

Town of Southborough, Ma. Virtual Meeting of the Affordable Housing Trust Fund

July 3, 2024 Schedule for 7:00 PM

Open Session

1. Meeting Called to order at 7:01 Present were Ms. Cook, Ms. Jasinski, Mr. Stivers, Ms. Landry and Mr. Hamilton. Absent were Mr. Dennington and Mr. Boland
2. A motion was made and seconded to enter into Executive Session and not returning to Open Session per Open Meeting Law Exemption 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. The committee will discuss strategy regarding a response to the Open Meeting Law Complaints of Ms. Jasinski, dated 6/24/24 and 7/1/24.
 - a. Ms Jasinski objected to the use of Executive Session. Mr. Hamilton replied that he had reviewed the matter with Town Counsel who had opined that an Open Meeting Law Complaint qualified as litigation and that entering into executive session was appropriate.
 - b. The Committee Voted as follows: Cook – Yea
Jasinski – Nay
Cook - Yea
Stivers – Yea
Hamilton – Yea
Landry – Yea
Dennington – Absent
Boland - Absent

Submitted A. Hamilton

Jay Talerman<jay@mtclawyers.com>

To: Al Hamilton

Mon 7/1/2024 1:19 PM

You forwarded this message on Tue 7/16/2024 8:41 AM

[EXTERNAL]

OML Complaints are considered litigation and accordingly it fits that exemption. A notice "to discuss strategy regarding a response to the Open Meeting Law Complaint of _____, dated _____"



Jason R. Talerman

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 Think before you print.

AH

Al Hamilton

To: jay@mtclawyers.com

Mon 7/1/2024 1:12 PM

I cant find an executive session exemption that fits the response to the OML complaints. The SB on 6/28 met in open session to refer the matter to you (very fast meeting).

I propose the following open session agenda:

To discuss and approve a response to the Open Meeting Law complaints of 7/1/24 and 6/24/24.

I would like to post this for Wed evening or Fri AM

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July 3, 2024 Schedule for 7:00 PM

Executive Session

1. Following the vote to enter into Executive Session Present were Ms. Cook, Ms. Jasinski, Mr. Stivers, Ms. Landry and Mr. Hamilton Absent Mr. Boland and Mr. Dennington.
2. A brief discussion was held regarding Ms. Jasinski's Open Meeting Complaint against the Affordable Housing Trust Fund Committee. Mr. Hamilton indicated that he was following the instructions of Town Counsel.
3. A motion was made and seconded to refer the matter to Town Counsel. The vote was as follows:
 - Cook – Yea
 - Jasinski – Abstain
 - Stivers – Yea
 - Hamilton – Yea
 - Landry – Yea
 - Dennington – Absent
 - Boland - Absent
4. A motion was made and seconded to adjourn at 7:15 and not return to open session. The vote was as follows:
 - Jasinski – Yea
 - Cook - Yea
 - Stivers – Yea
 - Hamilton – Yea
 - Landry – Yea
 - Dennington – Absent
 - Boland - Absent

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To discuss and approve a response to the Open Meeting Law complaints of 7/1/24 and 6/24/24.

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On 7/3/24 the Affordable Housing Trust Fund Committee (AHTFC) of the Town of Southborough voted the following response to the Open Meeting Law complaints filed by Ms. Jasinski on 6/24/24 and 7/1/24.

The complaints are without merit as the meeting in question was posted for, and limited to, the Select Board. The following background facts are given:

1. The Southborough Select Board consists of 5 elected members serving staggered 3-year terms.
2. The AHTFC is composed of 7 members. By law, the Select Board is represented on the AHTFC by all 5 of the Select Board Members. There are 2 at large members. Ms. Jasinski is one of the at large members. Mr. Hamilton, a Select Board Member, is chair of the AHTFC.
3. Southborough has adopted the Community Preservation Act and has large sums of monies dedicated to Community Housing which have been unallocated for many years.
4. The Select Board, as an elected body, has stated in multiple forums its desire to increase the stock of affordable housing in the town of Southborough. For the second year in a row, it has formalized this goal as part of its yearly goal setting meeting. In furtherance of this goal, the Select Board is on record as favoring the transfer of funds from the Community Preservation Act Community Housing funds to the Affordable Housing Trust Fund, as is commonly done in other communities in the Commonwealth.
5. The Select Board is the appointing authority for both the AHTFC and SHOPC and, as elected officials, responsible to the voters for the performance of these committees.

Regarding the specifics

6/24/24 Complaint:

1. It is undisputed that Mr. Hamilton, who is both the Chair of the AHTFC and a Select Board Member, did meet with the Community Preservation Act Committee (CPAC) for the purposes of discussing the transfer of Community Housing Funds to the AHTF as is desired by the Select Board.
2. It is undisputed that Mr. Hamilton gave a brief synopsis of the meeting to the Select Board at a duly posted public meeting. Said briefing was posted on the Select Board Agenda under Members Reports. Further, the agenda included, under a separate heading, discussion and possible voting with respect to the annual goals set by the Select Board. As previously discussed, making progress on Affordable Housing and transferring the CPA Community Housing Funds are important goals established by the Select Board.
3. It is certainly true that the Select Board did discuss matters pertaining to the AHTFC, as is their policy making prerogative. However, at no point did the Select Board deliberate on matters within the AHTFC's unique jurisdiction.

Discussion

Mr. Hamilton met with the CPAC as Select Board Member with an interest in Affordable Housing matters. His report is best characterized as being a report by a Select Board member to the full Select Board on matters of the public's and the board's interest.

The Complainant appears to argue that, because the Select Board also comprises a quorum of the AHTFC, the Select Board is forbidden from discussing matters related to affordable housing, or the AHTFC's role therein, unless a meeting of the AHTFC is also posted. While noting the confusion caused by the Select Board's dual role, this is incorrect. So long as the members of the Select Board only deliberate as members of the Select Board and not as members of the AHTFC, then no posting of the AHTFC is required.

7/1/24 Complaint.

The 7/1/24 complaint alleges error in the Select Board's, rather than the AHTFC's meeting to discuss OML complaints. However, in that 7/3 meeting of the AHTFC is timely, the 7/1 complaint is moot.