

**Wellfleet Selectboard Meeting
Special Meeting
Wednesday, November 6, 2019 at 1:00pm
Town Hall Basement Hearing Room**

Select Board Members Present: Chair Janet Reinhart; Helen Miranda Wilson; Kathleen Bacon;
Regrets: Justina Carlson; Michael DeVasto
Also Present: Dan Hoort, Town Administrator

Call Meeting to Order

Chair Reinhart called the meeting to order at 1:00 pm.

Special Meeting to discuss, deliberate, and take appropriate action against the Open Meeting Law Complaint filed by Jude Ahern on 10/22/2019

Hoort said the purpose of this meeting was to discuss Ms. Ahern's filing that the Board violated the Open Meeting Law (OML), not to talk about what the Board discussed at the September 24, 2019 meeting. He said the Board posted a proper notice, in the form of an agenda, on its website on September 20 at 12:40 p.m. for a meeting which was to be held at least 48 hours later, on September 24 at 7:00 p.m. The topics that were listed for discussion at the meeting included Item IV B – Discuss, deliberate and take appropriate action to respond to the letter from the Planning Board. A copy of the referenced letter was included in the agenda packet posted on-line.

Town Administrator Hoort recapped the events leading up to the September 24th Selectboard discussion.

1. On September 13, the Town Administrator forwarded Ms. Ahern's e-mail to Mr. Parent and requested advice from Town Counsel in response to the same. The Planning Board subsequently discussed the e-mail at its meeting on September 18, and, in light of the tone threatening an assault on public officials, decided that prompt action was required. As such, on September 18, the Planning Board voted to send a letter to the Selectboard requesting that the Selectboard address the matter appropriately.
2. The Selectboard received the letter from the Planning Board and included it as a topic of discussion on its meeting notice for the September 24 meeting.
3. The Board is under no obligation under the OML to notify a resident when the Board will discuss – in open session - an email the resident sent to the Board.
4. The Town Administrator and Town Counsel are not public bodies subject to the OML.
5. The remedies requested by the Complainant – an apology, discipline of the TA, replacement of counsel, or education of the importance of the First Amendment – are not appropriate remedies under the OML.

Wilson said her memory was that the letter sent on September 10 was from Ms. Ahern to the Board, not sent directly to Mr. Parent. Hoort confirmed this as true. Wilson said the text of the OML Guidelines asks the Chair to post an agenda that will include anything that will be reasonably anticipated to discuss. She said that the OML Guidelines state that the agenda should include a list of topics that is sufficiently specific to reasonably inform the public of what is to be discussed at the meeting. Wilson said that, arguably, the Board did what was required by the letter of the OML but did not include Ms. Ahern's name in the item's agenda description which would

have been more specific. She noted that the e-mail from Ahern which discussed her proposed “assault” on the Planning Board as well as the letter in response from the Planning Board where both included with the agenda packet when posted on-line.

Wilson asked that all Board members be able to discuss Counsel’s response to this. Hoort said there wasn’t enough time for that because the Board is required to respond within 14 days. Wilson asked to review the response at the next meeting, which will take place on November 12, 2019. Wilson noted that the meeting transcript by Ahern and included with her complaint is an accurate transcript of the meeting, with only a few minor words off that don’t change the meaning. She said she felt the Board discussed this matter reasonably and with care.

Bacon stated she was not at the September 24th meeting but has gone over the tape and the transcript, saying she agrees with Wilson’s assessment of the word “assault” at that meeting and was taken aback that someone would think Ms. Ahern’s use of the word would mean to do serious harm. Bacon said, however, she agrees with Wilson that the Board followed the letter of OML, which in Section (4)(b), suggests in the Guidelines that an individual be named in the agenda if the matter being discussed pertains to them. She said she felt Ms. Ahern should have had the opportunity to have attended the September 24th meeting.

Reinhart said she and Hoort would work on the letter and say the Board feels they are not in violation of OML but could have been more descriptive, according to the Guidelines.

- Wilson moved to authorize Town Counsel to submit a response on the Board’s behalf to the Open Meeting Law complaint received from Jude Ahern on October 25, 2019 regarding the Selectboard meeting on September 24th and to designate Chair Janet Reinhart to act as liaison with Town Counsel to review and approve the response.
- Bacon seconded, and the motion carried 3-0.

Wilson requested the response include the following:

1. That although the Board followed the letter of the OML in posting the agenda, including “a listing of topics that the Chair reasonably anticipates will be discussed at the meeting”, the clarification of this OML section provided in the OML Guidelines states that the description on an agenda requires greater specificity: “The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting.” And to acknowledge that it would have been best to reference Ahern as the writer of the letter referred to in the Planning Board’s September 19, 2019 letter to the Selectboard on the October 24, 2019 agenda;
2. That the meeting transcript of that meeting’s agenda item made by Ahern and included with her complaint, is an accurate transcript;
3. The e-mail from Ahern which discussed her assault on the Planning Board as well as the letter in response from the Planning Board where both included with the agenda packet when posted on-line.

Approved November 26, 2019

Adjournment

- Bacon moved to adjourn.
- Reinhart seconded.

Meeting was adjourned at 1:22 pm.

Public Records Materials:

1. Open Meeting Law complaint filed by Jude Ahern, dated October 22, 2019 and received on October 25, 2019
2. The letter from Ms. Ahern to the Selectboard about Parent's appointment, dated September 10, 2019
3. The letter from the Planning Board to the Selectboard about that, received September 19, 2019
4. PDF of Open Meeting Law
5. PDF of Open Meeting Law Guidelines