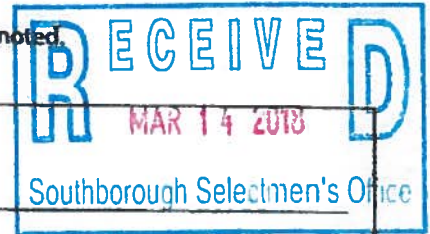




OPEN MEETING LAW COMPLAINT FORM

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: Parry

Address: 22 Main St

City: Southborough State: MA Zip Code: 01772

Phone Number: _____ Ext. _____

Email: _____

Organization or Media Affiliation (if any): None. (Individual resident of town, not on any town board at present)

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): Board of Selectmen, Town of Southborough, MA

Specific person(s), if any, you allege committed the violation: Town Administrator (Mark Purple), and Chair of Board of Selectmen (Daniel Kolenda).

Date of alleged violation: Feb 22 & 6, 2018.

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.

See attached (page 3)

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.

1. Correct the errors in the minutes, by including it on the official agenda, and a vote at a public meeting, with specific verbal statement for the record that the proposal was to change the Town Administrator with weak powers, into a Town Manager with strong powers, and that the proposal was made by Selectman chair Mr Kolenda.
2. Notice of the above to be submitted to the local press: Worcester Telegram, Metrowest News, and MySouthborough.com.
3. A public apology to the residents of the Town

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 openmeeting@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: [Signature]

Date: MAR 14 2018

For Use By Public Body Date Received by Public Body: For Use By AGO Date Received by AGO:

Form Submitted March 14, 2018. Date of alleged violations Feb 6 and 22, 2018.

Filed by David Parry against Board of Selectmen , Town of Southborough.

TWO COMPLAINTS

1. **AGENDAS.** Failure of Town Administrator (TA) and Chair of Board of Selectmen (BOS) to provide sufficient information on the agendas for two BOS meetings, held on Feb 6 and 22, 2018, at which the Chair presented a NEW article for discussion and inclusion in the warrant for the Annual Town Meeting.

2. **MINUTES.** Failure to provide sufficient record of the discussion in the minutes of Feb 22 meeting.

Because this proposal was not on the agenda, very few persons (including myself) were aware of the proposed article. I learned on this proposal several days after the Feb 22 meeting. Later, when I read the draft minutes, to be voted on at the BOS March 6 meeting, I noticed the entire topic was missing. To attempt to resolve this matter, I first took the advice of the AG office, which had previously suggested I try to resolve such matters outside of official complaints to the AG. Therefore, I called the TA office on Mar 5, spoke to a senior staff person, and asked that the draft minutes be corrected before approval which was to occur at the BOS meeting on Mar 6. The TA staff agreed to look into the matter, but the draft minutes were NOT corrected, despite my complaint, and there being adequate time to correct the draft.

The proposal by the Chair was significant and new. It was for a new article for the ATM, to substantially increase the powers of the existing TA, by changing the position from a TA with "weak" powers, to a Town MANAGER with "strong" powers. The Chair proposed this publicly, for the first time, at the Feb 6 meeting, but without any notice on the agenda. He asked the full BOS to have his new article be included in the warrant at that meeting (Feb 6), because the warrant was to be closed at that same meeting, and therefore this was the last opportunity to add an article to the warrant. The other 4 members of the BOS expressed concerns about lack of information, review, lateness, and the controversial nature of the proposal. However, they agreed to put a "placeholder" in the warrant, so that it could potentially be included, and could be discussed at the next meeting Feb 22.

Again, the Feb 22 agenda failed to identify the topic. Again, the Chair repeated his proposal, stating he had done "95%" of the work by editing the existing bylaw. Again, the other 4 members expressed the same concerns stated on Feb 6. Therefore, after considerable discussion, the Chair agreed to remove the article.

I believe these violations were INTENTIONAL and related to another complaint (currently under review by the AG office). This other complaint was filed by me (Parry) against the same 2 officials involved in this case (namely the TA and Chair of the BOS) who on August 22, 2017, disciplined me at a secret, closed meeting of 4 persons which included these 2 officials. This discipline (including prohibiting me from going to Town Hall without prior appointments) was enacted without providing any specifics, and without due process. I was unable to confront their false accusations, and only learned about the matter AFTER the fact. To impose discipline, these officials claimed to rely on the hypothetical powers of the TA to discipline me. I contend that no such powers exist in the existing town bylaw establishing the TA.

However (THIS IS THE KEY POINT) such powers would be increased IF THE TA POSITION WAS CHANGED TO A TOWN MANAGER, precisely as these 2 officials have just proposed. However, they have made this proposal without adequate public notice, and without an accurate record, which I believe was INTENTIONAL – in that it was an attempt to MINIMIZE its publicity, and potential objections, because it would obviously be controversial, just as it was when the TA bylaw was first enacted in 2013, when the alternative of a Town Manager was REJECTED.