours before the meeting of specific warrant articles that would be discussed. Therefore, the chair should have listed those articles as part of the agenda, since "Town Meeting Update" did not provide enough specificity to inform the public of what was to be discussed and voted on. The Attorney General's office recommended that the agenda read as follows: "Discussion of Town Meeting Warrant Articles 1, 9, 10, 18, 32, 33 and 35. The School Committee may vote to recommend action on these articles at Town Meeting."

Finally, in a letter regarding a meeting of the Holbrook Board of Selectmen, the Attorney General found wanting an agenda item listed as "Proposed Holbrook Industrial Development Complex." The Attorney General ruled that the agenda should have included sufficient information to identify the property, such as the address or identifying landmarks.

Based on the above rulings by the Attorney General's office, town boards and committees should take care to include sufficient information in the meeting notice so that the public will have reasonable notice of the items to be discussed. If you have any specific questions with regard to complying with the Open Meeting Law, do not hesitate to contact this office.