



Town of Ashland

MASSACHUSETTS

Select Board Meeting
July 23, 2021 11:00 AM
Virtual

Attending: Joe Magnani, Yolanda Greaves, Brandi Kinsman
Absent: Steve Mitchell and Rob Scherer

Joe Magnani called the meeting to order 11:05 AM. The Board discussed the draft responses prepared by Town Counsel. The Board wanted to strike the sentence that implied Mr. Morgan requested a meeting with the Board. The Board fully understands that Mr. Morgan was referring to an expectation for a formal response to his complaint.

Yolanda Greaves moved to approve the letters as presented with the amendment to the February 2 response. Brandi Kinsman seconded this motion. It passed 3-0.

The Board discussed the request to raise the Indian flag on August 15 to celebrate the 75th anniversary of India's Independence.

Yolanda Greaves moved to approve the raising of the Indian flag on August 15, 2021. Brandi Kinsman seconded this motion. It passed 3-0.

Yolanda Greaves made a motion to adjourn the meeting. This motion was seconded by Brandi Kinsman. 3-0.

July 21, 2021

Via Electronic Mail

Director of Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
openmeeting@state.ma.us

RE: Open Meeting Law Complaint
Public Body: Town of Ashland Select Board
Complainant: Stephen Morgan
Alleged Violation Date: Ongoing
Dates of Complaint: February 2, 2021
Dates Received: February 2, 2021_

Reference is made to the above-captioned matter. In that connection, the Town is in receipt of and has reviewed the Open Meeting Law complaint submitted by Stephen Morgan on February 2, 2021, attached hereto as Exhibit A. In his complaint, Mr. Morgan takes issue with the Town's response to his November 30, 2020 email request to the Town Clerk and Select Board, attached hereto as Exhibit B, for "various minutes of the BOS that were not posted to the towns [sic] website." Specifically, Mr. Morgan alleges that "[n]o meeting was scheduled to discuss and I received no response as required...various minutes which were late and not posted were posted shortly after the request but many were not."

On November 30, 2020, Mr. Morgan made the following email request from the Town Clerk and the Select Board (via the Board's general email address: boardofslectmen@ashlandmass.com): "Please post or provide minutes for the following meetings listed under BOS where no minutes are currently posted." The email then listed 67¹ Select Board meeting from January 14, 2016 to November 18, 2020.

First, the Town is not required to schedule meetings with individuals who request open meeting minutes, it is required to respond to such requests in accordance with G.L. c. 30A, § 22(c) and (g). Second, The Board would have responded to Mr. Morgan's request sooner had he complied with the

¹ Mr. Morgan added the August 2, 2018 and December 12, 2016 meetings to the list in his February 2, 2021 complaint for a total of 69 meetings. See Exhibit A.

Town's repeated suggestion that he file such requests via the Town's NextRequest online platform, which it uses to manage and respond to all public records and Open Meeting Law requests and complaints. Instead, he chose to do so by emailing the Town Clerk and Select Board.

Even so, in a good-faith effort to comply with the Open Meeting Law – and as Mr. Morgan admitted in his complaint – the Board has been working diligently to locate and post all minutes requested by Mr. Morgan. For the executive session minutes, this also includes reviewing the requested minutes to determine whether continued nondisclosure is warranted.

Regrettably, the Board was unable to meet Mr. Morgan's request in a timely manner and has been unable to locate many of the minutes he requested; however, the Town continues to search for them diligently as it implements a new tracking system for executive session minutes to avoid such difficulties going forward. When the Town locates the remaining open meeting minutes, it will notify Mr. Morgan and post them forthwith. For the remaining executive session minutes, once located, the Town will immediately notify him of how long it will take to review said minutes to determine whether continued nondisclosure is warranted. The board will notify Mr. Morgan as soon as such determination is made and when it releases any minutes that no longer need to be withheld.

Based on the foregoing, the Select Board respectfully requests that this matter be dismissed without further action. Please do not hesitate to contact me with any questions or concerns. Thank you for your kind consideration.

Very truly yours,

Alexander M. Castro
Town Counsel

cc: Ashland Select Board
Tara Ward

July 21, 2021

Via Electronic Mail

Director of Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108
openmeeting@state.ma.us

RE: Open Meeting Law Complaint
Public Body: Town of Ashland Select Board
Complainant: Stephen Morgan
Alleged Violation Date: Ongoing
Dates of Complaint: June 28, 2021
Dates Received: June 28, 2021_

Reference is made to the above-captioned matter. In that connection, the Town is in receipt of and has reviewed the Open Meeting Law complaint submitted by Stephen Morgan on June 28, 2021, attached hereto as Exhibit A, in which he alleges that the Town failed to respond to his February 2, 2021 Open Meeting Law complaint, attached hereto as Exhibit B.

In his February 2, 2021 complaints, Mr. Morgan takes issue with the Town's response to his November 30, 2020 email request to the Town Clerk and Select Board, attached hereto as Exhibit C, for "various minutes of the BOS that were not posted to the towns [sic] website." Specifically, Mr. Morgan alleges that "[n]o meeting was scheduled to discuss and I received no response as required... various minutes which were late and not posted were posted shortly after the request but many were not."

On November 30, 2020, Mr. Morgan made the following email request from the Town Clerk and the Select Board (via the Board's general email address: boardofslectmen@ashlandmass.com): "Please post or provide minutes for the following meetings listed under BOS where no minutes are currently posted." The email then listed 67¹ Select Board meeting from January 14, 2016 to November 18, 2020.

¹ Mr. Morgan added August 2, 2018 and December 12, 2016 to the list in his February 2, 2021 complaint for a total of 69 meetings.

As noted in the Town's previous responses to Mr. Morgan's Open Meeting Law complaints, the Board has repeatedly advised Mr. Morgan to submit his Open Meeting Law requests and complaints via the Town's NextRequest online platform, which it uses to manage and respond to all public records and Open Meeting Law requests and complaints. The reason the Town has advised Mr. Morgan to do so is because it is exceedingly difficult to keep track of such requests and complaints when they are unpredictably sent to different locations. This is why the Town pays to use the NextRequest online platform. Nonetheless, Mr. Morgan again chose to submit his February 2, 2021 complaint by emailing the Town Clerk and Select Board. The email is attached hereto as Exhibit D. Unfortunately, the complaint was overlooked as the Town was reviewing the four Open Meeting Law complaints submitted by Mr. Morgan shortly thereafter on February 4, 8, 11 and March 2, 2021, respectively. The Town responded to each of these complaints in a timely manner.

Even so, in a good-faith effort to comply with the Open Meeting Law – and as Mr. Morgan admitted in his February 2, 2021 complaint – the Board has been working diligently to locate and post all minutes requested by Mr. Morgan in his November 30, 2020 email. For the executive session minutes, this also includes reviewing the requested minutes to determine whether continued nondisclosure is warranted.

Regrettably, the Board was unable to meet Mr. Morgan's request in a timely manner and has been unable to locate many of the minutes he requested; however, the Town continues to search for them diligently as it implements a new tracking system for executive session minutes to avoid such difficulties going forward. When the Town locates the remaining open meeting minutes, it will notify Mr. Morgan and post them forthwith. For the remaining executive session minutes, once located, the Town will immediately notify him of how long it will take to review said minutes to determine whether continued nondisclosure is warranted. The board will notify Mr. Morgan as soon as such determination is made and when it releases any minutes that no longer need to be withheld.

Based on the foregoing, the Select Board respectfully requests that this matter be dismissed without further action. Please do not hesitate to contact me with any questions or concerns. Thank you for your kind consideration.

Very truly yours,

Alexander M. Castro
Town Counsel

cc: Ashland Select Board
Tara Ward