



# OPEN MEETING LAW COMPLAINT FORM

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

Town Of Westwood  
Planning Department

FEB - 5 2020

RECEIVED

Please note that all fields are required unless otherwise noted.

## Your Contact Information:

First Name: Christopher Last Name: Pfaff

Address: 534 Everett St.

City: Westwood State: MA Zip Code: 02090

Phone Number: [REDACTED] Ext. \_\_\_\_\_

Email: [REDACTED]

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): Westwood Planning Board  
Westwood, MA

Specific person(s), if any, you allege committed the violation: Debra Conant, Brian Gorman, William Delay

Date of alleged violation: January 28, 2020

FEB 15 2020

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**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.

On January 28, 2020 the Westwood Planning Board convened a special meeting at the request of Chairman Brian Gorman. The Board was informed that the reasoning behind the meeting was to further discuss the zoning articles The Board was intending to pursue for Westwood's spring town meeting. Mr. Gorman was to present these articles to the Finance and Warrant Commission immediately this meeting later that night. All 5 members were present during the meeting. The meeting was duly advertised with its agenda. Only discussion of the zoning articles appeared on the agenda (see attached).

Following the opening of the meeting Board member Deborah Conant read a pre-written statement indicating her dissatisfaction with the legal advice Town Counsel had offered the Board at a previous meeting. This satisfaction, which she labeled "conjecture" rather than "legal opinion", led to an obvious research on Ms. Conant's part to find an alternate source of legal counsel for the Board; which she identified during her statement. She made a motion to procure the legal services of this alternate counsel. Immediately following her statement (lasting just over 1 minute) Board member William Delay seconded her motion. Immediately following the second, Chairman Gorman stated "I have a motion and a second, all those in favor?" Board members Conant, Delay and Gorman all voted in favor of the motion. Myself and Board member David Atkins voted against the motion. There was never an opportunity for discussion on the matter or opportunity for the alternate legal counsel suggested by Ms. Conant to be properly vetted. Immediately following the vote, I inquired with Community and Economic Development Director (and former Town Planner) Nora Loughane as to whether or not the Board possessed the authority to hire such legal services. A discussion revealed that she felt that although additional counsel has been used in the past, there is a hiring process that exists and it is not as direct/simple as a motion made and passed at only the Planning Board level.

I feel there is no conceivable way a responsible Planning Board member could hear and vote to take action on such a matter in the course of 1 minute, 22 seconds. The hurried manner in which this motion was made and passed indicates to me there must have been prior discussion among the 3 members who voted in favor. Moreover, this was an item not on the agenda and therefore none of the 4 members (not including Ms. Conant who made the motion) would have had any time to digest and understand the motion and then agree to spend \$10,000 of town money as a retainer for legal counsel (with no identified total cost estimate); certainly not in the span of 1 minute, 22 seconds. I believe Planning Board members Conant, Delay and Gorman violated the Massachusetts Open Meeting Law by conducting deliberation(s) on an item not on the agenda. This expeditiously processed motion made on a non-agenda item gave no opportunity for proper public deliberation.

This meeting was video recorded by the Westwood Media Center and can be viewed on their YouTube channel; <https://youtu.be/ZD991lcuA4>

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.

I would like the 3 Planning Board members named above to be duly informed that their actions violated Open Meeting Law and therefore violated the public trust. Although, I believe the motion passed extends beyond the authority of the Planning Board anyway I would like to see the vote removed by the Attorney General's office so there is no reason to pursue the matter.

I feel the town of Westwood would benefit if members Conant, Delay & Gorman be required to take training regarding the duty and ethical responsibility of all elected officials.

**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.

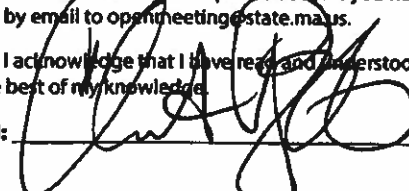
**II. Consulting With a Private Attorney.**

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 [openmeetings@state.ma.us](mailto:openmeetings@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: 2/15/2020

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:



**PUBLIC NOTICE POSTING REQUEST  
TO OFFICE OF THE WESTWOOD TOWN CLERK**

**RECEIVED**

**By Town Clerk at 3:18 pm, Jan 23, 2020**

**ORGANIZATION: Planning Board**

**MEETING**

**PUBLIC HEARING**

**AMENDED NOTICE:  
DATE & TIME OF AMENDMENT:**

(Please circle one that applies)

**DATE: Tuesday, January 28, 2020**

**TIME: 6:30-7:15 pm**

**LOCATION: Champagne Meeting Room Carby St. Municipal Building 50 Carby St.**

**PURPOSE: Regular meeting**

**REQUESTED BY: Abby McCabe, Town Planner**

**NOTE:** Notices and agendas are to be posted at least 48 hours in advance of the meetings excluding Saturday, Sundays, and legal holidays. Please keep in mind the Town Clerk's business hours of operation and make the necessary arrangements to be sure this notice is received and stamped in the adequate amount of time.

**\*\*Disclaimer:** If you have a disability that requires certain accommodations, please contact the Select Board's office at least 48 hours before the meeting, excluding Saturday, Sundays and legal holidays at 781-326-4172 or [selectboard@townhall.westwood.ma.us](mailto:selectboard@townhall.westwood.ma.us)

**LIST OF TOPICS TO BE DISCUSSED**

(For updates to this notice, please see [www.townhall.westwood.ma.us](http://www.townhall.westwood.ma.us))

**Call to Order: 6:30 pm**

The Planning Board will discuss zoning amendments articles for Annual Town Meeting prior to attending in the Finance and Warrant Commission's meeting.

**Adjourn at 7:15PM** to go to Library at 660 High Street to participate in at the Finance and Warrant Commission's meeting.

[Follow us on Facebook @ WestwoodPB](#)

**NOTE:** Per changes to Open Meeting Law, effective July 1, 2010, notice of any meeting of public body shall include "A listing of topics that the chair reasonably anticipates will be discussed at the meeting". Topics must give enough specificity so that the public understands what will be discussed, but not necessarily all items that may come up. Please list those topics above.

Town Of Westwood  
Planning Department

**FEB - 5 2020**

**RECEIVED**



# OPEN MEETING LAW COMPLAINT FORM

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

Please note that all fields are required unless otherwise noted.

## Your Contact Information:

First Name: David Last Name: Atkins

Address: 783 High Street

City: Westwood State: MA Zip Code: 02090

Phone Number: [REDACTED] Ext. \_\_\_\_\_

Email: David.atkins@townhallwestwood.ma.us

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): Westwood Planning Board

Specific person(s), if any, you allege committed the violation: Brian Gorman, Deborah Conant, William Delay

Date of alleged violation: Jan. 28, 2020

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**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.

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1. Between the Planning Board meeting of January 21, 2020 and a special meeting called at the request of Chair Brian Gorman for January 28, 2020, I believe three board members (Chair Brian Gorman, Vice Chair Deborah Conant, and William Delay) violated the Open Meeting Law prohibition against deliberation by a quorum of members outside a public meeting. As demonstrated by the expedited manner in which the subsequent motion was offered and approved, I believe these members came to the meeting with an intentionally pre-arranged strategy to pass a motion to require the town to hire their preferred attorney for a retainer of \$10,000.

2. At the January 28 meeting, I believe Chair Brian Gorman violated the open meeting law requirement that notice of any meeting of a public body include " A listing of topics that the chair reasonably anticipates will be discussed at the meeting." I believe this was an intentional violation because, after granting board member Deborah Conant the opportunity to make a statement--which concluded with her reading a pre-written motion--he accepted the motion and second by board member William Delay, and immediately called for a vote without inviting or allowing discussion by any other board members or staff.

The meeting was recorded by Westwood Media Center and is published on YouTube at <https://www.youtube.com/watch?v=ZD99l1eiuA4> with the vote happening about 2 1/2 minutes into the meeting.

I, along with the other board member, Christopher Pfaff, voted against the motion and immediately questioned whether the board had authority to take the action. When Director of Community and Economic Development Nora Loughnane (who manages the Planning Department staff) informed the board that they lacked authority, Mr. Delay said, "We've made the motion, just let it stand, and well go from there." Chair Gorman moved on to the rest of the agenda.

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

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1. nullify the vote of the Planning Board.
2. acknowledge that the motion and vote was inappropriate.
3. require the 3 board members to complete training in open meeting law compliance and roles and responsibilities of planning board members.
4. acknowledge that the Planning Board does not have the authority to require the town spend money without identifying a funding source.

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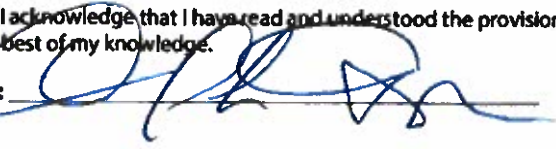
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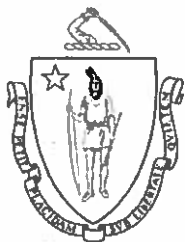
By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: February 5, 2020

For Use By Public Body Date Received by Public Body:	For Use By AGO Date Received by AGO:
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THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY  
ATTORNEY GENERAL

(617) 727-2200  
(617) 727-4765 TTY  
www.mass.gov/ago

February 13, 2020

**VIA EMAIL ONLY**

Lauren F. Goldberg, Esq.  
KP Law, P.C.  
lgoldberg@k-plaw.com

**RE: Request for extension to respond to complaints**

Dear Attorney Goldberg:

On February 13, 2020, our office received your request seeking an extension of time for the Westwood Planning Board (the "Board") to consider its response to two (2) separate complaints that allege violations of the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaints were originally filed with the Board by David Atkins and Christopher Pfaff on February 5, 2020.

In your request, you state that the Board confirmed receipt of and discussed its process for responding to the complaints at its February 11 meeting, but that the Board has also scheduled a special meeting on March 4, at which all five members will be present to discuss the complaints. With the hope that the parties involved can use the additional time to reach a mutually agreeable resolution of the complaint, our office hereby **grants** the request for an extension pursuant to 940 CMR 29.05(5)(b). Please send the Board's response to the complainant by **Friday, March 13, 2020**, and forward a copy of both the complaints and the response(s) to our office.

Please contact the Division of Open Government with further questions.

Sincerely,

Carrie Benedon  
Assistant Attorney General  
Director, Division of Open Government

cc: David Atkins (via email)  
Christopher Pfaff (via email)  
Westwood Planning Board (by mail)

Town Of Westwood  
Planning Department  
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