



**Municipal Client Advisory
January 2012**

**DUTIES OF CHAIR OF LOCAL PUBLIC BODY UNDER
OPEN MEETING LAW**

For a discussion of these and other issues, please visit the update on our website at www.mhtl.com/law. To receive legal updates via e-mail, contact information@mhtl.com.

The chair of a local public body has the following responsibilities under the Open Meeting Law, M.G.L. c. 30A, §§ 18-25, and Open Meeting Law Regulations, 940 CMR 29.00:

Notice (M.G.L. c. 30A, § 20(b); 940 CMR 29.03(b))

- The notice posted for a meeting of a local public body must include a listing of topics that the chair reasonably anticipates will be discussed, which must be posted at least forty-eight (48) hours prior to the public meeting (excluding Saturdays, Sundays, and legal holidays).

Attendance and Participation by the Public (M.G.L. c. 30A, § 20(f))

- The chair regulates permission of members of the public to participate in a meeting. All persons shall, at the request of the chair, be silent. No person can address a meeting of a local public body absent permission from the chair.
- The chair may issue a warning to a person who disrupts the proceeding of a public body.
 - If the disruptive person persists, the chair may order that person to leave the public meeting.
 - If the disruptive person does not leave, the chair can authorize a constable or other officer to remove that person from the public meeting.

Audio/Video Recordings of Open Session (M.G.L. c. 30A, § 20(e))

- Any person who wants to make a video or audio recording of an open session of a public meeting must notify the chair before making the recording or transmitting the meeting through any medium.



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- The chair may impose reasonable requirements for the number, placement and operation of recording equipment so that it does not interfere with the meeting.
- At the start of any meeting being recorded, the chair must inform all attendees of any such recordings.

Executive Session (M.G.L. c. 30A, § 21)

- Prior to entering executive session, the chair must:
 - state the purpose of the executive session, stating all subjects that may be revealed without compromising the purpose for the executive session; and
 - publicly announce, in open session, whether the open session will reconvene after the end of the executive session.
- The chair must make the following declaration(s) prior to entering the executive sessions set forth below:
 - Collective Bargaining or Litigation: The discussion of strategy with respect to collective bargaining or litigation in an open meeting may have a detrimental effect on the bargaining or litigation position of the public body.
 - Real Property: Discussion of the purchase, exchange, lease or value of real property in an open meeting may have a detrimental effect on the negotiating position of the public body.
 - Considering or Interviewing Applicants by a Preliminary Screening Committee: An open meeting will have a detrimental effect in obtaining qualified applicants for employment or appointment.

Minutes – Executive Session (M.G.L. c. 30A, § 22)

- At “reasonable intervals”, the local public body, or its chair or the chair’s designee, must review the executive session minutes to determine if such minutes should continue to be withheld from disclosure.



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- This determination must be announced at the local public body's next meeting and the announcement must be included in the minutes of that next meeting.

Open Meeting Law Complaints (940 CMR 29.05)

- A complainant must file a complaint with the chair. In turn, the chair must distribute copies of the complaint to the other members of the local public body. A copy of the complaint also must be filed with the city/town clerk by the complainant.
- If the public body requires additional information to respond to a complaint, the chair may request such information from the complainant within seven (7) business days of receiving the complaint.

Remote Participation (940 CMR 29.10)

- If remote participation is properly adopted as an accepted practice for local public bodies in the municipality:
 - The chair or authorized acting chair of the public body must be physically present at the meeting location.
 - Remote participation is only permitted if the chair or authorized acting chair determines that 1 or more of the following reasons make the physical attendance of a remote participant "unreasonably difficult": (1) personal illness; (2) physical disability; (3) emergency; (4) service in the military; or (5) geography.
 - A remote participant must provide advance notice to the chair or authorized acting chair, along with the supporting reason(s) and fact(s).
 - At the start of the public meeting, the chair or authorized acting chair must state the name(s) of the remote participant(s) (a quorum must be physically present at the meeting location) and the reason(s) for the remote participation, which are to be recorded in the meeting minutes.



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- If feasible, the chair or authorized acting chair should provide remote participants with advance copies of any documents or exhibits that are reasonably anticipated to be used during the meeting.
- The chair or authorized acting chair is responsible for dealing with technical difficulties that may occur during a meeting.

Murphy, Hesse, Toomey & Lehane, LLP, is prepared to assist you by providing training sessions on the Open Meeting Law, at your request. For more information or to schedule a training session, please contact Kevin Bresnahan or Brandon Moss directly at (617) 479-5000 or via email at kbresnahan@mhtl.com or bmoss@mhtl.com.

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