

**BOARD OF SELECTMEN  
SPECIAL MEETING MINUTES – July 8, 2019**

7:00 p.m. - Selectmen's Meeting Room, 63 Main Street, Northborough, MA

**MEMBERS PRESENT:** Jason Perreault, Chairman  
Dawn Rand, Vice Chairman  
Timothy Kaelin, Clerk  
Leslie Rutan  
Julianne Hirsh

\*Pledge of Allegiance

7:00 p.m. - Review of Open Meeting Law Complaint filed by Lisa Maselli regarding the April 22, 2019 meeting of the Board of Selectmen, and consideration of a response and any remedial action.

Chairman Perreault reviewed the events leading up to the June 20, 2019 receipt of an Open Meeting Law complaint filed by Lisa Maselli asserting that the Board violated the Open Meeting Law by action at the meeting of April 22, 2019 in advance of the Annual Town Meeting.

Historically, the Board considers its Town Meeting recommendations at a scheduled meeting held just prior to the start of the Annual Town Meeting. The agenda item wording used for the April 22, 2019 meeting clearly stated, "Preparation for Town Meeting and review of recommendations."

Ms. Maselli asserts in her complaint that the Board deliberated on a warrant article sponsored by her (regarding the Town bylaw which governs removal of snow from sidewalks) without her being adequately warned in advance.

The complaint was forwarded to Town Counsel for an opinion, of which Chairman Perreault read aloud in its entirety. In the opinion of Town Counsel, the agenda, as posted, was sufficient enough to warn citizen's that the Board would be reviewing recommendations for the Town Meeting Warrant. It would be reasonable to conclude that any topic on the Town Meeting Warrant might be subject to discussion and a recommendation vote by the Board.

Based on Town Counsel's guidance, Chairman Perreault determined that the Board did not violate the law and that no remedial action under the Open Meeting Law is required.

Selectmen Rand, Kaelin and Rutan noted their agreement with Town Counsel's opinion that the Board did not violate the Open Meeting Law. Selectman Kaelin asked Mr. Coderre to provide a cost estimate and the number of staff hours used in response to this complaint. Selectman Hirsh noted her disagreement with Town Counsel's opinion, based on what was written in past minutes from Selectmen's Meetings prior to Town Meeting.

Chairman Perreault noted for the record that Ms. Maselli's issue with the bylaw initially arose when the DPW Department did not immediately plow the sidewalks on Maple Street after a snow storm. On March 4, 2019, Ms. Maselli inquired by email to the DPW Department if there was a change in the policy regarding snow removal from sidewalks. The DPW Director responded to Ms. Maselli the next morning indicating that the sidewalk on Maple Street was plowed during the overnight, adding that the Town performs sidewalk snow removal beyond Town owned parcels as a courtesy to the public. Given the timing and duration of the storm, staff was unable to plow the parking lots and sidewalks, which was why school had been cancelled. He also included the language from the Snow Removal Bylaw, which states that property owners are responsible for clearing the sidewalks in front of their property.

Chairman Perreault added that this was the only communication Ms. Maselli had with the Town regarding this inquiry before she submitted her citizen's petition to the Town Clerk. The petition simply proposed to delete the bylaw requiring homeowners to clear snow from the sidewalks in front of their property. Once a citizen's petition is submitted to the Town Clerk, modifications to the language cannot be made outside of Town Meeting. It must be printed in the Town Meeting Warrant as submitted. In addition, the language in the warrant article confines the scope of what can be discussed and what amendments can be made to that warrant article by Town Meeting.

Between the time that Ms. Maselli submitted the citizen's petition to the Town Clerk and the time she arrived at the Annual Town Meeting with the presentation that she intended to make, Ms. Maselli did not have any communication with Town officials, including the Town Moderator, regarding her citizen's petition; therefore, the Board voted its position based upon the petition as included in the warrant. To ensure that the amendments included in the presentation were within the scope of the warrant article as printed in the Town Meeting Warrant, Ms. Maselli was advised to speak with Town Counsel and the Town Moderator. She was then informed that certain aspects of her presentation were straying too far from the language that was initially submitted in the citizen's petition and was advised that her proposed amendments could not be included in her presentation.

Chairman Perreault indicated that a review of the events at Town Meeting regarding Ms. Maselli's proposed amendments are important, since they have nothing to do with the Open Meeting Law. Ms. Maselli's Open Meeting Law complaint relates only to the text of the agenda notice for the April 22<sup>nd</sup> meeting. It is Town Counsel's opinion that the text was adequate in providing notice to the citizen's that matters to be presented at Town Meeting could be discussed by the Board. He added that the Board did discuss Ms. Maselli's warrant article and voted unanimously to not recommend approval. Following Ms. Maselli's presentation at Town Meeting, the Board, through its Chair, did not recommend approval of the article.

Selectman Rand moved the Board vote to find that no remedial action is required in response to the Open Meeting Law complaint dated June 20, 2019 and to authorize the Chair to work with Town Counsel to prepare a written response to the complaint; Selectman Rutan seconded the motion. Vote 4-0-1 (Selectman Hirsh opposed).

**ADJOURNMENT**

Selectman Rand moved the Board vote to adjourn; Selectman Kaelin seconded the motion; all members voted in favor.

Meeting adjourned at 7:30 p.m.

Respectfully submitted,

Diane M. Wackell  
Executive Assistant to the  
Board of Selectmen

Documents used during meeting:

1. July 8, 2019 Meeting Agenda
2. Memorandum from Town Administrator
3. April 22, 2019 Meeting Packet
4. Town Counsel Legal Opinion
5. Ms. Maselli's Open Meeting Law Complaint