

AGENDA

FINANCE AND WARRANT COMMISSION SEPT 2023 KICKOFF MEETING

Wednesday, September 6, 2023

IN PERSON

Westwood Public Library – Community Meeting Room

7:00 P.M.

- A. Call to Order at 7:00 P.M.
- B. Grant permission to Westwood Media Center to live stream and videotape the meeting.
Ask if anyone else wishes to record this meeting.
- C. Welcome all participants including members, presenters, and members of the public and press.
- D. Pledge of Allegiance.
- E. **Member Roll-Call.**
- F. Chair's Introductory Comments
 - Welcome New Member
- G. **Presenter(s):** Dottie Powers (Town Clerk) – Open Meeting Law & Ethnics Training
- H. Chair's update –
 - Subcommittee Participation Preferences
 - Financial Analysis of Capital/Borrowing Articles.
- I. Vice Chair's Update –
 - Draft of Onboarding Document
- J. Other business that may properly come before the board – Member Discussion: Topics of Interest, Concerns, Priorities for future meetings.
- K. Old Business – Revised Meeting Schedule, Approval of 06.12.23 Minutes.
- L. Public and Press -
- M. Adjournment – **Roll-Call Vote.**

OPEN MEETING LAW

Review

September 6, 2023



- **Recognize the necessary balance between government accountability and government efficiency.**

Ensures transparency by public bodies requiring:

Notice

Open Deliberations

Public Access

Open Meeting Law Definitions

- ▶ Meeting: A deliberation amongst a quorum of a public body to discuss matters within the jurisdiction of the body.
- ▶ Deliberation: “(A)n 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”
- ▶ Quorum: A majority of the full complement of members of a multiple-member body (*Finance & Warrant Commission 15 member Board-Quorum $\frac{1}{2}$ plus 1 (8)*)
- ▶ Public body: A multiple member board, commission, committee or subcommittee within any city region or town however created, elected, appointed or otherwise constituted, established to serve a public purpose.

OML-Legal Requirements

Addresses three major Issues:

1. Notice

- a) Timing-posted no less than 48 weekday hours not to include weekends or holidays.
- b) Location(must be posted in location accessible 24-hours a day, including website, and meeting must be held in ADA accessible location).
- c) Level of detail must list specific matters to be discussed reasonably anticipated by chair of public body; no acronyms, include executive sessions if applicable; avoid shorthand references.

2. Purpose

- a) Presumption for open session.
- b) Limited authority to meet in closed(executive) session.

3. Minutes

- a) Content(specific enough to allow someone who was not present to know what was discussed).
- b) Timing(within three meetings or 30 days, whichever is later).
- c) Approval(in accord with above time frame, either the body or a designee thereof).

DELIBERATION

- 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.

Excludes:

- Distribution of meeting agenda, scheduling or procedural information.
- Distribution of reports or documents to be discussed provided no opinion of a member of the public body is expressed.
- Subquorum, if no subcommittee and no serial communication.
- Discussion of the recess or continuance of a Town Meeting in the event of a weather related or public safety emergency.

Deliberation-Email

Email is now explicitly addressed in the OML

- A quorum may not use e-mail to share their ideas, feelings, opinions, beliefs, whether serially or in single email, on board business and may not use a non-member to avoid the law.

Practical approaches to avoid violations:

- ✓ Beware of “reply to all” on emails.
- ✓ Limit use of e-mail to scheduling purposes, and try to avoid using e-mail to undertake Town Business.
- ✓ Assume that e-mail may be forwarded to unintended recipients, and therefore limit content to business matters; be prepared to read e-mail in local newspaper or blog.
- ✓ Do not ask for or express opinions ideas feelings ,belief or impression in an email to other members.
- ✓ Be thoughtful about manner in which comments are made.

Deliberation-Social Media

- Social media also subject to the OML.
- Alternative electronic communications have become more prevalent, including blogging, instant messaging, texting, social networking' such as Facebook, Snapchat, and Twitter.

Practical approaches to avoid violations:

- ✓ Do not direct comments to others members of body.
- ✓ If matter directly involves issue pending before body, consider not engaging.
- ✓ Be thoughtful about manner in which comments are made.
- ✓ Remember that applicants have due process rights; if a board member is involved in a matter adjudicating the rights of others only discuss matter at a hearing.

Meetings



Deliberation by public body with respect to any matter within the body's jurisdiction

Practical approaches to avoid violations:

- If attending a meeting of another body or a social event, avoid creating the appearance that a body is discussing municipal business.
- If attending a site visit or meeting of another body, post follow-up meeting of board or committee if members anticipate that they might want to discuss matters amongst themselves or respond to matters raised.
- If a member wishes to speak at a posted meeting of another public body, the member should be clear that the member is not representing their public body, but instead speaking as an individual.
- OR: Post "joint "meeting to be held at the same time and place.

Meetings-Exceptions

Provided no opinions of the governmental body are expressed, attendance or distribution amongst a quorum will not constitute a “meeting” or a “deliberation”:

Excludes:

1. **Distribution to the public body by a member of :**
 - ▶ A meeting agenda
 - ▶ Scheduling or procedural information
 - ▶ Reports or documents that may be discussed at an upcoming meeting,
 - ▶ So long as the material does not express the ideas, feelings, beliefs, opinions of a member of the body.
2. Attendance at an on-site inspection provided no deliberation.
3. Attendance at a public or private gathering or social event.
4. Attendance at a posted meeting of another public body, communicating only by open participation on matters that are under discussion and not privately among themselves.
5. Town Meeting.

Public Body-Subcommittee

- **Subcommittee**-any multiple-member body created to advise or make recommendations to a public body:
 - Intent to create a subcommittee is not required or determinative.
 - AG looks to three factors in determining if group constitutes subcommittee, is it “within government”, “empowered to act collectively”, and serving a “public purpose”.
- **Practical way to avoid violations:**
 - One person does not constitute a subcommittee.
 - Conservative approach- when two or more members are tasked to accomplish something together, post meetings and comply with Open Meeting Law.
- Note that committees created by sole officer, (e.g., Town Manager or School Superintendent) who has authority to act independently are excluded. For example, a school superintendent appoints a four member advisory body to assist her in nominating candidates for school principal.



Scheduling Meetings

► Accessibility

- ✓ Location of meeting must be included in notice .
- ✓ Location of meeting must be accessible; required both by the OML and the ADA.

► Practical considerations include:

- ✓ Ability to meet at privately owned location.
- ✓ Moving meeting to different location (e.g., unanticipated attendance) in same or different building.
- ✓ Closing door during open session.



Meetings via Zoom webinar

- ▶ On March 29, 2023, Governor Maura Healey signed into law a supplemental budget bill which also extended the temporary provisions pertaining to the Open Meeting Law to March 31, 2025. Specifically, this further extension allows public bodies to continue holding meetings remotely without a quorum of the public body physically present at a meeting location, and to provide "adequate, alternative" access to remote meetings. The language does not make any substantive changes to the Open Meeting Law other than extending the expiration date of the temporary provisions regarding remote meetings from March 31, 2023 to March 31, 2025.

Notice – Practical Considerations

- Must be posted no less than **48 weekday hours**, excluding weekends and legal holidays on official posting location.
 - ✓ Topics should give enough specificity so that the public will understand what will be discussed including executive sessions.
- **Matters not reasonably anticipated** by chair **MUST** be added to agenda after posting deadline to extent feasible.
 - ✓ Updated agenda must show time and date of update, as well as change to agenda.
- **Matters not reasonably anticipated** by Chair **MAY** be discussed and acted upon
 - ✓ **AG recommends** that unless matter requires immediate action, should be put off to later meeting and included in posting



Notice-Common Concerns

What if a new topic arises after notice is posted?

- ▶ Public bodies are encouraged to update the notice when made aware of new topic within the 48 hour period before the meeting.
- ▶ Chairs should not post notices so far in advance that there is a high likelihood that new topics will arise.

What if the Town Clerk cannot post notice in time?

- ▶ Please send notices during Town Hall hours. If received after the office is closed notice will not be posted until the next business day.

Cancelling a Meeting

- ▶ Meeting cancellations do not require a 48 hour notice.
- ▶ Meetings that are continued, or cancelled and rescheduled must comply with all notice requirements of the Open Meeting Law.

Other laws may apply(such as notice for public hearings)

REMOTE PARTICIPATION

- The Attorney General's regulations ,940 CMR 29.10 permit remote participation in certain circumstances. Members of public bodies are encouraged to physically attend meetings whenever possible. All members of Town Boards and Committees should make every effort to attend meetings in person. A public body member may participate remotely if that members attendance would be "unreasonably difficult".
- The Board of Selectmen authorized the adoption of 940 CMR 29.10 in January , 2012 so that remote participation would be permitted for meetings of all local public bodies within the municipality and that it be an infrequent event.



Procedures for remote Participation

- Notify Chair at least 48 hrs. in advance
- Chair makes decision to allow or not to allow remote participation; shall be final and not be appealable.
- Remote participation is allowed by telephone, internet, or satellite enabled audio or video conferencing.
- Prior to the meeting the Chair shall make every effort to ensure the equipment is available and functioning properly. If the required equipment is not available then the Chair shall deny the request for remote participation.
- Distribution of Documents.
- At the start of the meeting, the chair shall announce the name of any member who will be participating remotely. This information shall also be recorded in the meeting minutes.

- ▶ A quorum of the body, including the chair shall be physically present at the meeting .
- ▶ Members of the public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other as required by M.G.L.c30A§20(d)
- ▶ All votes shall be by roll call vote. Members may participate remotely even if they are not qualified to vote.
- ▶ Remote participants shall preserve the confidentiality of the executive session. The remote participant shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by simple majority vote of the public body, and that the session is not being remotely recorded by any device.
- ▶ If technical difficulties arise the Chair should suspend discussion while efforts are made to correct any problem that interferes with remote participant's ability to hear or be heard clearly by all persons at the meeting. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred and subsequent reconnection if achieved, shall be noted in the meeting minutes. If a public hearing occurs after disconnection, the member shall be noted as absent.

Executive Session

OML allows public bodies to conduct closed, or executive, meetings in certain circumstances:

Process:

- ▶ Notice must list executive session if executive session is anticipated.
- ▶ First convene in open session.
- ▶ State publicly the purpose(s) of the executive session with majority of members **“stating all subjects that may be revealed without compromising the purpose for which the executive session was called.”**
- ▶ Take and record roll-call to go into executive session.
- ▶ Announce if open session will reconvene afterward.
- ▶ Maintain exhibits and documents used in reasonable proximity to minutes.
- ▶ Only discuss matters cited.
- ▶ Take all votes by roll-call.



Executive Session-Practical Issues

- If executive session is anticipated, it must be listed in appropriate detail on **meeting notice**, with such specificity as is possible without compromising purpose of the session.
- Related **vote to enter executive session** must also include all information possible without compromising purpose of session (i.e., name of non-union personnel or union must be identified in notice and vote if bargaining or negotiations will be conducted; case name to be discussed under litigation strategy must be listed, unless doing so would compromise Town's position); **and declaration must be made, as needed.**



Minutes-Approved

Open session minutes must be created and approved in timely manner.

- New regulations provide that approval must occur generally within the next 3 meetings or within 30 days, whichever is later.
- Minutes of open meetings are public records as of moment of their creation, regardless of whether they have been approved.
- Upon request, minutes must be made available within 10 days.
- If providing a Draft of the minutes please make a notation as follows: *Draft Subject to Revision.*

MINUTES-Contents

- Must state the date, time, place of the meeting, and list of members present or absent.
- Include a summary of discussion of each topic, decision made and actions taken, including a record of all votes; secret ballots are explicitly prohibited.
- List of documents and other exhibits used by the body at the meeting including by remote participants.
- Names of any member who participated remotely and reason remote participation.
- Documents and exhibits used by public body must be retained with the public body but do not need to be physically stored with the meeting minutes.



Minutes- Executive Session

- ▶ May be withheld until purpose of exemption has been met, unless otherwise protected under the Public Records Law.
- ▶ Chair of public body directed to review executive session minutes periodically and bring to the body for its approval minutes for which the purpose of the executive session has expired.
- ▶ Can approve in executive session, either under purpose for which session was originally held, or, if more than one purpose, under Exemption 7, referencing law that allows the same.
- ▶ Must provide a response to a request for executive session minutes within 10 calendar days.
- ▶ Executive session records must be disclosed once publication will no longer defeat the purpose for having entered into executive session, unless exempt from disclosure

OML COMPLAINTS

- ▶ Complaint shall be filed in writing with the public bod(Chair) within 30 days of the alleged violation or the date the complainant could reasonably have known of the violation.
- ▶ The complaint must be filed on a [Complaint Form](http://www.mass.gov/ago/openmeeting) available on the Attorney General's website, www.mass.gov/ago/openmeeting
- ▶ Chair must disseminate the complaint to the members of the public body.
- ▶ Matter must appear on meeting notice.
- ▶ Body must acknowledge receipt of the complaint and also file with the Town Clerk.
- ▶ Should deliberate concerning allegations and possible resolution.
- ▶ Vote to resolve complaint.
- ▶ To be considered timely, complaints must be filed with the AGO within 90 days of the date of the original alleged violation.
- ▶ The AGO will not review allegations that were not raised in the initial complaint filed with the public body.
- ▶ All complaints are considered public records.

State Ethics Requirements

- There is a new Conflict of Interest Law online training program and learning platform where members will complete required training and also read and acknowledge the Summary of the Conflict of Interest Law.
<https://massethicstraining.skillburst.com/User/index.php>
- Every two(2) years, all members are required to complete the conflict of interest law online training program.
- Annually in December, all members will receive a reminder email to go into the online learning platform and review the Summary of the Conflict of Interest Law.
- Once completed an email will be sent to the Town Clerk.
- The certificates are saved in the system, therefore there is no need to email the Certificate.



Thank you

please feel free to contact me with any questions or concerns regarding any of these topics.

- My contact info is as follows:
 - ❖ 781-326-3964-Office
 - ❖ 774-263-8233-Cell
 - ❖ dpowers@townhall.weswood.ma.us
- Educational materials received from Office of AG, Division of Open Government/KP Law

Westwood Finance and Warrant Commission
Annual Reorganization Meeting
JUNE 12, 2023 REMOTE MEETING - ZOOM WEBINAR
7:00 PM
Meeting Minutes

Finance and Warrant Commission Administrator, Ms. Wong, called the meeting to order at 7:00PM. She read the Open Meeting Law pursuant to Chapter 2 of the Acts of 2023. She welcomed all participants, members, and members of public and press to the FinCom June 12, 2023 meeting.

Finance and Warrant Commission members who were present: William Bruce Jr., John Carey, Lauren Fitzpatrick, Mike Gay, George Hertz, Caitlyn Jurczak, George Laham, George Maroun, Kristina Patyjewicz, Christopher Poreda, Sean Weller, and Alexander Yale.

Ms. Wong then granted permission to Westwood Media Center to live stream and record the meeting. She also asked if anyone else would like to record this meeting.

Afterwards, Ms. Wong led members in the Pledge of Allegiance. She then called the ROLL.

Members were provided with the final agenda and the meeting minutes for 03.28.23 prior to the meeting.

Comments from the Town Moderator, Mr. Jim O'Sullivan- Introduction of New Member:

Ms. Wong introduced the Town Moderator, Jim O'Sullivan. Mr. O'Sullivan thanked the FinCom members for serving and for their hard work. He provided an update that the vacancy position for FinCom has been filled by a new member, Seth Frederickson. Mr. O'Sullivan then gave a brief introduction of Mr. Frederickson.

Election of 2023/2024 FinCom Chair:

Ms. Wong explained the process for electing the new chair for 2023-2024. One member nominated Mr. George Hertz. Mr. Hertz gave a few remarks and gladly accepted the nomination. There were no other nominees. A motion was offered and seconded. Then a ROLL CALL took place. Mr. Hertz was elected as chair for 2023-2024. VOTE: UNANIMOUS

Introduction of New Chair:

- Chairperson Hertz thanked Ms. Wong and then gave some introductory comments. He mentioned that he and Mr. Poreda gave a stellar review on Ms. Wong's performance

evaluation. He thought Ms. Wong has done an excellent job in transitioning into the administrator's position. Then he reiterated that it has been a privilege working with this group of FinCom members.

- The Chair nominated Mr. Chris Poreda as Vice Chair.
- Chairperson Hertz asked members to provide their feedback to Ms. Wong via email. Feedback includes what members liked or didn't like, recommendations on where they like to see changes and comments on the subcommittee structure.
- The chair is trying to find out if there will be a special fall town meeting. There may be a potential issue to address if the town plans to amend the MBTA Housing article. In addition, the Chair mentioned that the town of Dover and Westwood held a joint meeting in executive session concerning Hale Reservation. If there is a fall town meeting, the Chair would like to set up subcommittee to work on proposed articles over the summer in preparation for the meeting.

Member Discussion:

- The Chair asked members if there are any feedback or comments at this time.
- One member requested for more transparency from town officials during discussions. This member felt the subcommittee meetings showed more transparency compared to public meetings.
- Another member suggested to set the schedule sooner than later so members are allowed to plan their travel appropriately. This member also suggested to invite the new Superintendent of Westwood Public Schools to one of the fall meetings.
- Chairperson Hertz asked Ms. Wong to send out a tentative schedule to members for any feedback. He also asked members to let Ms. Wong know if they prefer to continue with the meetings on Zoom versus in person meetings. The Chair suggested to have the first meeting in person as well as the public hearings and voting meetings in.
- A third member thought it was also important to know what the Public preference would be since it promotes citizens engagement. The Chair asked the Town Moderator if he had any comments to stimulate public viewers. The Town Moderator suggested to ask Westwood Media Center to see how many attend the meeting live versus viewing the video online. Then The Chair asked Ms. Wong to reach out to Westwood Media to gather this

data. Lastly, the FinCom member stated Westwood Media Center Youtube channel would be able to provide stats on how many viewers there are post meeting.

- One member volunteered to be a new mentor for the new member.
- The Chair complimented members for their openness and willingness to speak. He encouraged members to ask questions as all questions are welcomed.
- Mr. Poreda accepted the Chair's nomination for Vice Chair. A motion was offered and seconded. Then a ROLL CALL took place. Mr. Poreda was elected as vice chair for 2023-2024. VOTE: UNANIMOUS
- The Town Moderator asked members to reach out to him if they have any recommendations for new candidates in the future.
- Under Old Business, members were asked to review and approve the meeting minutes for March 28, 2023. A motion was offered and seconded. A ROLL call took place. Eleven members approved the minutes. One member abstained and three members were absent. The Chair thanked Ms. Wong for writing up the meeting minutes in a way where readers are allowed to understand what goes on during the meetings. In addition, he stated the meeting minutes does not put anyone in an uncomfortable situation.

Chairperson Hertz then entertained questions from the public and the press. Ms. Wong read questions from the Q&A Box.

- One resident asked will FinCom have any input on how the remaining funds for ARPA (American Rescue Plan Act of 2021) will be allocated. The Chair deferred the question and stated the funds involved the Norfolk County and the Select Board.
- A second resident asked if the Westwood Fire Department will be a priority with increase in staffing and new fire station. The resident also wanted to know that since the Chair of the Select Board recused himself from Hale Reservation discussions and voting, would the Chair of FinCom also recuse himself. The Chair shared the Town is waiting for the consultant's report on staffing studies for the Fire Department along with operational studies for the a new fire station. The Chair indicated that if an article comes up concerning Hale Reservation, he would discuss this matter with Town Council & Town Moderator concerning the issue of recusal.

Vice Chair Poreda stated the fire station on High Street has been high priority for the Chair over the years. Per the 5 year capital budget plan, there are a lot of demands for funding. Chairperson Hertz hopes the town will prioritize the fire station this year.

Vice Chair Poreda asked Ms. Wong if she received any feedback from other board assistants or administrators in regards to Fincom's meeting minutes. Ms. Wong stated she didn't receive any

feedback from other boards. The Vice Chair elaborated on the importance of the meeting minutes and complimented Ms. Wong on being a great minute taker.

The Chair then thanked members for attending and asked for a motion to adjourn. A motion was offered and seconded. Twelve members were in favor. Three members were absent.

Meeting Adjourned at 7:31PM

For a complete video of the 06/12/23 FinCom meeting please see the following link:
<https://westwoodmediacenter.tv/>