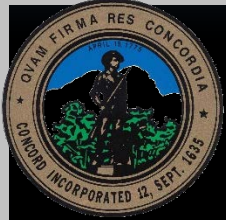


**Town of Concord**

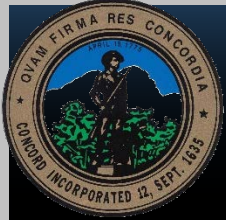
**Effective Governance  
Workshop**  
for Board and Committee  
Volunteers

Saturday, November 2, 2019



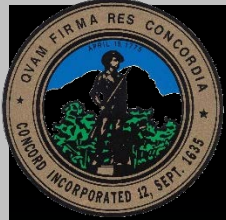
# Effective Governance: Compliance Overview

- Legal Requirements upon appointment
- Administrative responsibilities
  - Agendas
  - Meetings
  - Minutes
- Records Management



# Before your First Meeting

- Oath of Office
- Acknowledgments
  - Receipt of Ethics Summary
  - Receipt and review of Open Meeting Law Educational Materials
- Certificate of Ethics online training



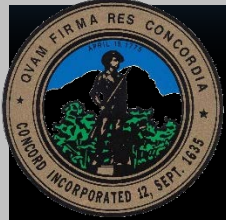
# Oath of Office

I (state your name) promise to

**Faithfully and Impartially**

**perform the duties of the office**

**to which I have been appointed.**



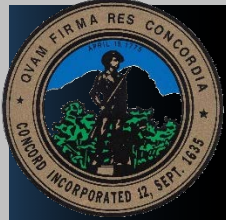
# Conflict of Interest

- You are now a Municipal Employee
- It's personal
- It's about personal gain or undue influence because of your position on the Board or Committee



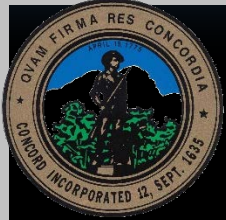
# Categories of Conflict

- **Solicitation or Acceptance of Gifts**
  - Quid pro Quo: Never
  - \$50 Rule (one-time or cumulative w/in a year)
  - Formal acceptance process for gifts to the Town
- **Nepotism/Self-dealing**
  - Financial interest: you, immediate family, business affiliate
  - Negotiating for employment
  - Confidential information
- **Divided Loyalty**
  - Representing private interests before Town
  - Personal financial interest in public contracts
  - Second and subsequent jobs



# Recognize your potential conflicts & GET ADVICE!

- **CALL** the Ethics Commission "Attorney-of-the-Day:" **(617) 371-9500/(888) 485-4766**
- **Make a REQUEST ELECTRONICALLY:**  
[www.mass.gov/ethics](http://www.mass.gov/ethics)
- **SEND A LETTER** Requesting an Informal Written Advisory Opinion

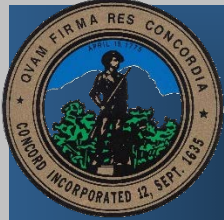


# Open Meeting Law

Ensures transparency in the deliberations on which public policy is based.

- Meetings of public bodies must be held in public, with few exceptions.
- Public bodies must follow established rules in the creation and maintenance of records relating to those meetings.





# Open Meeting Law Agendas

- Book the meeting space before posting your meeting with the Town Clerk's Office
- Forward meeting agenda to [townclerk@concordma.gov](mailto:townclerk@concordma.gov)
- Notify the Town Clerk's Office of any changes to your agenda



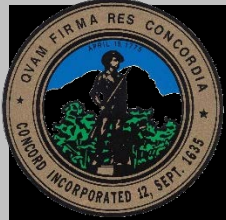
# Meeting Notice Checklist

- Date
- Time
- Location (address and bldg. name)
- Items that the Chair has knowledge of needing to be discussed
  - DETAILS of the items to be discussed



# Open Meeting Law Agendas

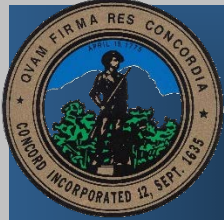
- An agenda **MUST** be posted on the Town's website at least 48 hours prior to the meeting unless an emergency meeting is required.
  - Emergency generally relates to human health and safety.
- Weekends and holidays do not count in the 48 hour calculation.
- Give the Town Clerk's Office staff time to upload the agenda. The 48 hours is public notice, not notice to the Town Clerk.



# Open Meeting Law Agendas

## Best Practice

- Forward to Town Clerk's Office as soon as the agenda is set by the Chair.
- Information that is new to the Chair may be posted with less than 48 hours notice as long as the initial agenda has been posted at least 48 hours prior.
- Note the changes on the updated agenda.



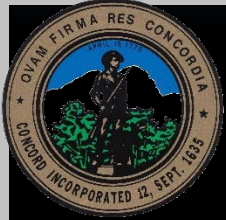
# Open Meeting Law Committee Roles

- Elect a Chair
  - Sets the agenda
  - Forwarding agenda items to the Chair or discussing them with the chair does not constitute deliberation.
  - Discussing the time or date of a meeting is not considered deliberation.
  - Runs the meeting
- Elect a Clerk
  - Responsible for taking notes and creating minutes



# Meeting Administration

- Quorum of the public body must be present to deliberate
  - A sub quorum is not a public body
  - Members of a public body at a social event don't represent a quorum of the public body because they are not conducting government business.



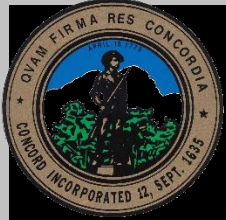
# What's the Difference?

## **Sub-quorum**

Less than a majority discussing something committee-related.

## **Sub Committee**

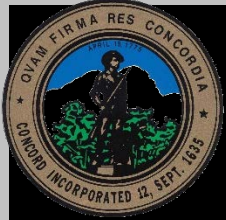
More than one person designated or appointed by a committee to conduct committee business.



# Recording Meetings

- Recording is allowed
- A member of the audience must let the Chair know and it must be announced at the start of the meeting.
- Door must remain open unless you convene in Executive Session.





# Public Participation

## The Public

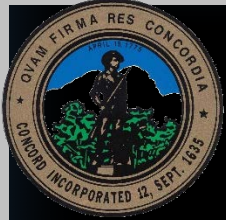
- May attend a public meeting
- May address the meeting only with permission from the Chair
  - The committee is not required to respond to public comment other than acknowledging it.
- May not disrupt the meeting

Public participation should be encouraged by the public body as time allows



# Remote Participation

- One member per meeting
- Cannot be used to establish quorum
- Cannot chair the meeting
- Must let Chair know 48 hrs. in advance
- ALL votes must be roll call votes



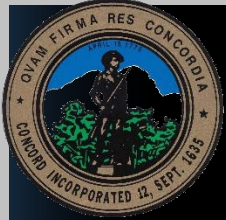
# Executive Session Checklist

- Valid Reason
- Meeting notice includes details
- Meeting convenes in open session
- Chair announces purpose (1 of 10 reasons)
- Chair states allowable subjects
- Chair states whether open session will reconvene
- Vote by roll-call to enter executive session and for all votes in executive session
- Minutes are required and must eventually be released.



# Meeting Minutes

- Official record of the meeting
- Approve within 3 meetings or 30 days, whichever is later.
- Cannot share edits among each other outside of a meeting.
  - One person may receive them, compile edits and share with others at the next meeting.



# Meeting Minutes Checklist

- Date, time, place, members present
- Accurate summary of discussion
- Record of all decisions made and actions taken – record of votes
- List of documents & exhibits used by the public body during the meeting
- Approve and share minutes in a timely manner



# Definitions

- **Public Body**
  - A multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose
- **Quorum**
  - A simple majority of the members of the public body, unless otherwise provided in a general or special law or other provision
- **Sub-quorum**
  - Less than a quorum discussing something committee –related can communicate without posting notice and holding a meeting.
- **Sub Committee**
  - A multiple member group created by a formal action of a public body to do committee work



# Definitions

- 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.

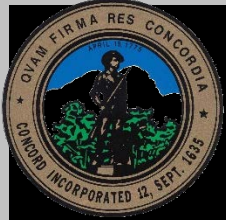
- A social gathering is not public business
- This training session is not public business within your jurisdiction
- Taking a position on a motion that is amended on the floor of town meeting is deliberation for legislative purposes and does not fall under the Open Meeting Law.
  - Committee meetings to prepare for town meeting must be properly posted.



# Definitions

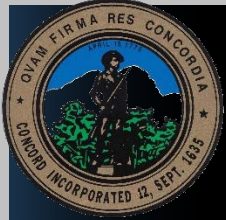
- Deliberation
  - Exclusions
    - Distribution of meeting agenda, scheduling or procedural information
    - Distribution of reports or documents to be discussed, provided no opinion of a member of the public body is expressed
    - Communications between a sub-quorum if not subcommittee, and no serial communication
    - Discussion of a recess or continuance of a Town Meeting in the event of a weather-related or public safety emergency





# Open Meeting Law Complaints

- Formal process
- Within 30 days of violation
- Made to the Board/Committee
- 14 business days to respond
- Let your committee staff person or Town Clerk's Office know



# Examples of Complaints

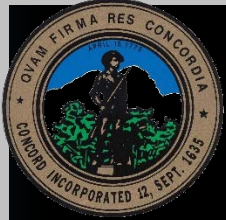
- Subcommittees not posted
- Email deliberations
- Postings not within 48 hours
- Agendas with too little detail
- Minutes didn't include enough detail
- Executive session minutes not released
- Discussion of items not on the agenda
- Refusal to allow someone to audio or videotape the meeting.



# Open Meeting Law: Training Videos

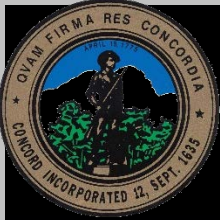
- Video 1: Introduction and Definition
- Video 2: Notice
- Video 3: Accessibility / Remote Participation / Public Participation
- Video 4: Executive Session
- Video 5: Minutes
- Video 6: Certification / Complaint process/Review/Resources/Contact

<https://www.mass.gov/the-open-meeting-law>



# Open Meeting Law Contact Information

- The Town Staff person for YOUR committee
- Town Clerk's Office
  - Phone: 978-318-3080
  - Email: [townclerk@concordma.gov](mailto:townclerk@concordma.gov)
- Division of Open Government
  - Phone: 617-963-2540
  - Email: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)
  - Mail: Division of Open Government, Office of the Attorney General, One Ashburton Place, Boston, MA 02108
  - Website: [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting)



# Public Records Law

- **Freedom of Information Act vs. Public Records Law**
  - FOIA is for federal records only
  - Public Records Law applies to local and state document
- **What is considered a Public Record?**
  - Emails, texts, etc.
  - A document received for the committee or created by the committee is part of the committee's official records and should be acknowledged.



# Public Records Law and YOU

- **Email**
  - Committee-related email, even if it's sent from your private email: Get town email for committee-related correspondence
- **Meeting notes**
  - Notes taken by the Clerk of the committee are considered the official record of the meeting until minutes are created.
- **Material discussed or referred to at a meeting**
  - Must be kept for six months and then subject to regular records retention schedule
- **Exemptions**
  - Certain records are exempt from the public records law. It is up to the Custodian to state the exemption.



# Public Records Requests

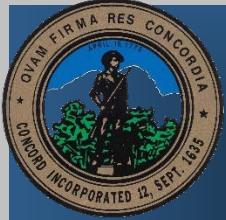
- **Let us know**
  - Staff if applicable
  - Town Clerk's Office
- **Records Access Officers Manage Responses**
  - Every Department Head and Town Clerk
  - Request log
  - 10 calendar day deadline for initial response
  - Failure to respond in a timely manner can be costly for the Town
- **Not all records are available**
  - There are many exemptions that exist, but the claim must be valid



# Committee Work

- **Public**
  - Remember that committee business is public business
  - Know how the Laws affect your conduct
  - Committee charge is your mission
    - Policy Making, Regulatory, or Advisory
- **Historical**
  - Committee records: minutes and reports are historical documents that will inform future generations of government actions
- **Cooperative**
  - Work with appointing authority and Town staff
- **Essential**
  - Provides the basis for decisions that shape the community





Thank you!  
Questions?