



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

TEL: (617) 727-2200
www.mass.gov/ago

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OML 2018 – 65

Laura Shifrin
Chair, Townsend Housing Authority
272 Main Street
Townsend, MA 01469

RE: Open Meeting Law Complaint

Dear Ms. Shifrin:

This office received a complaint from Cindy King on January 14, 2018, alleging that the Townsend Housing Authority Board (the "Board") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Board on or about October 27, 2017, and you responded to the complaint, on behalf of the Board, by letter dated November 16, 2017.¹ In her complaint, Ms. King alleges that the Board discussed revisions to a set of draft minutes outside of a meeting and made changes to those minutes, including omitting a document that had been described in the original version of the minutes. Ms. King also alleges that the Board removed a topic, originally listed on its October 23, 2017 meeting notice, from a subsequent notice for the Board's October 27, 2017 meeting.

Following our review, we find that the Board did not violate the Open Meeting Law. In reaching a determination, we reviewed the original complaint, the Board's response to the complaint, and the complaint filed with our office requesting further review. We also reviewed the Board's original and revised September 18, 2017 meeting minutes, the Board's October 23, 2017 meeting notice, and the Board's October 27, 2017 meeting notice and minutes. Finally, we communicated by email with Board Chair Laura Shifrin and Board member Charles (Chaz) Sexton-Diranian on February 28 and March 1, 2018.

¹ For purposes of clarity, we will refer to you in the third person hereafter. Additionally, we note that the complainant submitted a revised complaint to the Board on November 22, 2017. The substance of the allegations remained unchanged, however.



FACTS

We find the facts as follows. The Board posted notice of a meeting for October 23, 2017, in part, to “Approve Minutes of Monday, September 18, 2017” and to discuss “Report of 9/28/2017 focus group w/Veterans-Chaz.”² The minutes and report were attached to the notice. Failing to achieve a quorum on October 23, 2017, however, the Board postponed this meeting until October 27, 2017. In the notice for this meeting, the Board omitted the topic regarding the veterans focus group and revised the topic concerning the approval of minutes as follows: “Approve Minutes of Monday, September 18-redrafted from input of the board and attached- Votes may be taken.”

Prior to the October 27, 2017 meeting, Chair Shifrin sent an email to the other Board members by blind copy, asking them to individually respond to her with any suggested revisions to the September 18, 2017 meeting minutes. Chair Shifrin received edits only from Mr. Sexton-Diranian specifically concerning the veterans focus group discussion. Although the original version of the minutes stated that a veterans’ focus group report was presented to the Board, the Board contends that it was not a written document, but rather an oral report or summary. Thus, the revised minutes changed this section of the discussion, initially reporting that Mr. Sexton-Diranian “gave a report of the fact finding group” to “gave a summary” and omitted the reference to a written report being attached to the minutes.

DISCUSSION

In general, meetings of a public body must be noticed and open to the public. G.L. c. 30A, § 20(a), (b). A meeting is “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” G.L. c. 30A, § 18. A deliberation is “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.” *Id.* A “quorum” is, generally, a simple majority of the members of a public body. *Id.*

Public bodies have an obligation to “create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.” G.L. c. 30A, § 22(a). The law also requires that the “[m]inutes of all open sessions shall be created and approved in a timely manner.” *Id.* at § 22(c).

First, the complaint alleges that the Board discussed revisions to its September 18, 2017 meeting minutes outside of a meeting. Chair Shifrin and Mr. Sexton-Diranian communicated about the revisions outside of a meeting. Because only two of the five Board

² We note that, on September 25, 2017, the complainant filed an Open Meeting Law complaint with the Board alleging that this “fact finding group” was a subcommittee subject to the Open Meeting Law. In its response, the Board pledged to disband the group. The complainant did not seek further review of this complaint from our office.

members, hence a subquorum, discussed and made revisions to the minutes outside of a meeting, we find that the Board did not deliberate in violation of the Open Meeting Law. See OML 2017-86; OML 2016-99.³

Second, the complaint alleges that the Board's revised September 18, 2017 meeting minutes fail to reference a veterans' focus group report which was presented to the Board at that meeting. When reviewing minutes for compliance with the Open Meeting Law, we look for substantial compliance with the accuracy requirement. See OML 2013-64. By substantial compliance, we mean that the minutes should contain enough detail and accuracy so that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred. See OML 2012-106. According to the Board, the original draft version of the meeting minutes, which stated that a focus group report was attached, were inaccurate as no such report was distributed or discussed at the meeting. Rather, Mr. Saxton-Diranian reported or offered a summary to the Board about the focus group meeting. Absent evidence to the contrary, we credit the Board's account and find that the revised meeting minutes accurately reflect the Board's discussion during the meeting.⁴ Accordingly, the Board did not violate the Open Meeting Law by making that revision to its minutes.

Finally, the complaint alleges that the Board removed a topic regarding the veterans focus group report, originally listed on its October 23, 2017 meeting notice, from a subsequent notice for its October 27, 2017 meeting. A public body must post notice of every meeting at least 48 hours in advance, not including Saturdays, Sundays, and legal holidays. G.L. c. 30A, § 20(b). Notices must include "a listing of topics that the chair reasonably anticipates will be discussed at the meeting." Id. A public body, in its discretion, decides which discussion topics to include in a meeting notice and may decline to discuss topics at any time without violating the Open Meeting Law. See OML 2016-76 ("where a public body does not actually engage in any deliberation on a particular topic, it cannot violate the Open Meeting Law with respect to the sufficiency of the meeting notice"). Accordingly, the Board did not violate the Open Meeting Law by omitting this topic on its October 27, 2017 meeting notice where it did not discuss the topic during the meeting.

CONCLUSION

For the reasons stated above, we find that the Board did not violate the Open Meeting Law. We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Board. Please feel free to contact our office at (617) 963-2540 if you have any questions

³ Open Meeting Law determinations may be found at the Attorney General's website, <http://www.mass.gov/ago/openmeeting>.

⁴ We note that the Open Meeting Law does not require documents used by a public body during a meeting to be physically attached to the meeting minutes, but rather that the minutes contain a list identifying those documents. G.L. c. 30A, § 22(a).

regarding this letter.

Sincerely,



Hanne Rush
Assistant Attorney General
Division of Open Government

cc: Cindy King

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.