



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

RECEIVED

JUL 28 2020

WINCHENDON TOWN CLERK

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Marc Last Name: Dorwart

Address: 245 Mellen Road

City: Winchendon State: MA Zip Code: 01475

Phone Number: 801-631-6771 Ext. _____

Email: marcdorwart@gmail.com

Organization or Media Affiliation (if any): _____

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual

☐ Organization

☐ Media

Public Body that is the subject of this complaint:

☒ City/Town

☐ County

☐ Regional/District

☐ State

Name of Public Body (including city/
town, county or region, if applicable):

Board of Selectmen

Specific person(s), if any, you allege
committed the violation:

Manager Keith Hickey, Chair Mike Barbaro, Vice Chair Richard Ward

Date of alleged violation:

7/13/20

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

At the end of the July 13, 2020 Winchendon BOS meeting, town manager Keith Hickey stated the Select Board would go into executive session for reason #6 as stated in the meeting agenda "Exemption No. 6- To consider the purchase, exchange, lease or value of real estate, if the Chair so declares - Mellen Road".

As Mellen Road is not being purchased, exchanged or leased and there is no presumed reason for its valuation, I challenged the Board to provide a reasonable basis for a closed door meeting. Mr. Hickey stated that I could not do that. I paraphrased from the Attorney General's Open Meeting Law Presentation Handout that states that "a body must be able to demonstrate a reasonable basis for this claim if challenged." Mr. Hickey then stated a new reason for the closed meeting - to discuss a letter sent to the town by an attorney representing a group of residents residing along Mellen Rd. I then quoted the Open Meeting Law Handbook where it states the Executive Session Purpose 6 is "to consider purchase, sale lease or value of real property" which the BOS agenda and Mr. Hickey had already stated to be "Mellen Road."

Mr. Hickey and Chair Mr. Barbaro then again amended their reason for executive session to be the valuation of Mellen Road refusing to demonstrate a reasonable explanation. I asked Mr. Barbaro "who owns Mellen Road?" as any reason for a closed discussion of the value of the road would suggest the Chair would know who owns the road. He refused to answer.

I stated my objection to a closed meeting as the Board provided no demonstration of a legal reason for executive session. Mr. Ward then reached for his keyboard closing the open meeting.

There was no vote to go to executive session. Chair, Mr. Barbaro, did not state all subjects that may be revealed without compromising the purpose for which the executive session was called. The chair did not publicly announce whether the open session will reconvene at the conclusion of the executive session.

The letter from the attorney Mr. Hickey originally stated as being the subject of the executive session does not mention or require a discussion of the value of the real property Mellen Road. The regular formalities required to go in to executive session did not take place. Along with other citizens, I do not feel the body had any intention of complying with the spirit or formality of the open meeting laws. The letter in question lays out several wrong doings and blatant violations of Massachusetts law committed by the town manager and allowed by the BOS body.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Immediately and in the future comply with open meeting law.
Attend formal training on open meeting law.
Produce the minutes and video of the executive session.
Nullify in whole any action taken at the meeting.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____

Date: JULY 28 2020

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO: