

CITY OF GARDNER
95 PLEASANT ST
GARDNER, MASSACHUSETTS 01440-2630

RECEIVED

2022 APR 14 PM 12:02

CITY CLERK'S OFFICE
GARDNER, MA



**JOINT CONVENTION OF THE GARDNER
CITY COUNCIL AND GARDNER SCHOOL COMMITTEE**

~~~~~

**CALENDAR FOR MEETING  
OF  
TUESDAY, APRIL 19, 2022  
CITY COUNCIL CHAMBER, GARDNER CITY HALL  
7:00 P.M.**

**ORDER OF BUSINESS**

- I. CALL TO ORDER**
- II. ANNOUNCEMENT OF OPEN MEETING RECORDINGS**  
Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All documents and exhibits used or referenced at the meeting must be submitted in duplicate to the City Clerk, as they become part of the Meeting Minutes.
- III. OPEN MEETING LAW COMPLAINT**
  - a. Filed by Scott Graves, April 1, 2022
- IV. ADJOURNMENT**

  
**MICHAEL J NICHOLSON**  
**MAYOR**

**DRAFT** Letter in Response  
to Open Meeting Law  
Complaint Filed by Scott  
Graves Dates April 2, 2022

**(DRAFT PENDING  
ADOPTION VOTE BY JOINT  
CONVENTION)**

[INSERT LETTER HEAD WHEN FINALIZED BY VOTE OF JOINT CONVENTION]

[INSERT DATE OF VOTE TAKEN BY JOINT CONVENTION]

Scott Graves  
69 Lakeview Dr  
Gardner, MA 01440

RE: Response to Open Meeting Law Complaint, Filed 4/1/2022

Dear Mr. Graves,

The Joint Convention is in receipt of an Open Meeting Law complaint submitted by you on April 1<sup>st</sup>, 2022. (Attached hereto as **Exhibit A**).

In this complaint you allege the following occurred:

1. A member or members shared their opinions about several aspects of the two City elections (the two matters within the public body's jurisdiction) in group emails, with a quorum of members, outside of a duly-noticed and open public meeting;
2. On March 18, 2022, a member of the public body shared her own opinions about the matters within the public body's jurisdiction in group emails, amongst a quorum of members, without notice to the Citizens, and not in the open;
3. On March 18, 2022, the public body made material decisions (through one member, as discussed below) about the matters pending within its jurisdiction, and it did this without notice to the public, and not in the open;
4. On March 18, 2022, the public body made a determination (through one member, as discussed below) that the public body's final resolution of the one pending matter within its jurisdiction did not "need" (her word) to take place at a duly-noticed and open public meeting, and the public body made this decision without notice to the Citizens, and not in the open;
5. On March 18, 2022, the public body made a determination (through one member, as discussed below) that the one pending matter within its jurisdiction, the giving away of the two years remaining in Boone's term, was dispositively resolved, and it did this without notice to the Citizens, and not in the open; and
6. That the public notice for the meeting did not comply with the Open Meeting Law.
7. The supporting documents of the meeting packet constituted a sharing of opinion.

Our responses to these allegations are as follows:

1. There are no emails between a quorum of members of neither the full Joint Convention nor either of the bodies that make up the joint convention in which any opinion was shared prior to the Joint Convention being called to order. The only emails that were sent were sent prior to the meeting to a quorum of members of the meeting was the City Clerk and the Superintendent's Secretary sending the meeting packet to the City Council and School Committee respectively.
2. It is assumed that your second allegation relates to an email sent by Council President Elizabeth Kazinskas on Friday, March 18, 2022 at 3:05 PM. (Attached hereto as **Exhibit B**). In this email, Council President Kazinskas provided statements of facts about events that had occurred. Since all required documents had been received and a response submitted by Monty Tech, the simple fact that there would be no need to convene a Joint Convention was mentioned. No opinion was shared in this email. It was a simple statement of facts and not a deliberation.
3. There is no Open Meeting Law violation associated with your third allegation, as there was no material decision made. The Joint Convention had met to appoint individuals to the Monty Tech School Committee. Whereas Monty Tech had received all necessary documentation from the two individuals appointed by the City of Gardner to their School Committee, there would be no business should a joint convention convene.
4. There is no Open Meeting Law violation associated with your third allegation. Please see the reasoning provided for item 3.
5. There is no Open Meeting Law violation associated with your third allegation. Please see the reasoning provided for item 3.
6. In order to interpret the Open Meeting Law's requirements for public meeting postings, the Attorney General's Office has issued the following guidance:

**WHAT INFORMATION MUST MEETING NOTICES CONTAIN?**

Meeting notices must be posted in a legible, easily understandable format, contain the date, time, and place of the meeting; and list all topics that the chair reasonably anticipates, 48 hours in advance, will be discussed at the meeting. The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting. Where there are no anticipated topics for discussion in open session other than the procedural requirements for convening an executive session, the public body should list "open session" as a topic, in addition to the executive session, so the public is aware that it has the opportunity to attend and learn the basis for the executive session.

Meeting notices must also indicate the date and time that the notice was posted, either on the notice itself or in a document or website accompanying the notice. If a notice is revised, the revised notice must also



conspicuously record both the date and time the original notice was posted as well as the date and time the last revision was posted. Recording the date and time enables the public to observe that public bodies are complying with the Open Meeting Law's notice requirements without requiring constant vigilance. Additionally, in the event of a complaint, it provides the Attorney General with evidence of compliance with those requirements.

If a discussion topic is proposed after a meeting notice is posted, and it was not reasonably anticipated by the chair more than 48 hours before the meeting, the public body should update its posting to provide the public with as much notice as possible of what subjects will be discussed during the meeting. Although a public body may consider a topic that was not listed in the meeting notice if it was not anticipated, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if the topic was not listed in the meeting notice.

(SOURCE: "Open Meeting Law Guide and Educational Materials, Office of Attorney General Maura Healey, Commonwealth of Massachusetts, January 2018. Page 10.) **Hereto Attached as Exhibit C.**

The Meeting notice for the Joint Convention was posted per the requirements of the Open Meeting Law, with all of the necessary requirements listed above. A Copy of this posting is hereto attached as **Exhibit D.**

Since this posting contained all of the requirements listed in the Open Meeting Law, there is no violation associated with the official meeting posting.

7. There is no violation associated with your allegation that the documents included in the twenty-six (26) page information packet for the meeting constitute a sharing of opinion. The documents that were shared were all legal public records that were all related to the subject of the meeting and were provided to the members of the joint convention just the same as any other items of supporting documentation to any other meeting packet. These items were publicly posted for the two (2) business days along with the public meeting posting. In fact, Councilor James Boone, himself a candidate for appointment provided documentation on the matter himself that was included in the packet. The full packet is hereto attached as **Exhibit E.**

These supplemental documents are meant to provide the members with information for them to utilize to understand the full situations of what are occurring as is done with every appointed and elected board and commission of the City, and cities and towns across the Commonwealth. These were all public records that were publicly posted and included in the Minutes of the Convention. Hereto attached as **Exhibit F.**

Due to all of the above-mentioned reasons, it is held by the Joint Convention that there were no violations of the Open Meeting Law associated with the Joint Convention held on February 22, 2022.

Sincerely,

[INSERT MAYOR'S SIGNATURE HERE FOLLOWING VOTE]

DRAFT PENDING VOTE

# **Exhibit A:**

Open Meeting Law  
Complaint Filed by  
Scott Graves 4/2/2022



# 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: Scott Last Name: Graves

Address: 69 Lakeview DR.

City: Gardner State: MA Zip Code: 01440

Phone Number: (978) 632-6556 Ext. \_\_\_\_\_

Email: Sgraveslawoffice@verizon.net

Organization or Media Affiliation (if any): GRAVITAS & GARDNER GOVERNMENT WATCH

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual

Organization

Media - PRESS

## 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): GARDNER "JOINT CONVENTION"  
RE - MONTY TECH SCHOOL COMMITTEE

Specific person(s), if any, you allege committed the violation: UNKNOWN - ANONYMOUS

Date of alleged violation: 3/18/22, other dates



**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 March 18, 2022 and other dates, the public body violated the OML, including as follows:  
- sharing group emails containing ~~one~~ one member's opinions (Elizabeth Kazinskas) in violation of Section 20;  
- making decisions in violation of Section 20;  
- engaging in illicit electioneering in City Hall, and using municipal positions, offices, and resources, and other activities with the intent to evade the strictures and prohibitions of the OML.  
This complaint is supported by the Attachment, due to lack of space here.  
- See ATTACHMENT

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.

That the AGO issue appropriate response, to include that the public body be ordered to re-convene in the OPEN, and explain itself, and take action, as a public body, regarding the one pending matter in its jurisdiction.

**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: 

Date: ~~3/29/22~~ 4/1/22

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:



## ATTACHED DOCUMENT to Open Meeting Law Complaint

Public Body: Gardner “Joint Convention”

Date of Violation: March 18, 2022 (and other dates)

On February 22, 2022 the City of Gardner convened a meeting of a Section 18 “public body” for two elections. Each election was to elect Gardner’s two appointments to the Monty Tech School Committee. That meeting is available on YouTube. The proceeding was concluded on March 18, 2022. In this time frame, the public body violated the OML in many ways.

### **INTRODUCTION**

The tripartite public body is comprised of the City Council, the Mayor, and the Gardner School Committee.

The City of Gardner refers to the public body as the “Joint Convention.” For consistency, we will too. But it is a misnomer because it comes from the Gardner City Charter – which does not apply. The appellation is in quotation marks to denote that the City Charter does not apply.

There were *only* two Agenda items on the public body’s Agenda for the 2/22/22 “Joint Convention:”

1. The election for one of the two Gardner appointments to the Monty Tech School Committee; and
2. The election for the remaining two years of the duly-serving Monty Tech School Committee member James Boone’s seat.

For the first seat, the incumbent (Matt Vance) was running against the Mayor Michael Nicholson’s uncle. For the second seat, Gardner City Hall had removed the “incumbent” (James Boone) his office with two years remaining in his term. The only candidate to replace him was Mayor Mike Nicholson’s cousin.

The first election was legitimate because the term held by the incumbent, Matt Vance, had naturally expired. But, the second election was illegitimate.

This is because Gardner City Hall had somehow (we don’t know how – no one does) wrongfully, and without any lawful grounds, *removed* duly-elected Monty Tech School Committee member, James Boone (“Boone”), from office – when he had two years remaining in his term. By removing Boone, Gardner City Hall was thereby able to move forward with its (ostensibly) legal position that it was lawful to put Boone’s two remaining years up for election – which is what Gardner City Hall did.

At the time Gardner City Hall did this, Boone was the City of Gardner’s duly-elected and actively-serving Monty Tech School Committee member. Boone had been performing all of his

duties and obligations in that role since he had been elected on February 18, 2020 for a 4-year term – set to expire in 2024.

We chose the term “remove” in order to be precise. Boone either had the seat, or he didn’t. If he had it, then there could be no election to give away his remaining two years. If he didn’t have it, then, and only then, his remaining two years could be offered up for election.

So, Gardner City Hall inconspicuously *removed* Boone from that seat prior to the 2/22/22 election. To say that that was Kafkaesque about sums it up.

What Gardner City Hall did to the duly-elected Boone was tantamount to a “recall” of a duly-elected government official. As if that is not extreme enough, City Hall did it without any due process (and without any lawful grounds) whatsoever, as more fully addressed below.

Gardner City Hall, not being satisfied that that was cruel enough, then decided to wrongfully interfere in both of the said elections by engaging in campaigning and electioneering to influence both City elections so that *neither* incumbent would win, as discussed below.<sup>1</sup>

The only candidate for the remaining two years of Boone’s seat was the Mayor’s cousin. The only candidate for Vance’s seat was the Mayor’s uncle.<sup>2</sup>

As set forth below, the public body violated the Open Meeting Law as follows:

1. A member or members shared their opinions about several aspects of the two City elections (the two matters within the public body’s jurisdiction) in group emails, with a quorum of members, outside of a duly-noticed and open public meeting;<sup>3</sup>
2. On March 18, 2022, a member of the public body shared her own opinions about the matters within the public body’s jurisdiction in group emails, amongst a quorum of members, without notice to the Citizens, and not in the open;
3. On March 18, 2022, the public body made material decisions (through one member, as discussed below) about the matters pending within its jurisdiction, and it did this without notice to the public, and not in the open;

---

<sup>1</sup> We call Boone the “incumbent” begrudgingly and only for clarity. Because Gardner City Hall had already removed him from his rightful office, Boone was not technically the “incumbent” running for reelection. Instead, on the same level as the Mayor’s cousin, Boone was just a “challenger candidate.” Reduced to being forced to choose between the less ridiculous of two noxious misnomers, we relegate to “incumbent.”

<sup>2</sup> By all information available, the cousin and the uncle were innocent, if not entirely unwitting, victims of the charade – we mean to cast no aspersions on them.

<sup>3</sup> Some of these violations occurred on February 17, 2022. But the 2/22/22 “Joint Convention” voted to suspend the election to a later date. When the public body’s final decision was made on March 18<sup>th</sup> (which was still within the 30-days because day 30 fell on a Saturday), in violation of the OML, the Citizens had no idea that was taking place because the public body did not give the public any new notice, and never reconvened, as described below. So, this was one ongoing election matter continuing from 2/17/22 – with no new notice, and no new meeting. Regardless of how the AGO exercises its discretion regarding timing, it’s all material and it’s all relevant in the depiction of the full context of these circumstances.

4. On March 18, 2022, the public body made a determination (through one member, as discussed below) that the public body’s final resolution of the one pending matter within its jurisdiction did not “need” (her word) to take place at a duly-noticed and open public meeting, and the public body made this decision without notice to the Citizens, and not in the open;
5. On March 18, 2022, the public body made a determination (through one member, as discussed below) that the one pending matter within its jurisdiction, the giving away of the two years remaining in Boone’s term, was dispositively resolved, and it did this without notice to the Citizens, and not in the open; and
6. The Government’s actions in this case were intentional, and purposeful.

More than usual contextual information is given because we believe the scope of circumstances in this case amounts to intentional conduct as covered by Section 23(c).

**GARDNER CITY HALL UNLAWFULLY “RECALLS” A DULY-ELECTED GOVERNMENT OFFICIAL – JAMES BOONE**

For purposes of the OML, we stress that Gardner City Hall never provided the public notice of its legal authority, theory of law, legal basis, or factual basis for removing Boone from office in the middle of his current term of office.

The Gardner City Charter does not apply to this situation due to the doctrine of preemption (see Charter, Section 37). The one controlling document is the Monty Tech’s “District Agreement” deriving from the Commonwealth’s enabling legislation which created Monty Tech. The said Monty Tech District Agreement does not contain any provision whereby a member may be *removed* from his office prior to the natural expiration of his term (never mind the procedure).

Therefore, in stripping Boone of his term of office, the City of Gardner essentially “recalled” the duly-elected James Boone from office.

We don’t know if Gardner City Hall’s legal counsel (which is part of City Hall) advised the City Hall decision-makers here. But, any recall of a duly-elected official can only be conducted by first filing a Home Rule Petition with the General Court. The City of Gardner, of course, made no effort to do that. Instead, Gardner City Hall just exercised either its police power or plain old self-help (i.e., abuse of power). Either way, Gardner City Hall’s rogue recall of James Boone was an unlawful government action.

**GARDNER CITY HALL INTENTIONALLY MISLED ITS CITIZENS**

Here is what the City of Gardner’s public notice stated:

The City Council and School Committee will meet in Joint Convention on Tuesday, February 22, 2022 at 7:00 p.m. in the City Council Chamber, Room 219, City Hall, to

appoint two (2) Gardner residents to serve on the Montachusett Regional Vocational Technical School District Committee.<sup>4</sup>

Thus, the Gardner City Hall misled the Citizens into believing that the two seats were naturally up for election, just like always – i.e., that the terms regarding both seats had simply just naturally expired. Nothing to see here, Citizens.

We still don't know how or why Gardner City Hall did this. But, Gardner City Hall was required under the OML to provide in its public notice the facts and the lawful basis for recalling Boone from office – not only because it is always required, but also in this case because those facts, and that lawful basis, were the *only* grounds upon which the City of Gardner was basing its extreme decision to place the remaining 2 years of Boone's term up for an election.

The public notice did not comply with the OML.

**GARDNER CITY HALL ENGAGES IN PARTISAN CAMPAIGN OPPOSITION (“OPPO”) RESEARCH AND ELECTIONEERING – WHICH LEADS TO OML VIOLATION**

With respect to the said Agenda materials for the “Joint Convention,” the Gardner Government conducted campaign opposition (“oppo”) research, and included derogatory campaign information about both incumbents. This derogatory campaign information included the incumbents' attendance records at Monty Tech School Committee meetings over the last 4 years.

The attendance records emphasized in bright yellow highlighting the absences for both incumbents. To the casual observer, it looked like a lot of absences – something bad, something negative, for sure. That's why they're highlighted so emphatically. You don't highlight absences because they are good – just like you wouldn't highlight the number of times the incumbent fell asleep during meetings unless you wanted to disparage him.

The City of Gardner used this campaign oppo dirt to intentionally induce the “Joint Convention” voters (and the Citizens of Gardner) to conclude that there was something bad, negative, and/or nefarious about the incumbents in this regard – that's why they highlighted *only the absences*.<sup>5</sup> That wasn't just unfair (and likely misleading and/or inaccurate), it is impermissible Government campaigning and electioneering.

---

<sup>4</sup> This was deficient because the Notice omitted the fact that the Mayor of Gardner (Executive Branch) is included in this “Joint Convention.” The Citizens must be informed that the Mayor of Gardner is a member of this public body (that this Mayor was conflicted does not change that requirement for notice).

<sup>5</sup> Attendance records have no value in and of themselves. For example, what is the average attendance percentage of *all* the members? Were especially important meetings missed? Did the member's vote matter such that his absence caused a difference in the vote? Did the member apprise himself of all the matters under consideration, and review the minutes of the meetings he missed to learn what happened? What does the member do outside of the meetings in the performance of his duties? What other values does the member bring to the table? What did the member do at the meetings he did attend? I could go on and on. But, the City of Gardner just threw the dirt out there as something disqualifying, without any context whatsoever, to insinuate something bad – for the sole purpose of tipping the scales *against* the incumbents.



We believe that Mayor Michael Nicholson's office was behind this campaign opposition *research* about the incumbents' attendance records.

We base this belief on information we gleaned from public records we obtained from Monty Tech pursuant to a Mass. Public Records Request. We discovered from the information that in the days leading up to the 2/22/22 "Joint Session," the Gardner Mayor's office contacted Monty Tech for the two incumbents' attendance records.

We should point out that the Gardner Mayor's uncle (running against the incumbent, Vance) had formerly been a Monty Tech School Committee member. Yet, the Mayor's office didn't ask for the attendance records of the Mayor's uncle for the years he was a Monty Tech School Committee member.

The incumbents' attendance records? That would be an extremely odd thing for the extremely busy Mayor's office to be interested in. But, the Mayor's office was literally on the eve of the elections. The Mayor's office was conducting this campaign oppo research on Feb. 17<sup>th</sup> – with only a holiday weekend between them and the "Joint Convention." In order for any information to be included in the Agenda for the 2/22/22 it must be provided to the City Clerk no later than, you guessed it, February 17, 2022.<sup>6</sup>

It's even more suspicious when one considers that the Mayor was under a "conflict of interest" (according to him, the State Ethics Commission told him that).

Because of his conflict of interest, the Mayor could not have *anything* to do with this matter. That means that the Mayor could not cast a vote, which means that the Mayor couldn't have wanted the incumbents' attendance records for his own benefit - he wasn't voting.<sup>7</sup>

Yet, literally at the last minute the Mayor's office contacted Monty Tech and requested that they send the Gardner Mayor's office "the attendance record (sic) of Gardner's two School Committee Representatives over the past two years."

It's the more suspicious because the Mayor's office specifically requested that Monty Tech send the incumbents' attendance records "*as attachments*." That's a very odd request. If someone just wanted to review the information, he'd just make the email request and await the responsive email – just like always. But, not here – the Mayor's office specifically requested the information in an "attachment." We presume, without knowing, that the Mayor's office wanted the information "as attachments" (separate, independent documents) because in making that request

---

<sup>6</sup> This presumably was why the Mayor's office did not have time to just simply peruse the Monty Tech School Committee meeting minutes to get the information on its own – which would have told the Mayor who was absent at each meeting. On the other hand, perhaps they preferred to preserve the future impression that the information came independently from Monty Tech out of the blue (i.e., without a prior request from the Mayor's office).

<sup>7</sup> This is not a c. 268A complaint, but just as in the case of conduct prohibited by the OML, a public employee cannot attempt to evade the strictures of the Conflict of Interest Law by engaging in the prohibited acts through a third person surrogate or intermediary.



the Mayor's office had already formed the intent that it would selectively share the information - anonymously.<sup>8</sup>

In response, Monty Tech immediately emailed the information to the Mayor's office *as an attachment* – just as the Mayor's office requested (this was on Feb. 17<sup>th</sup>). And just like magic, Gardner City Hall put that same attachment right into the “Joint Convention's” official Agenda materials later *that same day* (Feb. 17<sup>th</sup>) - in the exact same form and content as Monty Tech sent it to the Mayor. So, each voter of the “Joint Convention” got the Gardner City Hall's campaign oppo dirt in a *group email* on Feb. 17, 2022 – in their official Agenda materials for the 2/22/22 elections.

Again, all this had to happen on February 17<sup>th</sup> in order to get put into the official Agenda materials for the February 22<sup>nd</sup> elections. If it did not get sent to the City Clerk on February 17<sup>th</sup> it would not be included in the Agenda materials. Time was of the essence, and the Mayor's office had none to spare.

For context, we point out that it is against the law for public employees to engage in political activity at City Hall. That is, in their public roles, public employees are subject to Section 23(b)(2)(ii) of the State Conflict of Interest Law (G.L. c. 268A). As such, they may not use their official positions to secure for a candidate (or against a candidate) unwarranted privileges – like campaigning against or for a candidate in a School Committee election.

This is a strict prohibition and restriction on the use of a public employee's position, or role, for political activities – like putting campaign oppo research dirt into the official Agenda materials, for example. Public employees certainly cannot use public resources (offices, office supplies, photocopy machines, computers, phones, etc.) to engage in political activities.

Also, using public property and resources implicates violations of the Mass. Campaign Finance Law, G.L. c. 55.

There was no valid purpose for the inclusion of the incumbents' attendance records. A person's eligibility to be nominated as a Gardner member of the Monty Tech School Committee requires only two qualifications: 1) you must be 18 years old, and 3) you must be a registered voter in Gardner. That's it.

One's attendance record is entirely irrelevant to one's eligibility to be a candidate for election to the Monty Tech School Committee. They had no (benign) reason to be in the Agenda materials.

---

<sup>8</sup> Getting the dirt attached to the email as a separate document would give the Mayor's office an anonymity regarding the subsequent sharing of the said campaign oppo research dirt. This is because if the information were contained in an email itself (or worse, within an email trail), you would be able to see pesky little things like “to,” “from,” “date,” “subject,” “cc,” and the other communicative content within the email – all of which is better left out when you want to stay, well, anonymous.

But, some public official, or officials, did it. That was a violation of the Mass. Conflict of Interest Law, and the Mass. Campaign Finance Law, and the Open Meeting Law – an unprecedented (and scary) trifecta.

The anonymous Government officials put the campaign dirt into the Agenda materials to improperly influence the election. Public employees and Governments are not permitted to use City Hall to influence, or interfere with, the voters' individual autonomy in casting a vote. All Governments must remain impartial and neutral regarding elections. It's the law.

Coming full circle to pick the OML back up, this awful display of City of Gardner electioneering means that a member or members of the public body shared his/her/their *opinions* in violation of Section 20 (deliberation with no notice, in the dark, and with a quorum). This is because the sharing of campaign literature/paraphernalia/dirt is always someone sharing their *opinion*. This is discussed below.

**WHICH PUBLIC OFFICIAL(S) IS RESPONSIBLE FOR PUTTING THE NEGATIVE CAMPAIGN OPPO RESEARCH DIRT IN THE OFFICIAL AGENDA MATERIALS?**

Information and documents do not put themselves into the Agenda materials. There is no set group of documents or information that *automatically* get included. Someone has to put them there.

This is a five-step process: 1) all the possible papers and information that might end up in the Agenda are compiled by a City official, 2) then, another (higher-level) City official must review and consider those documents/information, 3) then the top-level City official must carefully select the ones for inclusion into the Agenda materials, 4) then a City official physically compiles the selected documents/information into a grouping, and 5) the final grouping of information is provided to each of the voters of the "Joint Convention."

Thus, it's not by accident that the campaign literature ("dirt") *against* the two incumbents in this case anonymously made their way into the voters' Agenda materials. It was on purpose. Thus, one or more City of Gardner government officials *intentionally* and purposefully included the campaign oppo research dirt into the voters' materials. This means that the City of Gardner government was literally campaigning for the Mayor's uncle and cousin.<sup>9</sup>

There is an extremely unnerving aspect to this underhandedness: *Not one government official objected*. In terms of one's sense of open-minded fairness, it is almost impossible for that to have happened accidentally.

Apart from that frightening observation, the only way that the negative campaign oppo dirt could have survived all the way to the inside of the Agenda materials, and get disseminated to the "Joint Convention" voters as official Agenda material, was if the City Council President,

---

<sup>9</sup> Just as nothing positive was added about the incumbents, nothing negative was added about the Mayor's uncle or about the Mayor's cousin.

Elizabeth Kazinskas, or the Mayor, the conflicted Michael Nicholson, or both of them, approved it.<sup>10</sup>

This is because they are the only top-level officials who have authority to do this. Nothing can be put into the Agenda materials without their say-so. See footnote 10.

As far as the OML is concerned, and as we have already pointed out, it could only be that Kazinskas and/or Nicholson believed that the attendance records would render *negative* inferences about the incumbents. That's her/his/their *opinion*.

Moreover, Kazinskas and/or Nicholson could only have believed that the negativity supplied by the attendance records would have an influential effect on the voters by giving them some tangible and rational basis upon which to vote *against* both of the incumbents – that is, that the dirt tipped the scales in favor of the Mayor's family relatives. That's her/his/their *opinion*.<sup>11</sup>

It is a violation of the OML for members of the public body to share their individual *opinions* amongst a quorum of members, without notice to the Citizens, and behind closed doors. But, that's what happened. Those said *opinions* on the part of Kazinskas and/or Nicholson, as members of the public body, were shared in a group email, outside of a duly-noticed and open public meeting, with a quorum of the members of the public body – and constitutes Section 18 "deliberation" in circumstances which violated Section 20.<sup>12</sup>

### **THE SOURCE OF BOONE'S REMOVAL AND DEMISE WAS THE MAYOR OF GARDNER, MICHAEL NICHOLSON**

For context, here is briefly what really happened. The City of Gardner government never gave this information to the Citizens.

Monty Tech has 22 sending communities to keep track of. Monty Tech must keep track of when the terms of office of the 27 School Committee members expire. This is basic administrative (organizational) stuff. So, in August 2021, Monty Tech asked Gardner for Boone's term of office.

---

<sup>10</sup> The Mayor ordinarily wouldn't have any say in this regard. But, as we said, his legal handlers erroneously believed that he was the Chairman by virtue of Section 43 of the City Charter. They didn't know that the Charter did not apply. But, even if it had applied, they didn't know that M.G.L. c. 43, sec. 36 would have preempted it. Due to those comedy of errors, the Mayor was thus led to erroneously believe that he was the Chairman. Therefore, he would thereby also believe that he had the say in what goes into the Agenda materials. We say all that only because, therefore, Mayor Mike Nicholson may have had the lead role in this anonymous theatrical put on by Gardner City Hall behind the curtains. But, then again, Mayor Nicholson had a conflict of interest that precluded him from participating in *anything* to do with this. So, we just don't know what really happened in this case – other than it was the Gardner City Hall acting behind closed doors, anonymously.

<sup>11</sup> All campaign literature and propaganda, such as these attendance records, are *opinion* (as in: "I think that you should vote for our guy" or "I think our candidate is better").

<sup>12</sup> As for timing, see footnote 3 above. Again, Boone's election was still pending on March 18<sup>th</sup>, and still is. Thus, the dirt about attendance records is an ongoing travesty regarding a still-pending matter within the public body's jurisdiction.

In response, Gardner provided false information to Monty Tech. That false information came from Mayor Michael Nicholson himself. The false information was that Boone’s seat was only “good” until “January 2022.”<sup>13</sup> The correct information was available at the distance of a couple of keystrokes - on the internet. We know of no source, other than Mayor Nicholson, who indicated that Boone’s term ended any sooner than late February (not January) of 2024.

Thus, when January of 2022 came around - Boone’s term looked like it was expired according to the records based on the false information derived from Gardner Mayor, Michael Nicholson.

Amazingly, Gardner took that, and ran with it (as in: “All-righty, then. January 2022 it is. Thanks, Monty Tech”). Left in the dark are the Citizens of Gardner and the other 21 municipalities paying for Monty Tech, and sending their children there.

### **GARDNER CITY HALL GOES THROUGH WITH THE OFFICIAL PROCEEDING TO UNLAWFULLY GIVE AWAY BOONE’S TWO YEARS**

On 2/22/22, the “Joint Convention” officially convened. The Mayor’s uncle won the first election, beating the popular and highly-regarded incumbent, Matthew Vance (former Gardner City Councillor), in an 11 – 3 political thrashing.<sup>14</sup>

The “Joint Convention” then moved on to the election for the seat that the City of Gardner had removed Boone from. But, before they could elect the Mayor’s cousin, the “Joint Convention” voted to postpone the election in mid-air.<sup>15</sup>

The public body voted to adopt a motion to suspend the election of the Mayor’s cousin was specifically a motion “to postpone” to some future date – which was to be upon the receipt of the information from Monty Tech.

Under parliamentary procedure a motion “to postpone” keeps the matter pending within the public body’s Agenda for future action by the public body.<sup>16</sup> All members (and the public) understood this. They all understood that the entire purpose of a motion to postpone is to preserve the issue, to suspend it only, so that future action could be taken by the public body after the information is obtained.

---

<sup>13</sup> We obtained the emails from Monty Tech pursuant to a Public Records Request. Also, in its response letter to the “Joint Convention’s” request for information on March 18, 2022, Monty Tech itself specifically pointed this out, referring to the same emails.

<sup>14</sup> The Mayor’s uncle is a very impressive and upstanding and kind human being. The campaign dirt that helped him also unfairly victimizes him – as giving the impression that it made a difference in his win. We will never know if it did, but the asterisks will remain on the uncle’s win.

<sup>15</sup> In the hours leading up to that election, our rumblings and inquiries had reached certain decision-makers at City Hall. Hence, the last-minute panic button was engaged.

<sup>16</sup> A motion “to postpone *indefinitely*” would have killed the matter. Such a motion is a strategic, rarely-made, parliamentary device to put an end to an issue. Thus, it must be made specifically in those three words under parliamentary practice.



The Citizens understand that the election to replace Boone with the Mayor’s cousin had only been suspended – until the information is obtained from Monty Tech. They are patiently waiting for the result.

**GARDNER CITY HALL SWEEPS THE ONE REMAINING PENDING ISSUE UNDER THE RUG AND VIOLATED THE OPEN MEETING LAW**

But the Citizens will never know this because the City of Gardner government has swept it all under the rug – in violation of the OML, as described below. Here’s what happened. On March 18<sup>th</sup>, Monty Tech responded to the “Joint Convention’s” request by providing the information that the “Joint Convention” requested.

The information was shared between all members of the “Joint Convention” in a group email at the same time, behind the Citizens’ backs on March 18, 2022. That violated the OML because it contained the individual opinions of one of the members - Council President/“Acting Mayor” Elizabeth Kazinskas – about the one matter pending on the public body’s Agenda.<sup>17</sup>

Thus, on March 18, 2022, Kazinskas, of her own initiative, evaluated and analyzed the information from Monty Tech - which was an act only the public body could make – and formed her *own opinions*, as follows:

- That the information provided by Monty Tech did not provide any legal grounds upon which to put the two remaining years of Boone’s term up for election;
- That the first opinion had the legal effect of dispositively resolving the one remaining matter pending within the public body’s jurisdiction; and
- That, therefore, there was no “need” (her word) for public body to re-convene the “Joint Convention” to do *anything* (not even to ratify her unilateral decisions).

All of these were one member’s own individual *opinions*.

Kazinskas shared those opinions with a quorum of public body members in a group email, without notice to the Citizens, outside of a public meeting on March 18, 2022 at a time when they were about the one pending matter currently within the public body’s jurisdiction – in violation of the OML.<sup>18</sup>

But, the OML was violated not just because impermissible “deliberation” took place on March 18, 2022. By Kazinskas’s actions, the public body thereby made a final decision about the one pending matter within its jurisdiction. Thus, the public body “met” and “deliberated” (via group email) - which resulted in a final *disposition* of the one matter pending on its Agenda. They did

---

<sup>17</sup> City Hall’s legal advisors erroneously thought the Mayor had to be Chairman because they erroneously thought the Gardner City Charter applied, so they invented an Acting Mayor to fill in for him (the Mayor had a conflict of interest). That’s why we put “Acting Mayor” in quotations – Kazinskas was not Acting Mayor because 1) there was no emergency, as required under Section 32 of the City Charter, and 2) M.G.L. c. 43, sec. 36 controls – and only makes the Mayor the Chairman “if present.” So, the President of the City Council was the proper Chairman.

<sup>18</sup> We know that this included 12 out of the 18 members, and presume she also shared them with the other 6 members – the Gardner School Committee, but do not know.



that without any notice to the Citizens, and they did that in the dark. That's another violation of Section 20.

The public body did not consider delegating any of its authority to Kazinskas, or to anyone else. Only the public body had the authority to do what Kazinskas took it upon herself to do. Kazinskas' decisions are the decisions *of the public body*. Apart from the lack of authority, that is in contravention of the public body's 2/22/22 motion to suspend its proceeding (the election) until the information was obtained, and then decide, *as a public body*, whether to proceed with the election - or otherwise vote to remove it from its Agenda (or vote on some other motion about what to do next). In adopting the motion to postpone that was made at the 2/22/22 "Joint Convention," the public body voted to reserve *to itself* all further action regarding the one pending election still on its Agenda and still within its jurisdiction.

The Citizens have no way of learning about it, and will never know. The Citizens, as usual, remain in the dark – and closed government is alive and well in Gardner.

It seems evident that this was an embarrassing and scandalous affair for Gardner City Hall, and that this was City Hall's best way to sweep it all under the rug and make it go away – in the most inconspicuous of ways (in the dark).

Under Section 20(a) and (b) of the Open Meeting Law, a *majority* vote is required by the public body in the open, after due notice to the Citizens. It's not for the behind-closed-doors playacting and monarchical whim of one person without delegated authority.<sup>19</sup> The public body must reconvene, in the open, in order to properly get the election down from suspended animation.

**GARDNER CITY HALL COULD NOT HAVE CONCLUDED IN GOOD FAITH (OR BY ACCIDENT) THAT IT HAD ANY LAWFUL GROUNDS TO REMOVE BOONE FROM OFFICE AND GIVE AWAY HIS REMAINING TWO YEARS**

We think intentional conduct is at play here, but have only circumstances to go on. That is why this is relatively long. Here are more of those circumstances.

It is simply not credible that everyone in the Mayor's office, everyone in the City Council, everyone on the School Committee, everyone in the City Clerk's office, everyone in the City Law Department - everyone - all of them – all just so happened to make the same mistake, all at the same time – and not one of them ever considered these issues or said a word about it.

The City of Gardner has a municipal Law Department. It is comprised of two full-time lawyers, who are public employees *on the City payroll*. They are appointed by the Mayor, and under his purview. Having an on-the-payroll, in-house, Law Department means that the two City lawyers are always available to the Mayor – and to Council President Kazinskas.

It costs the Citizens nothing extra for Mayor Nicholson and President Kazinskas to call upon the services of the City's two on-the-payroll lawyers as much as they want to. This means that the

---

<sup>19</sup> The Citizens realize that there is a cast of anonymous decision-makers behind all of this, so we don't mean to cast all aspersions in this regard solely upon Kazinskas.

government has carte blanche access to the City Law Department's services - it's limitless and unrestricted.

So, in this context, relative to the application of Section 20(c), consider this:

Whether a municipal government has the lawful authority to remove a duly-elected official (or any municipal official or employee) from office is a legal determination;

The existence of some legal theory or legal ground upon which a Monty Tech School Committee member could be lawfully removed from office (which must first be determined before the public body had any right to move forward to elect the Mayor's cousin to replace him) is a legal determination;

The lawful manner/process by which to remove Boone from office with two years remaining in his term is a legal determination;

The constitutional effect and ramifications of removing Boone from office with two years remaining in his current term is a legal determination;

Whether a municipal official (or any municipal employee) can insert a candidate's attendance records into the official Agenda materials of a public body requires a legal determination;

Whether one member of a public body has the authority to act on behalf of the public body, including by finally and officially disposing of the one matter pending in its jurisdiction, is a legal determination; and

Whether a suspended or postponed municipal proceeding of a public body must be re-convened in compliance with the OML in order to dispose of the pending matter within its jurisdiction is a legal determination.

Yet, the City of Gardner Government went through with this sordid affair, from beginning to end.

Apart from that, the Attorney General's Office, too many times to mention, has strongly advised public bodies not to send group emails. In fact, there is never a reason to send group emails.

Yet, this City Council keeps doing the same thing - over and over and over again, and lets one member issue her own opinions on behalf of the public body. This keeps taking place without the City Council ever taking one vote, not one, to delegate such authority to this one member. In fact, the City Council has never even considered doing so.

Over and over again these unilateral opinions are created and shared by the one member (Kazinskas) with the entire City Council in group emails - outside of the letter and the spirit of the OML. Then, remarkably, the City Council simply and credulously just rubber-stamps them as official decisions of "the City Council" - as if they were generated by the City Council.

The City Council does this with zero discussion or deliberation. It's become a series of dependent, ceremonial pantomimes (or reverse ventriloquisms). Meanwhile, all the material and dispositive decision-making is done behind the Citizens' backs. The effect of this apparently incorrigible grudge that the City Council has against Open Government is that the Citizens are left in the darkness – uninformed and ignorant.

This is not Open Government.

### **THE DAMAGE**

The City of Gardner's choice to disseminate and share the irrelevant campaign oppo research "dirt" about the upstanding, respectable, and unassuming public servants, Boone and Vance, smeared and tarnished their good reputations. By doing this, the City of Gardner not only publicly embarrassed and humiliated them, but also subjected them to scorn and ridicule. They may be permanently harmed. Will this prevent them from ever getting elected again? This is a black mark on their reputations, and political scarlet letter. It's all because Gardner City Hall involved itself in illicit campaigning and electioneering.<sup>20</sup>

When the Government engages in campaigning inside City Hall, the effect is much greater than that achieved outside City Hall. City Hall electioneering adds official authority and official sanction to the campaign propaganda being peddled. That, in turn, gives the dirt the governmental/authoritarian stamp of approval – which, in turn, bestows it with official imprimatur, truth, credibility, accuracy, prestige, relevance, and importance. The most illustrious of candidates could not overcome such an extreme tipping of the scales.<sup>21</sup>

City Hall exploited its power and authority to play politics. It is an abuse of power. The City of Gardner also deceived the trust of the Citizens of Gardner, and the Citizens of the twenty-one (21) other municipalities who send their children to Monty Tech. The local press (us) has written many articles and opinions about all of this. Yet, the City of Gardner has offered no other explanation for what they have done in this case. If the City of Gardner had an innocent explanation, the Citizens would have heard it by now.

Instead, City of Gardner officials who operated anonymously choose to remain anonymous.

The Citizens will base their future decisions about which city officials they will vote for on what the city officials have done in this matter. Who are they? The Citizens need to know in order to cast informed votes. The Citizens include all the students who go to Monty Tech, and the children who are considering doing so, and all of their parents and grandparents, and all the Citizen Taxpayers from the 22 municipalities that pay for Monty Tech.

---

<sup>20</sup> As to Boone, it's much worse than that – as described above. It is likely his constitutional rights were violated.

<sup>21</sup> As we all know, the attendance of their representatives is known to be the Citizens' biggest gripe against them (that, and corruption). Citizens do not know the ins and outs of what a representative does, but they know attendance. We presume that this is why, amongst all the negative dirt City Hall has the resources to locate, they went with attendance records.

# **Exhibit B:**

Email by Council  
President Elizabeth  
Kazinskas (3/18/22)  
Attachments Included

## Mayor

---

**From:** Elizabeth Kazinskas  
**Sent:** Friday, March 18, 2022 3:05 PM  
**To:** Ron Cormier; James M. Walsh; Karen G. Hardern; Nathan R. Boudreau; James Boone; Craig Cormier; Judy Mack; George Tyros; Alek Dernalowicz; Dana Heath; Mayor; PelavinJ@gardnerk12.org; HurstA@gardnerk12.org; SwartzR@gardnerk12.org; CormierRa@gardnerk12.org; LafrenJo@gardnerk12.org; WardS@gardnerk12.org  
**Cc:** Titi Siriphan; smithb@gardnerk12.org; John Flick; Ethan Kolodny  
**Subject:** Joint Convention Follow Up  
**Attachments:** Monty Tech School Committee Email 3-2022.pdf; Gardner\_Information\_Request\_2022\_03.pdf

Good afternoon,

As you all know, the Joint Convention of the Gardner City Council and the Gardner School Committee voted on February 22, 2022, to request information from the Monty Tech School Committee. The correspondence that was sent to the Monty Tech School Committee is attached, and also attached is their response.

James Boone was sworn in on March 1, 2022. Monty Tech acknowledged receipt of his Certificate of Appointment on March 3, 2022.

Based upon the foregoing, no further action of the Joint Convention is needed.

Best,  
Lizzy

Elizabeth Kazinskas  
City Council President  
Councillor at-Large  
City of Gardner  
Cell: (978) 337-1533  
[ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)



**FW: [EXTERNAL] Re: Vacancy Question**

Titi Siriphan <[tsiriphan@gardner-ma.gov](mailto:tsiriphan@gardner-ma.gov)>

Fri 3/18/2022 10:26 AM

To: Elizabeth Kazinskas <[ekazinskas@gardner-ma.gov](mailto:ekazinskas@gardner-ma.gov)>; John Flick <[jflick@flicklawgroup.com](mailto:jflick@flicklawgroup.com)>; John M. Flick <[jflick@gardner-ma.gov](mailto:jflick@gardner-ma.gov)>; Atty. Ethan Kolodny <[ekolodny@flicklawgroup.com](mailto:ekolodny@flicklawgroup.com)>; Mayor <[Mayor@gardner-ma.gov](mailto:Mayor@gardner-ma.gov)>

**Good Morning,**

**Please see attached correspondence from Monty Tech.**

**Regards,**

**Ti**

**Titi Siriphan  
City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
Tel 978-630-4058  
Fax 978-630-2589**

***When writing or responding, please remember that the MA Secretary of State's Office has determined that email is a public record and therefore subject to public access under the Mass Public Records Law. M.G.L.c.66§10.***

---

**From:** Eric Olson (School Committee) <[e-olson@montytech.net](mailto:e-olson@montytech.net)>

**Sent:** Thursday, March 17, 2022 4:00 PM

**To:** Titi Siriphan <[tsiriphan@gardner-ma.gov](mailto:tsiriphan@gardner-ma.gov)>

**Cc:** James Boone (School Committee) <[j-boone@montytech.net](mailto:j-boone@montytech.net)>; eric.commodore@gmail.com; Sheila Harrity <[harrity@montytech.net](mailto:harrity@montytech.net)>; Tammy Crockett <[lajoie@montytech.net](mailto:lajoie@montytech.net)>; khodge@scmlp.com

**Subject:** [EXTERNAL] Re: Vacancy Question

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Dear City Clerk,

Please find attached response letter and exhibits.

Best regards,

--Eric

Eric Olson

[e-olson@montytech.net](mailto:e-olson@montytech.net)

978-895-0330

On Mon, Mar 7, 2022 at 2:19 PM Titi Siriphan <[tsiriphan@gardner-ma.gov](mailto:tsiriphan@gardner-ma.gov)> wrote:

Mr. Eric Olson, Chairman  
Montachusett Regional Vocational Technical School Committee  
1050 Westminster Street

Fitchburg, MA 01420

**Re: Vacancy Question**

Dear Mrs. Chairman,

Your Superintendent, Dr. Harrity, recently contacted the City of Gardner to claim that a vacancy existed in the position held by Gardner Member James Boone who was duly appointed to a 4 year term on February 20, 2020. On February 22, 2022, a Joint Convention of the Gardner City Council and the Gardner School Committee voted unanimously to request that your Committee or it's counsel provide the legal and factual basis for the claimed vacancy.

Sincerely,



Titi Siriphan  
City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
Tel 978-630-4058  
Fax 978-630-2589

***When writing or responding, please remember that the MA Secretary of State's Office has determined that email is a public record and therefore subject to public access under the Mass Public Records Law. M.G.L.c.66§10.***

The contents of this e-mail and any attachments are the property of the Montachusett Regional Vocational Technical School and subject to the Public Records Law, M.G.L. c. 66, § 10.

*Montachusett Regional Vocational Technical School does not discriminate on the basis of race, color, gender, gender identity, ethnicity, sexual orientation, disability, religion or national origin.*

*District Title IX Compliance Coordinator: Victoria Zarozinski, (978) 345-9200 x5237*

March 17, 2022

Titi Siriphan  
City Clerk  
City of Gardner  
95 Pleasant Street, Room 121  
Gardner, MA 01440

Dear Ms. Siriphan:

The Montachusett Regional Vocational Technical School Committee (“Montachusett School Committee” or “District”) hereby seeks to respond to your request and the request of the Joint Convention of the Gardner City Council and the Gardner School Committee. After reviewing the recording of the meeting, the motion made, and reviewing your March 7, 2022 letter, which stated:

Your Superintendent, Dr. Harrity, recently contacted the City of Gardner to claim that a vacancy existed in the position held by Gardner Member James Boone who was duly appointed to a 4 year term on February 20, 2020. On February 22, 2022, a Joint Convention of the Gardner City Council and the Gardner School Committee voted unanimously to request that your Committee or its [sic] counsel provide the legal and factual basis for the claimed vacancy.

It is imperative that we look to eliminate all the inaccuracies and provide the specifics.

My intent in this letter and its attachments is to outline the details that the District has been able to put together on how this apparent innocent confusion occurred in the City of Gardner.

Firstly, the allegation that Dr. Harrity contacted Gardner about James Boone’s appointment and/or that the District has any authority over who is or is not appointed to its School Committee are false. Dr. Harrity did not contact Gardner about Mr. Boone’s appointment and the Montachusett School Committee plays no role in the appointments made by member Cities and Towns.

It is the responsibility of the member City or Town to make appointments and provide information to the Montachusett School Committee as set forth in the District Agreement (Attachment A). In 2018, the Chair of the Montachusett School Committee reminded all

member Cities and Towns of this responsibility in a letter that attached the District Agreements (Attachment B). The Montachusett School Committee does have an interest in maintaining appropriate records of its members and their terms. Hence, it periodically reviews and updates its files regarding its School Committee members. For example, Julie Marynok, Administrative Assistant to the Superintendent, sent on behalf of the Montachusett School Committee an email, on November 21, 2019, to each member City and Town requesting certain information (Attachment C).

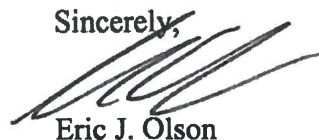
With regard to Montachusett School Committee member James Boone, it sought to update its records regarding his appointment (Attachment D) because the most recent record in its file was Mr. Boone's previous appointment that expired in 2020 (Attachment E). It received information that Mr. Boone's term expired in January 2022 (Attachment F). Following the February 22, 2022 Joint Council meeting, it learned that Eric Commodore had been appointed to the Montachusett School Committee to fill the seat previously held by Mr. Vance.

To attempt to understand the status of the second Gardner seat on the Montachusett School Committee, the District researched and determined that Mr. Boone had been appointed for a four-year term at the Gardner Joint Convention meeting held on February 18, 2020 and his term will expire in 2024 (Attachment G). On March 3, 2022, the District received Mr. Boone's Certificate of Appointment (Attachment H). The District has no knowledge why the Certificate reflects that the oath of office was administered on March 1, 2022.

In summary, any and all appointments to represent Gardner on the Montachusett School Committee are made by Gardner, not by Montachusett. Montachusett School Committee did not "claim[] a vacancy." Rather, the District was attempting to obtain accurate information on Mr. Boone's appointment from Gardner. The District has an interest and right to verify its records. It has, and will continue to, request appointment and related information from its member Cities and Towns and hopes that each will cooperate.

I trust that this responds to your request.

Sincerely,



Eric J. Olson

Enclosures Attachments A-H

cc: Sheila Harrity, Superintendent-Director  
James Boone



# **EXHIBIT A**

# **MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL**

**1050 Westminster Street  
Fitchburg, Massachusetts 01420**

**Ashburnham, Ashby, Athol, Barre, Fitchburg, Gardner, Harvard, Holden,  
Hubbardston, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling,  
Templeton, Westminster, Winchendon**

**Original July 1965  
1st Amendment 1974  
2nd Amendment 1989  
3rd Amendment 1989  
4th Amendment 1999  
5<sup>th</sup> Amendment 2017**

**MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL  
SCHOOL**

**DISTRICT AGREEMENT**

Ashby  
Ashburnham  
Athol  
Barre  
Fitchburg  
Gardner  
Harvard  
Holden  
Hubbardston  
Lunenburg  
Petersham  
Phillipston  
Princeton  
Royalston  
Sterling  
Templeton  
Westminster  
Winchendon

## AGREEMENT

### MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT

This agreement is entered into pursuant to Chapter 568 of the Acts of 1964 as amended by Chapter 543 of the Acts of 1965 by and among the Cities of Fitchburg and Gardner, and the Towns of Ashburnham, Ashby, Athol, Barre, Harvard, Hubbardston, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster, and Winchendon, and the Town of Holden as it shall accept this Agreement. In consideration of the mutual promises herein contained, it is hereby agreed as follows:

#### **SECTION I - THE REGIONAL DISTRICT SCHOOL COMMITTEE**

(A) Composition

The Committee shall consist of four members the city of Fitchburg, two members from the city of Gardner and one member from each of the member towns. Except as provided in subsection I (B), members shall be appointed (i) from the Cities of Fitchburg and Gardner by majority vote of the members of the Cities Council, Mayor and School Committee, and (ii) from each town by majority vote of the members of the Board of Selectmen, Town Moderator, and local School Committee members. All members shall be residents of the municipalities they represent and they shall serve until their respective successors are appointed and qualified.

- (B) Within ten days after the establishment of the regional school district, the mayor of each of the cities of Fitchburg and Gardner shall appoint one member to serve on the regional district school committee until January 1, 1968, and the local school committee of each of the said cities shall appoint one member (who need not be from its own membership) to serve on the regional district school committee until January 1, 1970, and the moderator of each member town shall appoint one member to serve on the regional district school committee until April 1, 1968; and each of the members so appointed shall have been a member of the regional school district planning board which submitted this agreement, if such a person is available and willing to serve.
- (C) Within thirty days after the annual town meeting in each town and within thirty days after January 1st in each city, members of the Regional District School Committee shall be appointed for a term of four years as set forth in Section I(A).

Within ten days after admission of any new municipality to the Montachusett Regional Vocational Technical School District, each such municipality shall appoint in accordance with subsection I(A) one member to serve on the Committee until the municipality shall appoint a member as set forth in the preceding paragraph of this section.



Notwithstanding the foregoing, all members of the Committee elected to office under the terms of the Agreement as enacted July 1965 shall continue to serve until the expiration of their elected terms.

Within ten days after admission to the District, the Moderator of the Town of Holden shall appoint one member to serve on the regional district school committee until their successor is appointed in accordance with Section I(C).

(D) Vacancies

Any vacancy occurring among the members of the Committee during appointed or elected term shall be filled by appointment in the manner set forth in subsection I(A) to serve for the balance of the unexpired term.

(E) Organization

The term of office of any member elected by a member city shall commence on January 1 following the election of such member and the term of office of any member elected by a member town shall commence on April 1 following the election of such member. Promptly upon the appointment and qualification of the members of the interim Committee and on April 1 of each year thereafter, the Committee shall organize and choose by ballot a chairman and a vice chairman from among its own membership. At the same meeting, or at any other meeting, the Committee shall appoint a treasurer and a secretary, who may be the same person but who need not be members of the Committee, choose such other officers as it deems advisable, determine the terms of office of its officers (except the chairman and vice chairman who shall be elected annually as provided above) and prescribe the powers and duties of any of its officers, fix the time and place for its regular meetings and provide for the calling of special meetings.

(F) Powers and Duties

The Committee shall have all the powers and duties inferred and imposed upon it by this agreement and such other additional powers and duties as are specified in Chapter 568 of the Acts of 1964 and any amendments thereof or additions thereto now or hereafter enacted, or as may be specified in any other applicable special law or in any applicable general law.

(G) Quorum

The quorum for the transaction of business shall be a majority of the Committee, but a number less than the majority may adjourn.

**SECTION II - LOCATION OF THE REGIONAL DISTRICT SCHOOL**

The regional district school shall be located within the District and within a six mile radius of the intersection of Routes 2, 2A, and 140, which intersection is in the town of Westminster.

**SECTION III - TYPE OF REGIONAL DISTRICT SCHOOL**

The regional district school shall be a vocational high school consisting of grades nine through twelve, inclusive. The Committee is hereby authorized to establish and maintain such kinds of education, acting as trustees therefor, as may be provided by cities or towns under the provisions of Chapter 74 of the General Laws and acts amendatory thereof, in addition thereto or dependent thereon, including courses beyond the secondary level in accordance with the provisions of Section 37A of the said Chapter 74 of the General Laws.

**SECTION IV - APPORTIONMENT AND PAYMENT OF COSTS INCURRED BY THE DISTRICT**

(A) Classification of Costs

For the purpose of apportioning assessments levied by the District against the member municipalities, costs shall be divided into two categories: capital costs and operating costs.

(B) Capital Costs

Capital costs shall include all expenses in the nature of capital outlay such as the cost of acquiring land, the cost of constructing, reconstructing and adding to buildings, and the cost of remodeling or making extraordinary repairs to a school building or buildings, including without limitation the cost of the original equipment and furnishings for such buildings or additions, plans, architects' and consultants' fees, grading and other costs incidental to placing school buildings and additions and related premises in operating condition. Capital costs shall also include payment of principal of the interest on bonds, notes or other obligations issued by the District to finance capital costs.

(C) Operating Costs

Operating costs shall include all costs not included in capital costs as defined in subsection IV (B), but including interest on temporary notes issued by the District in anticipation of revenue.

(D) Capital costs shall be apportioned annually for the ensuing fiscal year on the basis of pupil enrollment as hereinafter defined. For the purposes of this subsection, pupil enrollment shall be defined as the number of pupils residing in a member municipality and enrolled in grades one through twelve, inclusive of any public, private, or parochial school, wherever located. Each member municipality's share of capital costs for each fiscal year shall be determined by computing the ratio which its pupil enrollment on October 1 of the year next preceding the year for which the apportionment is determined bears to the total pupil enrollments from all the member municipalities on the same date.

(E) All operating costs, except those described in subsection IV (F), for every fiscal year shall be apportioned to the member municipalities on the basis of their respective pupil enrollments in the regional district school. Each member municipality's share for each fiscal year shall be determined by computing the ratio which the member municipality's pupil enrollment in the regional district school on October 1 of the year next preceding the year for which the apportionment is determined bears to the total pupil enrollment from all the member municipalities on the same date. In computing the apportionment, the "persons" referred to in subsection IV (F) shall be excluded. In the event that enrollment of pupils in the regional district school has not been accomplished by October 1 of any year, operating costs shall be apportioned on the basis of the number of pupils residing in each member municipality and enrolled in grades one through twelve, inclusive of any public, private or parochial school, wherever located, on October 1 of that year.

(F) i. The phrase "special operating costs" as used herein shall be interpreted to mean all expenses and costs, whether direct or indirect, incurred in operation of any program other than the regular Regional Vocation Technical School program and shall include, but not be limited to, costs of heating, lighting, maintenance, transportation, instruction, supervision, supplies, salaries, wages.

ii. The Committee shall determine the operating costs for each fiscal year of any evening trade extension courses or other types of courses or programs which are offered by the District to persons other than pupils attending the regular day Regional Vocational School. Each member municipality's share of such operating costs shall be determined by computing the ratio which that municipality's enrollment of persons in such courses or programs during that fiscal year for which the apportionment is determined bears to the total enrollment of person in such courses or programs.

iii. The assessment of such special operating costs as so determined shall be separately set forth in each budget so as to be identifiable as such.

(G) Fiscal Year and Times of Payment of Apportioned Costs\*\*

The fiscal year of the District shall be the same as the fiscal period of the member cities and towns as provided by law, and the word calendar year or year as it relates to this Agreement fiscal or budget year shall mean the fiscal year of the District.

Notwithstanding the provisions of Section IV of this Agreement, the dates on or before which the respective percentages of the annual share of costs of the District apportioned to each member city and town shall be paid as follows:

August 1 (first payment)  
November 1 (second payment)  
February 1 (third payment)  
May 1 (fourth payment)

This section shall be effective only to the extent that Chapter 849 of the Acts of 1969 as amended shall be in effect.

**SECTION V - BUDGET**

(A) The regional district school committee shall adopt an annual operating and maintenance budget for the next fiscal year not later than forty-five days prior to the earliest date on which the business session of the annual town meeting of any member town is to be held, but not later than March 31, provided that said budget need not be adopted prior to February 1. The amount of said budget shall be apportioned among the member municipalities according to the provisions of Section IV herein. The regional district treasurer shall certify to the treasurers of each municipality its respective share of the budget within thirty days from the date on which the annual budget is adopted by a two-thirds vote of the regional district school committee, but not later than April 30. The sums thus certified shall be payable by the member municipalities to the regional district school but only from funds which may have been appropriated by the member municipalities for such purposes. The certification shall include the amount of state aid the district is to receive under M.G.L. c. 71, section 16D for the ensuing fiscal year and the proportionate share of such aid for such municipality, the amount, if any, by which the unencumbered amount in the excess and deficiency fund, so called, of the regional school district at the end of the preceding fiscal year, as certified by the commissioner of revenue pursuant to M.G.L. c.71, section 16B1/2, exceeded five percent of the regional school district's operating budget and its budgeted capital costs for the current fiscal year, and the proportionate share of any such excess in said fund by which such municipality's assessment for the current fiscal year was reduced.

(B) Provision of Operating and Maintenance Budget to Municipalities

On or before April 30, the regional district school committee shall submit a copy of the adopted budget, attaching thereto provision for any installment of principal or interest to become due in such year on any bonds, or other evidence of indebtedness of the District and any other capital costs to be apportioned to the member municipalities, to the mayors



of the cities of Fitchburg and Gardner and the chairs of the boards of selectmen and the chairs of the finance or advisory committees of the member towns a copy of such tentative operating and maintenance budget which shall be itemized as follows to be in such further detail as the regional district school committee may deem advisable:

1. Administration
2. Instruction
3. Other School Services
4. Operation and Maintenance of Plant
5. Fixed Charges
6. Community Services
7. Acquisition of Fixed Assets
8. Debt Retirement and Debt Service
9. Programs with Other Districts and Private Schools

(C) Final Operating and Maintenance Budget

In the event that the operating and maintenance budget is not approved by at least two-thirds of the member municipalities, the regional school district committee shall have thirty days to reconsider, amend and resubmit a budget on the basis of the issues raised. The amounts required to be raised on account of the regional school district budget shall be reapportioned between or among the member municipalities by the regional school district committee and a copy of the amended budget shall be provided, not later than seven days from the date the amended regional school district budget was adopted by the regional school district committee, to the chairs of the boards of selectmen, chairs of the finance committees, mayors, presidents of the city council and treasurers of the member municipalities. The respective amounts reapportioned between or among the members by the regional school district committee shall be recertified by the district treasurer to the treasurers of the member municipalities not later than seven days from the date the amended regional school district budget was adopted by the regional school district committee. Prior to the expiration of forty-five days from the date on which such budget was adopted by the regional school district committee, each member municipality shall hold a meeting of the local appropriating authority to act upon the appropriation of the budget so reapportioned and recertified to it. If the appropriating authorities of at least two-thirds of the member municipalities vote to appropriate the amounts so reapportioned and recertified to them, such budget shall be considered approved and shall be apportioned between and among the member municipalities and paid by them in accordance with the terms of the regional school district agreement. If two-thirds of the member municipalities do not vote to appropriate the amounts so reapportioned and recertified, the budget shall be recommitted to the regional school district committee for action pursuant to this Section V (C) or M.G.L. c. 71, Section 16B. A municipality that does not hold a meeting of its local appropriating authority prior to the expiration of forty-five days from the date on which an amended budget was adopted by the regional school district committee shall be deemed to have voted to appropriate the amounts reapportioned and recertified to it.

(D) Incurring of Debt

Not later than seven days after the date on which the regional district school committee authorizes the incurring of debt other than temporary debt in anticipation of revenue to be received from member municipalities, written notice of the date of said authorization, the sum authorized, and the general purpose or purposes for authorizing such debt shall be submitted to the city council of the cities of Fitchburg and Gardner and to the board of selectmen in each member town.

**SECTION VI - APPORTIONMENT OF ENROLLMENT**

On or before April 1 of each year, commencing with the year next following the opening of the regional school, the Committee shall determine the enrollment capacity of the regional school for all regular day courses to be conducted therein in the next school year. In order to limit enrollments to such capacity, a quota shall be established for each member municipality. Each municipality's quota shall be determined by multiplying such enrollment capacity by a fraction of which the school population of a member municipality on October 1 of the previous year shall be the numerator and the total school population of all the member municipalities on October 1 of such year shall be the denominator. For the purpose of this section, "school population" of a member municipality shall be defined as the number of pupils residing therein who are enrolled in grades one through twelve, inclusive in any public, private, or parochial school wherever located. Not later than five days after the quota for each member municipality has been determined, the Committee shall transmit such quota to the local superintendent of schools in each member municipality. In the event that the prospective enrollment on June 1 of any year of qualified candidates from any member municipality is less than its quota, the Committee shall determine the method by which prospective vacancies shall be filled.

**SECTION VII - TRANSPORTATION**

School transportation shall be provided by the regional school district and the cost thereof shall be apportioned to the member municipalities as an operating cost.

**SECTION VIII - AMENDMENTS**

(A) Limitations

This agreement may be amended from time to time in the manner hereinafter provided, but no amendment shall be made which shall substantially impair the rights of the holders of any bonds, notes or other obligations of the District then outstanding, or the rights of the District to procure the means for payment thereof, provided that nothing in this section shall prevent the admission of a new town or towns to the District and the reapportionment accordingly of capital costs of the District represented by bonds or notes of the District then outstanding and of interest thereon.

(B) Procedure

Any proposal for amendment, except a proposal for amendment providing for the withdrawal of a member municipality (which shall be acted upon as provided in Section X), may be initiated by a two-thirds vote of all the members of the Committee or by a petition signed by 10 percent of the registered voters of any one of the member municipalities. In the latter case, said petition shall contain at the end thereof a certification by the town or city clerk of such member municipality as to the number of registered voters in said municipality according to the most recent voting list and the number of signatures on the petition which appear to be the names of registered voters of said municipality and said petition shall be presented to the secretary of the Committee. In either case, the secretary of the Committee shall mail or deliver a notice in writing to the board of selectmen of each of the member towns and to the city councils of Fitchburg and Gardner that a proposal to amend this agreement has been made and shall enclose a copy of such proposal (without the signatures in the case of a proposal by petition). The selectmen of each member town shall include in the warrant for the next annual or a special town meeting called for the purpose of an article stating the proposal or the substance thereof. Such amendment shall take effect upon its acceptance by all of the member municipalities, acceptance by each town to be by a majority vote at a town meeting as aforesaid and acceptance by each of the said cities to be by a majority vote of its city council.

**SECTION IX - ADMISSION OF ADDITIONAL TOWNS TO THE DISTRICT**

By an amendment of this agreement adopted under and in accordance with Section VIII above, any other town or towns may be admitted to the regional district upon adoption as therein provided of such amendment and upon acceptance by the town or towns seeking admission of the agreement as so amended and also upon compliance with such provisions of law as may be applicable and such terms as may be set forth in such an amendment.

**SECTION X - WITHDRAWAL**

(A) Limitations

The withdrawal of a member municipality from the District may be effected by an amendment to this agreement in the manner hereinafter provided by this section. Any member municipality seeking to withdraw shall, by a majority vote at an annual or special town meeting in the case of a town or by a vote of two thirds of all the members of the city council in the case of a city, request the Committee to draw up an amendment to this agreement setting forth the terms by which such municipality may withdraw from the District, provided (1) that the municipality seeking to withdraw shall remain liable for any unpaid operating costs which have been certified by the district treasurer to the treasurer of the withdrawing municipality, including the full amount so certified for the year in which such withdrawal takes effect and (2) that the said municipality shall remain liable to the District for its share of the indebtedness of the District outstanding at the



time of such withdrawal, and for interest thereon, to the same extent and in the same manner as though the municipality had not withdrawn from the District.

(B) Procedure

The clerk of the municipality seeking to withdraw shall notify the Committee in writing that such municipality has voted to request the Committee to draw up an amendment to the agreement (enclosing a certified copy of such vote). Thereupon, the Committee shall draw up an amendment to the agreement setting forth such terms of withdrawal as it deems advisable, subject to the limitation contained in subsection VIII (A). The secretary of the Committee shall mail or deliver a notice in writing to the board of selectmen of each member town and to the city council of each member city that the Committee has drawn up an amendment to the agreement providing for the withdrawal of a member municipality (enclosing a copy of such amendment). The selectmen of each member town shall include in the warrant for the next annual or a special town meeting called for the purpose an article stating the amendment or the substance thereof. Such amendment shall take effect upon its acceptance by all of the member municipalities, acceptance by each town to be by a majority vote at a town meeting as aforesaid and acceptance by each city to be by a vote of two thirds of all the members of its city council.

(C) Cessation of Terms of Office of Withdrawing Municipality's Members

Upon the effective date of withdrawal, the term of office of all members serving on the regional district school committee from the withdrawing municipality shall terminate and the total membership of the Committee shall be decreased accordingly.

(D) Payments of Certain Capital Costs Made by a Withdrawing Municipality

Money received by the District from the withdrawing municipality for payment of funded indebtedness or interest thereon shall be used only for such purpose and until so used shall be deposited in trust in the name of the District with a Massachusetts bank or trust company having a combined capital and surplus of not less than \$5,000,000.

(E) Apportionment of Costs After Withdrawal

The withdrawing municipality's share of any future installment of principal and interest on obligations outstanding on the effective date of its withdrawal shall be fixed at the percentage prevailing for such municipality, at the last apportionment made next prior to the effective date of the withdrawal. The remainder of any such installment after subtracting the share of any municipality or municipalities which have withdrawn shall be apportioned to the remaining member municipalities in the manner provided in subsection IV (D) or as may be otherwise provided in the amendment providing for such withdrawal.



## **SECTION XI - TUITION STUDENTS**

The Committee may accept for enrollment in the regional district school pupils from municipalities other than the member municipalities on a tuition basis. Income received by the District from tuition pupils and not previously deducted from operating costs shall be deducted from the total operating costs in the next annual budget to be prepared after the receipt thereof, prior to apportionment under Section IV to the member municipalities.

Tuition pupils may be accepted for enrollment only if there are sufficient facilities to accommodate them and only if the Committee has admitted to the regional school all qualified residents of the member municipalities who have applied for admission thereto.

## **SECTION XII - ADVISORY COMMITTEE**

The regional district school committee may, to assist it in the construction of any regional school building, appoint a building committee to advise it with respect to plans, specifications, appointment of architects, engineers, the awarding of contracts, the supervision of construction, and any other assistance which the regional district school committee may desire. The members of any such committee shall serve in an advisory capacity only and without compensation.

## **SECTION XIII - ANNUAL REPORT**

The Committee shall submit on or before January 31 of each year, an annual report to each of the member municipalities containing a detailed financial statement for the prior year and the budget for the then current year including in each case a statement showing the method by which the annual charges assessed against each municipality were computed, together with such additional information relating to the operation and maintenance of the Regional School as may be deemed necessary or appropriate by the Committee. The Committee shall also furnish, upon request, any additional financial information as may reasonably be deemed necessary by the selectmen, mayor or city council of any member municipality.

# **EXHIBIT B**

May 4, 2018

**VIA FIRST CLASS MAIL**

[Town Administrator or Mayor]

[Address]

[City, State ZIP]

**RE: Procedures to appoint representatives to the Montachusett Regional Vocational Technical School Committee**

Dear [Insert Name],

At a recent school committee meeting, the issue of timely appointment of new school committee members to the Monty Tech School Committee was raised. As the issue was discussed, various members were unclear as to whether or not their respective member communities were fully abreast of the timing of appointments and of the appointment requirements that are within the Montachusett Regional Vocational Technical School District Agreement. Therefore, under cover of this letter, it is providing all member communities with a copy of the language of the Agreement and a summary of the appointment requirements to the Monty Tech School Committee.

The operating appointment language can be found within the 3<sup>rd</sup> Amendment to the Regional Agreement, which the member communities adopted in 1989. The appointment requirements are summarized as follows:

1. For member towns, a school committee representative to Monty Tech is appointed by a majority vote of the board of selectmen, town moderator and local school committee members. Appointment is to be made within 30 days after the annual town meeting. Appointment to the Monty Tech School Committee is a 4-year appointment.
2. For member cities, a school committee representative to Monty Tech is appointed by a majority vote of the school committee, city council and mayor. Appointments are to be made within 30 days of January 1, and the term is a four-year term.

If you have questions or feedback regarding the appointment requirements, or if the Monty Tech administration can provide assistance in this process, please contact Superintendent Director Sheila Harrity. A copy of the full District Agreement with all amendments is enclosed for your reference. Thank you in advance for your efforts.

Very truly yours,

**Brian Walker**  
Chairperson of the Monty Tech School Committee

Enclosure

cc: Dr. Sheila Harrity

# **EXHIBIT C**



----- Forwarded message -----

From: Julie Marynok <[marynok-julie@montytech.net](mailto:marynok-julie@montytech.net)>

Date: Thu, Nov 21, 2019 at 2:58 PM

Subject: Information Request

To: <[kfarrell@sterling-ma.gov](mailto:kfarrell@sterling-ma.gov)>, <[afarrell@fitchburgma.gov](mailto:afarrell@fitchburgma.gov)>, <[bhaley-cormier@westminster-ma.gov](mailto:bhaley-cormier@westminster-ma.gov)>, <[cbowen@harvard.ma.us](mailto:cbowen@harvard.ma.us)>, <[chastings-brutvan@westminster-ma.gov](mailto:chastings-brutvan@westminster-ma.gov)>, City/Town Clerk List <[dhickey@holdenma.gov](mailto:dhickey@holdenma.gov)>, <[egriffin@lunenburgonline.com](mailto:egriffin@lunenburgonline.com)>, City/Town Clerk List <[ekeese@fitchburgma.gov](mailto:ekeese@fitchburgma.gov)>, <[esheehan@westminster-ma.gov](mailto:esheehan@westminster-ma.gov)>, <[fglover@gardner-ma.gov](mailto:fglover@gardner-ma.gov)>, City/Town Clerk List <[jdoucet@harvard.ma.us](mailto:jdoucet@harvard.ma.us)>, <[jolivari@gardner-ma.gov](mailto:jolivari@gardner-ma.gov)>, City/Town Clerk List <[kherrick@lunenburgonline.com](mailto:kherrick@lunenburgonline.com)>, <[lmonahan@holdenma.gov](mailto:lmonahan@holdenma.gov)>, City/Town Clerk List <[lsicard@fitchburgma.gov](mailto:lsicard@fitchburgma.gov)>, <[mkenney@harvard.ma.us](mailto:mkenney@harvard.ma.us)>, <[slucia@holdenma.gov](mailto:slucia@holdenma.gov)>, <[tclerk@ci.ashby.ma.us](mailto:tclerk@ci.ashby.ma.us)>, <[tclerk@hubbardstonma.us](mailto:tclerk@hubbardstonma.us)>, <[townclerk@ashburnham-ma.gov](mailto:townclerk@ashburnham-ma.gov)>, <[townclerk@sterling-ma.gov](mailto:townclerk@sterling-ma.gov)>, <[townclerk@town.princeton.ma.us](mailto:townclerk@town.princeton.ma.us)>, <[wbrouillette@holdenma.gov](mailto:wbrouillette@holdenma.gov)>, <[wstevens@townofwinchendon.com](mailto:wstevens@townofwinchendon.com)>, City/Town Clerk List <[aagnelli@gardner-ma.gov](mailto:aagnelli@gardner-ma.gov)>, <[townclerk@townofathol.org](mailto:townclerk@townofathol.org)>, <[PetershamBOSOffice@gmail.com](mailto:PetershamBOSOffice@gmail.com)>, Harris, Carol <[charris@templetonma.gov](mailto:charris@templetonma.gov)>, <[townclerk@royalston-ma.gov](mailto:townclerk@royalston-ma.gov)>, <[clerk@townofbarre.com](mailto:clerk@townofbarre.com)>

Good afternoon,

My Chair has asked me to reach out to you to request the following information:

1. Charting the Course Certificate as required by MGL, Chapter 71, Section 36A.

**Section 36A.** School committee members, within 1 year after their initial election or appointment, shall complete at least 8 hours of orientation concerning the responsibilities of their office at no cost to individual school committee members. The orientation shall include but not be limited to a review of school finance, the open meeting law, public records law, conflict of interest law, special education law, collective bargaining, school leadership standards and evaluations and the roles and responsibilities of school committee members. The orientation shall be provided by the Massachusetts Association of School Committees, Inc. or any other entity approved by the commissioner of education after consulting the association. The Association and any other entity providing such orientation shall offer every year at least 2 orientation sessions at no required cost to eligible school committees. A certificate shall be awarded to each participant upon completion of the orientation and notice thereof shall be filed with the clerk of the city or town where the school committee member resides.

2. Appointment letters
3. Conflict of Interest if the member turned it into your office.
4. Ethics training confirmation if the member turned it into your office.

Thank you for your help.

Julie

--

**Julie M. Marynok**  
**Administrative Assistant to the**  
**Superintendent/Director**  
**Montachusett Regional**  
**Vocational Technical School**  
**1050 Westminster Street**  
**Fitchburg, MA 01420**  
**978-343-2506**

--

**Julie M. Marynok**  
**Administrative Assistant to the**  
**Superintendent/Director**  
**Montachusett Regional**  
**Vocational Technical School**  
**1050 Westminster Street**  
**Fitchburg, MA 01420**  
**978-343-2506**

The contents of this e-mail and any attachments are the property of the Montachusett Regional Vocational Technical School and subject to the Public Records Law, M.G.L. c. 66, § 10.

---

*Montachusett Regional Vocational Technical School does not discriminate on the basis of race, color, gender, gender identity, ethnicity, sexual orientation, disability, religion or national origin.*  
*District Title IX Compliance Coordinator: Victoria Zarozinski, (978) 345-9200 x5237*

---

This email has been scanned for spam & viruses. If you believe this email should have been stopped by our filters, [click here](#) to report it.

# **EXHIBIT D**



# **EXHIBIT E**



*City of Gardner*

*Massachusetts*



*Certificate of Appointment*

*At a Joint Convention of the City Council and School Committee  
held on the 19<sup>th</sup> day of January 2016*

*James S. Boone*

*was appointed*

*Gardner Representative*

*To the Massachusetts Regional Vocational  
Technical School District Committee*

*for the term expiring the 19<sup>th</sup> day of January in the Year Two Thousand Twenty. Said  
action taken in accordance with the provisions of Section 11.1 of the Massachusetts  
Regional Vocational Technical School District Agreement.*

*Further in accordance with the provisions of Section 107 of Chapter 41 of the General  
Laws of Massachusetts James S. Boone was administered the Oath of Office for the  
faithful performance of duties on the 19<sup>th</sup> day of January in the Year Two Thousand  
Sixteen.*

*Attesty Attest*

*Alan L. Agnelli*

*Alan L. Agnelli*

*City Clerk*

# EXHIBIT F



Julie Marynok <marynok-julie@montytech.net>

---

**RE: Appointment for James Boone**

4 messages

---

John Olivari <jolivari@gardner-ma.gov>  
To: Jennifer Pelavin <PelavinJ@gardnerk12.org>  
Cc: Julie Marynok <marynok-julie@montytech.net>, Faith Glover <fglover@gardner-ma.gov>

---

Tue, Jul 27, 2021 at 11:40 AM

Hi Jennifer,

From what I can tell the Gardner School Committee are the ones who do the appointments for MT school committee representatives from Gardner.

Are you able to help Julie with her request?

Thanks

John

**From:** Julie Marynok <marynok-julie@montytech.net>  
**Sent:** Tuesday, July 27, 2021 11:15 AM  
**To:** Faith Glover <fglover@gardner-ma.gov>; John Olivari <jolivari@gardner-ma.gov>; Gardner List Serve <aagnelli@gardner-ma.gov>  
**Subject:** Appointment for James Boone

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

Good morning,

I am currently updating my City and Town files and I noticed I do not have an appointment letter for James Boone. I would like to confirm his term expiration date.

Thank you

Julie

--



3/10/22, 2:29 PM

MONTAGUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT MAIL - RE: APPOINTMENT FOR JAMES BOONE

Assistant City Clerk

95 Pleasant St.

Room 121

Gardner, MA 01440

978-630-4058

978-630-2589 (Fax)

[Quoted text hidden]

---

Julie Marynok <marynok-julie@montytech.net>  
To: John Olivari <jolivari@gardner-ma.gov>

Thu, Aug 12, 2021 at 2:48 PM

Thank you

[Quoted text hidden]



# **EXHIBIT G**



Julie Marynok <marynok-julie@montytech.net>

### Gardner Rep to Monty Tech

3 messages

Julie Marynok <marynok-julie@montytech.net>

Mon, Feb 28, 2022 at 1:32 PM

To: Gardner List Serve <Mayor@gardner-ma.gov>, "James Boone (School Committee)" <j-boone@montytech.net>

Good afternoon Mayor Mickelson and Mr. Boone,

I started to research the minutes on the City of Gardner's City Council website. It appears that Mr. Boone was reelected to a four-year seat on the Monty Tech School Committee on February 18, 2020.

Please see attached.

Julie

Julie M. Marynok  
Administrative Assistant to the  
Superintendent/Director  
Montachusett Regional  
Vocational Technical School  
1050 Westminster Street  
Fitchburg, MA 01420  
978-343-2506

Gardner Rep JB.pdf  
26K

Mayor <Mayor@gardner-ma.gov>

Mon, Feb 28, 2022 at 2:44 PM

To: Julie Marynok <marynok-julie@montytech.net>

Cc: "James Boone (School Committee)" <j-boone@montytech.net>

Hi Everyone,

Yes I couldn't agree more. Now that the conflict that barred me from participating is over, I've told the council President that Councilor Boone should be sworn in and that should alleviate everything. I just wasn't allowed to participate in anything before due to what the ethics commission told me

I believe the City Clerk has already sent all of this out.

Best,

Mike

Michael J Nicholson  
Mayor, City of Gardner, MA

On Feb 28, 2022, at 1:32 PM, Julie Marynok <marynok-julie@montytech.net> wrote:

**CAUTION:** This email originated from a sender outside of the City of Gardner mail system. Do not click on links or open attachments unless you verify the sender and know the content is safe.

(Quoted text hidden)

The contents of this e-mail and any attachments are the property of the Montachusett Regional Vocational Technical School and subject to the Public Records Law, M.G.L. c. 86, § 10.



**CITY OF GARDNER**



**IN CITY COUNCIL**

**JOINT CONVENTION OF FEBRUARY 18, 2020**

---

James R. Abare voting for James S. Boone  
Rachel A. Cormier voting for James S. Boone  
Anne F. Hurst voting for James S. Boone  
John M. LaFreniere voting for James S. Boone  
Jennifer Z. Pelavin voting for James S. Boone  
Robert J. Swartz voting for James S. Boone

Having received sixteen (16) votes, James S. Boone was appointed Representative to the MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE for term expiring February 18, 2024.

On a motion by Councillor Scott Graves and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce to adjourn at 7:03 p.m.

Accepted by the City Council: *March 2, 2020*

**CITY OF GARDNER  
MASSACHUSETTS 01440-2630**

**OFFICE OF THE  
CITY COUNCIL**



**NOTICE OF JOINT CONVENTION OF THE GARDNER  
CITY COUNCIL AND GARDNER SCHOOL COMMITTEE**

**Montachusett Regional Vocational Technical  
School District Committee Appointment**

The City Council and School Committee will meet in Joint Convention on **Tuesday, February 18, 2020 at 7:00 p.m.** in the City Council Chamber, Room 219, City Hall, to appoint a Gardner resident to serve on the Montachusett Regional Vocational Technical School District Committee for four years.

**ALAN L. AGNELLI  
CITY CLERK**





**JOINT CONVENTION OF FEBRUARY 18, 2020**

---

Tuesday evening, February 18, 2020. The Joint Convention of the City Council and School Committee, held in the City Council Chamber, was called to order by Council President James Walsh at 7:00 o'clock p.m. for the purpose of appointing a Representative to the Montachusett Regional Vocational Technical School District Committee for four years.

City Clerk Alan L. Agnelli called the Roll of Convention. Present were:

**Members of the City Council (10)**

James M. Walsh, President  
James S. Boone  
Nathan R. Boudreau  
Craig R. Cormier  
Ronald F. Cormier  
Aleksander Dermalowicz  
Scott Joseph Graves  
Karen G. Hardern  
Elizabeth J. Kazinskas  
George C. Tyros

**Members of the School Committee (6)**

James R. Abare  
Rachel A. Cormier  
Anne F. Hurst  
John M. LaFreniere  
Jennifer Z. Pelavin  
Robert J. Swartz

Councillor Judy A. Mack was absent.

Council President James Walsh called for nominations from the floor.

Councillor Scott Joseph Graves nominated Councillor James S. Boone. Councillor Nathan Boudreau seconded the nomination.

On a motion by Councillor Scott Joseph Graves and seconded by Councillor Karen Hardern, it was voted viva voce to close nominations.

The City Clerk called the roll.

On Call of the Roll:

Councillor James S. Boone voting for James S. Boone  
Councillor Nathan R. Boudreau voting for James S. Boone  
Councillor Craig R. Cormier voting for James S. Boone  
Councillor Ronald F. Cormier voting for James S. Boone  
Councillor Scott Joseph Graves voting for James S. Boone  
Councillor Karen G. Hardern voting for James S. Boone  
Councillor Elizabeth J. Kazinskas voting for James S. Boone

**CITY OF GARDNER**



**IN CITY COUNCIL**

**JOINT CONVENTION OF FEBRUARY 18, 2020**

---

**James R. Abare voting for James S. Boone  
Rachel A. Cormier voting for James S. Boone  
Anne F. Hurst voting for James S. Boone  
John M. LaFreniere voting for James S. Boone  
Jennifer Z. Pelavin voting for James S. Boone  
Robert J. Swartz voting for James S. Boone**

**Having received sixteen (16) votes, James S. Boone was appointed Representative to the MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE for term expiring February 18, 2024.**

**On a motion by Councillor Scott Graves and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce to adjourn at 7:03 p.m.**

**Accepted by the City Council: *March 2, 2020***

# **EXHIBIT H**



Julie Marynok <marynok-julie@montytech.net>

---

## Certificate of Appointment

1 message

---

Julie Marynok <marynok-julie@montytech.net>  
To: Gardner List Serve <Mayor@gardner-ma.gov>

Thu, Mar 3, 2022 at 11:56 AM

Good morning Mayor Mickelson,

Thank you for having the City Clerk's Office send over the Certificate of Appointment for Mr. Boone. Monty Tech had not received it prior and appreciates you forwarding this along for our files.

Julie

--

Julie M. Marynok  
Administrative Assistant to the  
Superintendent/Director  
Montachusett Regional  
Vocational Technical School  
1050 Westminster Street  
Fitchburg, MA 01420  
978-343-2506

*City of Gardner  
Massachusetts*



**Certificate of Appointment**

At at a Joint Convention of the City Council and School Committee  
held on the 18<sup>th</sup> day of February 2020

**James S. Boone**

was appointed

**Gardner Representative  
To the Montachusett Regional Vocational  
Technical School District Committee**

for the term expiring the 18<sup>th</sup> day of February in the Year Two Thousand  
Twenty-four. Said action taken in accordance with the provisions of  
Section I(A) of the Montachusett Regional Vocational Technical  
School District Agreement.

Further, in accordance with the provisions of Section 107 of Chapter 41  
of the General Laws of Massachusetts, James S. Boone was administered  
the Oath of Office for the faithful performance of duties on the 1 day  
of March in the Year Two Thousand Twenty Two.

*Before me,*

*Faith A Glover* <sup>Asst</sup>  
City Clerk

Received

*James S. Boone*





# **Exhibit C:**

## **Open Meeting Law Guide and Educational Materials**

# Open Meeting Law Guide and Educational Materials



COMMONWEALTH OF MASSACHUSETTS  
**OFFICE OF ATTORNEY GENERAL**  
**MAURA HEALEY**

**JANUARY 2018**

# TABLE OF CONTENTS

## Contents

---

### **Open Meeting Law Guide**

|                                                         |    |
|---------------------------------------------------------|----|
| Overview .....                                          | 4  |
| Certification .....                                     | 4  |
| Meetings of Public Bodies .....                         | 5  |
| What constitutes a public body? .....                   | 5  |
| What constitutes a deliberation? .....                  | 6  |
| Notice .....                                            | 8  |
| Executive Session .....                                 | 10 |
| The Ten Purposes for Executive Session .....            | 11 |
| Remote Participation.....                               | 15 |
| Public Participation.....                               | 17 |
| Minutes .....                                           | 18 |
| Open Session Meeting Records.....                       | 19 |
| Executive Session Meeting Records .....                 | 19 |
| Open Meeting Law Complaints .....                       | 20 |
| What is the Open Meeting Law complaint procedure? ..... | 20 |
| Open Meeting Law Trainings.....                         | 23 |
| Contacting the Attorney General .....                   | 23 |

### **Appendix**

|                                                           |    |
|-----------------------------------------------------------|----|
| The Open Meeting Law, G.L. c. 30A, §§ 18-25 .....         | 25 |
| 940 CMR 29.00: Open Meeting Law Regulations.....          | 36 |
| Certificate of Receipt of Open Meeting Law Materials..... | 48 |

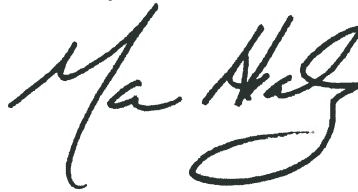
Dear Massachusetts Residents:

One of the most important functions of the Attorney General's Office is to promote openness and transparency in government. Every resident of Massachusetts should be able to access and understand the reasoning behind the government policy decisions that affect our lives. My office is working to achieve that goal through fair and consistent enforcement of the Open Meeting Law, along with robust educational outreach about the law's requirements.

The Open Meeting Law requires that most meetings of public bodies be held in public, and it establishes rules that public bodies must follow in the creation and maintenance of records relating to those meetings. Our office is dedicated to providing educational materials, outreach and training sessions to ensure that members of public bodies and citizens understand their rights and responsibilities under the law.

Whether you are a town clerk or town manager, a member of a public body, or a concerned citizen, I want to thank you for taking the time to understand the Open Meeting Law. If you would like additional guidance on the law, I encourage you to contact my Division of Open Government at (617) 963-2540 or visit our website at [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting) for more information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ma Healey', with a large, stylized flourish at the end.

Maura Healey  
Massachusetts Attorney General



---

# *Attorney General's Open Meeting Law Guide*

---

## **Overview**

---

### **Purpose of the Law**

The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

### **Attorney General's Authority**

The Open Meeting Law was revised as part of the 2009 Ethics Reform Bill, and now centralizes responsibility for statewide enforcement of the law in the Attorney General's Office. G.L. c. 30A, § 19(a). To help public bodies understand and comply with the law, the Attorney General has created the Division of Open Government. The Division of Open Government provides training, responds to inquiries, investigates complaints, and when necessary, makes findings and orders remedial action to address violations of the law. The purpose of this Guide is to inform elected and appointed members of public bodies, as well as the interested public, of the basic requirements of the law.

### **Certification**

Within two weeks of a member's election or appointment or the taking of the oath of office, whichever occurs later, all members of public bodies must complete the attached Certificate of Receipt of Open Meeting Law Materials certifying that they have received these materials, and that they understand the requirements of the Open Meeting Law and the consequences of violating it. The certification must be retained where the public body maintains its official records. All public body members should familiarize themselves with the Open Meeting Law, the Attorney General's regulations, this Guide, and Open Meeting Law determinations issued to the member's public body within the last five years in which the Attorney General found a violation of the law.

In the event a Certificate has not yet been completed by a presently serving member of a public body, the member should complete and submit the Certificate at the earliest opportunity to be considered in compliance with the law. A public body member must sign a new Certificate upon reelection or reappointment to the public body but need not sign a Certificate when joining a subcommittee.

### [Open Meeting Law Website](#)

---

This Guide is intended to be a clear and concise explanation of the Open Meeting Law's requirements. The complete law, as well as the Attorney General's regulations, training materials, and determinations and declinations as to complaints can be found on the Attorney General's Open Meeting website, [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting). Members of public bodies, other local and state government officials, and the public are encouraged to visit the website regularly for updates on the law and the Attorney General's interpretations of it.

## **Meetings of Public Bodies**

---

### [What meetings are covered by the Open Meeting Law?](#)

---

With certain exceptions, all meetings of a public body must be open to the public. A meeting is generally defined as "a deliberation by a public body with respect to any matter within the body's jurisdiction." As explained more fully below, a deliberation is a communication between or among members of a public body.

These four questions will help determine whether a communication constitutes a meeting subject to the law:

- 1) is the communication between or among members of a **public body**;
- 2) if so, does the communication constitute a **deliberation**;
- 3) does the communication involve a matter within the body's **jurisdiction**; and
- 4) if so, does the communication fall within an **exception** listed in the law?

### [What constitutes a public body?](#)

---

While there is no comprehensive list of public bodies, any multi-member board, commission, committee or subcommittee within the executive or legislative branches<sup>1</sup> of state government, or within any county, district, city, region or town, if established to serve a public purpose, is subject to the law. The law includes any multi-member body created to advise or make recommendations to a public body, and also includes the governing board of any local housing or redevelopment authority, and the governing board or body of any authority established by the Legislature to serve a public purpose. The law excludes the Legislature and

---

<sup>1</sup>Although the Legislature itself is not a public body subject to the Open Meeting Law, certain legislative commissions must follow the Law's requirements.

its committees, bodies of the judicial branch, and bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer.

Boards of selectmen and school committees (including those of charter schools) are certainly subject to the Open Meeting Law, as are subcommittees of public bodies, regardless of whether their role is decision-making or advisory. Individual government officials, such as a town manager or police chief, and members of their staff are not subject to the law, and so they may meet with one another to discuss public business without needing to comply with Open Meeting Law requirements. This exception for individual officials to the general Open Meeting Law does not apply where such officials are serving as members of a multiple-member public body that is subject to the law.

Bodies appointed by a public official solely for the purpose of advising the official on a decision that individual could make alone are not public bodies subject to the Open Meeting Law. For example, a school superintendent appoints a five-member advisory body to assist her in nominating candidates for school principal, a task the superintendent could perform herself. That advisory body would not be subject to the Open Meeting Law.<sup>2</sup>

### What constitutes a deliberation?

The Open Meeting Law defines deliberation as “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.” Distribution of a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at a meeting is often helpful to public body members when preparing for upcoming meetings. These types of communications generally will not constitute deliberation, provided that, when these materials are distributed, no member of the public body expresses an opinion on matters within the body’s jurisdiction. Additionally, certain communications that may otherwise be considered deliberation are specifically exempt by statute from the definition of deliberation (for example, discussion of the recess and continuance of a Town Meeting pursuant to G.L. c. 39, § 10A(a) is not deliberation).

To be a deliberation, the communication must involve a quorum of the public body. A quorum is usually a simple majority of the members of a public body. Thus, a communication among less than a quorum of the members of a public body will not be a deliberation, unless there are multiple communications among the members of the public body that together constitute communication among a quorum of members. Courts have held that the Open Meeting Law applies when members of a public body communicate in a serial manner in order to evade the application of the law.

Note that the expression of an opinion on matters within the body’s jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds. For

---

<sup>2</sup> See Connelly v. School Committee of Hanover, 409 Mass. 232 (1991).

example, if a member of a public body sends an email to a quorum of a public body expressing her opinion on a matter that could come before that body, this communication violates the law even if none of the recipients responds.

### What matters are within the jurisdiction of the public body?

The Open Meeting Law applies only to the discussion of any “matter within the body’s jurisdiction.” The law does not specifically define “jurisdiction.” As a general rule, any matter of public business on which a quorum of the public body may make a decision or recommendation is considered a matter within the jurisdiction of the public body. Certain discussions regarding procedural or administrative matters may also relate to public business within a body’s jurisdiction, such as where the discussion involves the organization and leadership of the public body, committee assignments, or rules or bylaws for the body. Statements made for political purposes, such as where a public body’s members characterize their own past achievements, generally are not considered communications on public business within the jurisdiction of the public body.

### What are the exceptions to the definition of a meeting?

There are five exceptions to the definition of a meeting under the Open Meeting Law.

1. Members of a public body may conduct an on-site inspection of a project or program; however, they may not deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they may not deliberate at such gatherings;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they may not deliberate at such gatherings;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law; and
5. Town Meetings, which are subject to other legal requirements, are not governed by the Open Meeting Law. See, e.g. G.L. c. 39, §§ 9, 10 (establishing procedures for Town Meeting).

The Attorney General interprets the exemption for “quasi-judicial boards or commissions” to apply only to certain state “quasi-judicial” bodies and a very limited number of public bodies at other levels of government whose proceedings are specifically defined as “agencies” for purposes of G.L. c. 30A.

We have received several inquiries about the exception for Town Meeting and whether it applies to meetings outside of a Town Meeting session by Town Meeting members or Town Meeting committees or to deliberation by members of a public body – such as a board of selectmen – during a session of Town Meeting. The Attorney General interprets this exemption to mean that the Open Meeting Law does not reach any aspect of Town Meeting. Therefore,

the Attorney General will not investigate complaints alleging violations in these situations. Note, however, that this is a matter of interpretation and future Attorneys General may choose to apply the law in such situations.

## Notice

---

### What are the requirements for posting notice of meetings?

Except in cases of emergency, a public body must provide the public with notice of its meeting 48 hours in advance, excluding Saturdays, Sundays, and legal holidays. Notice of emergency meetings must be posted as soon as reasonably possible prior to the meeting. Also note that other laws, such as those governing procedures for public hearings, may require additional notice.

### What are the requirements for filing and posting meeting notices for local public bodies?

For local public bodies, meeting notices must be filed with the municipal clerk with enough time to permit posting of the notice at least 48 hours in advance of the public meeting. Notices may be posted on a bulletin board, in a loose-leaf binder, or on an electronic display (e.g. television, computer monitor, or an electronic bulletin board), provided that the notice is conspicuously visible to the public at all hours in, on, or near the municipal building in which the clerk's office is located. In the event that meeting notices posted in the municipal building are not visible to the public at all hours, then the municipality must either post notices on the outside of the building or adopt the municipal website as the official method of notice posting.

Prior to utilizing the municipal website, the Chief Executive Officer of the municipality must authorize or vote to adopt such website as the official method of posting notice. The clerk of the municipality must inform the Division of Open Government of its notice posting method and must inform the Division of any future changes to that posting method. Public bodies must consistently use the most current notice posting method on file with the Division. A description of the website, including directions on how to locate notices on the website, must also be posted on or adjacent to the main and handicapped accessible entrances to the building where the clerk's office is located. Note that meeting notices must still be available in or around the clerk's office so that members of the public may view the notices during normal business hours.

### What are the requirements for posting notices for regional, district, county and state public bodies?

For regional or district public bodies and regional school districts, meeting notices must be filed and posted in the same manner required of local public bodies in each of the communities within the region or district. As an alternative method of notice, a regional or district public body may post a meeting notice on the regional or district public body's website.



The regional school district committee must file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district. A copy of the notice must be filed and kept by the chair of the public body or the chair's designee.

County public bodies must file meeting notices in the office of the county commissioners and post notice of the meeting in a manner conspicuously visible to the public at all hours at a place or places designated by the county commissioners for notice postings. As an alternative method of notice, a county public body may post notice of meetings on the county public body's website. The county public body must file and post notice of the website address, as well as directions on how to locate notices on the website, in the office of the county commissioners. A copy of the notice shall be filed and kept by the chair of the county public body or the chair's designee.

State public bodies must post meeting notices on the website of the public body or its parent agency. The chair of a state public body must notify the Attorney General in writing of the specific webpage location where notices will be posted and of any subsequent changes to that posting location. A copy of each meeting notice must also be sent to the Secretary of State's Regulations Division and should be forwarded to the Executive Office of Administration and Finance, which maintains a listing of state public body meetings.

Where a public body adopts a website as the official method of posting notices, it must make every effort to ensure that the website is accessible at all hours. If a website becomes inaccessible within 48 hours of a meeting, not including Saturdays, Sundays or legal holidays, the website must be restored within six business hours of the discovery. If the website is not restored within six business hours, the public body must re-post notice of its meeting to another date and time, in accordance with the requirements of the Open Meeting Law.

#### [A note about accessibility](#)

Public bodies are subject to all applicable state and federal laws that govern accessibility for persons with disabilities. These laws include the Americans with Disabilities Act, the federal Rehabilitation Act of 1973, and state constitutional provisions. For instance, public bodies that adopt website posting as an alternative method of notice must ensure that the website is readily accessible to people with disabilities, including individuals who use screen readers. All open meetings of public bodies must be accessible to persons with disabilities. Meeting locations must be accessible by wheelchair, without the need for special assistance. Also sign language interpreters for deaf or hearing-impaired persons must be provided, subject to reasonable advance notice.<sup>3</sup> The Attorney General's Disability Rights Project is available to answer questions about accessibility and may be reached at (617) 963-2939.

---

<sup>3</sup> The Massachusetts Commission for the Deaf and Hard of Hearing will assist with arrangements for a sign language interpreter. The Commission may be reached at 617-740-1600 VOICE and 617-740-1700 TTY.



### What information must meeting notices contain?

Meeting notices must be posted in a legible, easily understandable format; contain the date, time, and place of the meeting; and list all topics that the chair reasonably anticipates, 48 hours in advance, will be discussed at the meeting. The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting. Where there are no anticipated topics for discussion in open session other than the procedural requirements for convening an executive session, the public body should list “open session” as a topic, in addition to the executive session, so the public is aware that it has the opportunity to attend and learn the basis for the executive session.

Meeting notices must also indicate the date and time that the notice was posted, either on the notice itself or in a document or website accompanying the notice. If a notice is revised, the revised notice must also conspicuously record both the date and time the original notice was posted as well as the date and time the last revision was posted. Recording the date and time enables the public to observe that public bodies are complying with the Open Meeting Law’s notice requirements without requiring constant vigilance. Additionally, in the event of a complaint, it provides the Attorney General with evidence of compliance with those requirements.

If a discussion topic is proposed after a meeting notice is posted, and it was not reasonably anticipated by the chair more than 48 hours before the meeting, the public body should update its posting to provide the public with as much notice as possible of what subjects will be discussed during the meeting. Although a public body may consider a topic that was not listed in the meeting notice if it was not anticipated, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if the topic was not listed in the meeting notice.

## Executive Session

---

### When can a public body meet in executive session?

While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session. Before going into an executive session, the chair of the public body must first:

- Convene in open session;
- State the reason for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- State whether the public body will reconvene in open session at the end of the executive session; and
- Take a roll call vote of the body to enter executive session.

Where a public body member is participating in an executive session remotely, the member must state at the start of the executive session that no other person is present or able to hear the discussion at the remote location. The public body may authorize, by a simple majority vote, the presence and participation of other individuals at the remote participant's location.

While in executive session, the public body must keep accurate records, all votes taken must be recorded by roll call, and the public body may only discuss matters for which the executive session was called.

### The Ten Purposes for Executive Session

The law states ten specific purposes for which an executive session may be held, and emphasizes that these are the only reasons for which a public body may enter executive session.

The ten purposes for which a public body may vote to hold an executive session are:

- 1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.**

This purpose is designed to protect the rights and reputation of individuals. Nevertheless, where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against the individual. An executive session called for this purpose triggers certain rights for the individual who is the subject of the discussion. The individual has the right to be present, though he or she may choose not to attend. The individual who is the subject of the discussion may also choose to have the discussion in an open meeting, and that choice takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this purpose, this purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.

**2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;**

Generally, a public body must identify the specific non-union personnel or collective bargaining unit with which it is negotiating before entering into executive session under Purpose 2. A public body may withhold the identity of the non-union personnel or bargaining unit if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

While a public body may agree on terms with individual non-union personnel in executive session, the final vote to execute such agreements must be taken by the public body in open session. In contrast, a public body may approve final terms and execute a collective bargaining agreement in executive session, but should promptly disclose the agreement in open session following its execution.

**Collective Bargaining Sessions:** These include not only the bargaining sessions, but also include grievance hearings that are required by a collective bargaining agreement.

**3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;**

Generally, a public body must identify the collective bargaining unit with which it is negotiating or the litigation matter it is discussing before entering into executive session under Purpose 3. A public body may withhold the identity of the collective bargaining unit or name of the litigation matter if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

**Collective Bargaining Strategy:** Discussions with respect to collective bargaining strategy include discussion of proposals for wage and benefit packages or working conditions for union employees. The public body, if challenged, has the burden of proving that an open meeting might have a detrimental effect on its bargaining position. The showing that must be made is that an open discussion may have a detrimental effect on the collective bargaining process; the body is not required to demonstrate a definite harm that would have arisen. At the time the executive session is proposed and

voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's bargaining or litigating position.

**Litigation Strategy:** Discussions concerning strategy with respect to ongoing litigation obviously fit within this purpose but only if an open meeting may have a detrimental effect on the litigating position of the public body. Discussions relating to potential litigation are not covered by this exemption unless that litigation is clearly and imminently threatened or otherwise demonstrably likely. That a person is represented by counsel and supports a position adverse to the public body's does not by itself mean that litigation is imminently threatened or likely. Nor does the fact that a newspaper reports a party has threatened to sue necessarily mean imminent litigation.

**Note:** For the reasons discussed above, a public body's discussions with its counsel do not automatically fall under this or any other purpose for holding an executive session.

- 4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;**
- 5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;**

This purpose permits an executive session to investigate charges of criminal misconduct and to consider the filing of criminal complaints. Thus, it primarily involves discussions that would precede the formal criminal process in court. Purpose 1 is related, in that it permits an executive session to discuss certain complaints or charges, which may include criminal complaints or charges, but only those that have already been brought. However, Purpose 1 confers certain rights of participation on the individual involved, as well as the right for the individual to insist that the discussion occur in open session. Purpose 5 does not require that the same rights be given to the person who is the subject of a criminal complaint. To the limited extent that there is overlap between Purposes 1 and 5, a public body has discretion to choose which purpose to invoke when going into executive session.

- 6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;**

Generally, a public body must identify the specific piece of property it plans to discuss before entering into executive session under Purpose 6. A public body may withhold the identity of the property if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details

would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Under this purpose, as with the collective bargaining and litigation purpose, an executive session may be held only where an open meeting may have a detrimental impact on the body's negotiating position with a third party. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's negotiating position.

**7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;**

There may be provisions in state statutes or federal grants that require or specifically allow a public body to consider a particular issue in a closed session. Before entering executive session under this purpose, the public body must cite the specific law or federal grant-in-aid requirement that necessitates confidentiality. A public body may withhold that information only if publicly disclosing it would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

**8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;**

This purpose permits a hiring subcommittee of a public body or a preliminary screening committee to conduct the initial screening process in executive session. This purpose does not apply to any stage in the hiring process after the screening committee or subcommittee votes to recommend candidates to its parent body. It may, however, include a review of résumés and multiple rounds of interviews by the screening committee aimed at narrowing the group of applicants down to finalists. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session will be detrimental to the public body's ability to attract qualified applicants for the position. If the public body opts to convene a preliminary screening committee, the committee must contain less than a quorum of the members of the parent public body. The committee may also contain members who are not members of the parent public body.



Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

**9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:**

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

**10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided:**

- in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164;
- in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164; or
- in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164;
- when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

## **Remote Participation**

---

### **May a member of a public body participate remotely?**

The Attorney General's Regulations, 940 CMR 29.10, permit remote participation in certain circumstances. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

Note that the Attorney General's regulations enable members of public bodies to participate remotely if the practice has been properly adopted, but do not require that a public body permit members of the public to participate remotely. If a public body chooses to allow



individuals who are not members of the public body to participate remotely in a meeting, it may do so without following the Open Meeting Law's remote participation procedures.

#### [How can the practice of remote participation be adopted?](#)

Remote participation may be used during a meeting of a public body if it has first been adopted by the chief executive officer of the municipality for local public bodies, the county commissioners for county public bodies, or by a majority vote of the public body for retirement boards, district, regional and state public bodies. The chief executive officer may be the board of selectmen, the city council, or the mayor, depending on the municipality. See G.L. c. 4, § 7.

If the chief executive officer in a municipality authorizes remote participation, that authorization applies to all public bodies in the municipality. 940 CMR 29.10(2)(a). However, the chief executive officer determines the amount and source of payment for any costs associated with remote participation and may decide to fund the practice only for certain public bodies. See 940 CMR 29.10(6)(e). In addition, the chief executive officer can authorize public bodies in that municipality to "opt out" of the practice altogether. See 940 CMR 29.10(8).

Note about Local Commissions on Disability: Local commissions on disability may decide by majority vote of the commissioners at a regular meeting to permit remote participation during a specific meeting or during all commission meetings. G.L. c. 30A, § 20(e). Adoption by the municipal adopting authority is not required.

#### [What are the permissible reasons for remote participation?](#)

Once remote participation is adopted, any member of a public body may participate remotely only if physical attendance would be unreasonably difficult.

#### [What are the acceptable means of remote participation?](#)

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email and web chat without audio are not acceptable methods of remote participation. Note that accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

### What are the minimum requirements for remote participation?

Any public body using remote participation during a meeting must ensure that the following minimum requirements are met:

1. A quorum of the body, including the chair or, in the chair's absence, the person chairing the meeting, must be physically present at the meeting location;
2. Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
3. All votes taken during a meeting in which a member participates remotely must be by roll call vote.

### What procedures must be followed if remote participation is used at a meeting?

At the start of any meeting during which a member of a public body will participate remotely, the chair must announce the name of any member who is participating remotely; such information must also be recorded in the meeting minutes. The chair's statement does not need to contain any detail about the reason for the member's remote participation.

Members of public bodies who participate remotely may vote and shall not be deemed absent for purposes of G.L. c. 39, § 23D. In addition, members who participate remotely may participate in executive sessions but must state at the start of any such session that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

If technical difficulties arise as a result of utilizing remote participation, the chair (or, in the chair's absence, person chairing the meeting) may decide how to address the situation. Public bodies are encouraged, whenever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If a remote participant is disconnected from the meeting, the minutes must note that fact and the time at which the disconnection occurred.

## Public Participation

---

### What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair. An individual may not disrupt a meeting of a public body, and at the request of the chair, all members of the public shall be silent. If, after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting. If the person does not leave, the chair may authorize a constable or other officer to remove the person. Although public participation is entirely within the chair's discretion, the

Attorney General encourages public bodies to allow as much public participation as time permits.

Any member of the public may make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The chair is required to inform other attendees of any such recording at the beginning of the meeting. If someone arrives after the meeting has begun and wishes to record a meeting, that person should attempt to notify the chair prior to beginning recording, ideally in a manner that does not significantly disrupt the meeting in progress (such as passing a note for the chair to the board administrator or secretary). The chair should endeavor to acknowledge such attempts at notification and announce the fact of any recording to those in attendance.

## Minutes

---

### What records of public meetings must be kept?

Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions. The minutes, which must be created and approved in a timely manner, must include:

- the date, time and place of the meeting;
- the members present or absent;
- the decisions made and actions taken, including a record of all votes;
- a summary of the discussions on each subject;
- a list of all documents and exhibits used at the meeting; and
- the name of any member who participated in the meeting remotely.

While the minutes must include a summary of the discussions on each subject, a transcript is not required. No vote taken by a public body, either in an open or in an executive session, shall be by secret ballot. All votes taken in executive session must be by roll call and the results recorded in the minutes. While public bodies must identify in the minutes all documents and exhibits used at a meeting and must retain them in accordance with the Secretary of the Commonwealth's records retention schedule, these documents and exhibits needn't be attached to or physically stored with the minutes.

Minutes, and all documents and exhibits used, are public records and a part of the official record of the meeting. Records may be subject to disclosure under either the Open Meeting Law or Public Records Law. The State and Municipal Record Retention Schedules are available through the Secretary of the Commonwealth's website at:

<http://www.sec.state.ma.us/arc/arcrmu/rmuidx.htm>.

## Open Session Meeting Records

The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. A “timely manner” is considered to be within the next three public body meetings or 30 days from the date of the meeting, whichever is later, unless the public body can show good cause for further delay. The Attorney General encourages minutes to be approved at a public body’s next meeting whenever possible. The law requires that existing minutes be made available to the public within ten days of a request, whether they have been approved or remain in draft form. Materials or other exhibits used by the public body in an open meeting must also be made available to the public within ten days of a request.

There are two exemptions to the open session records disclosure requirement: 1) materials (other than those that were created by members of the public body for the purpose of the evaluation) used in a performance evaluation of an individual bearing on his professional competence, and 2) materials (other than any résumé submitted by an applicant, which is subject to disclosure) used in deliberations about employment or appointment of individuals, including applications and supporting materials. Documents created by members of the public body for the purpose of performing an evaluation are subject to disclosure. This applies to both individual evaluations and evaluation compilations, provided the documents were created by members of the public body for the purpose of the evaluation.

## Executive Session Meeting Records

Public bodies are not required to disclose the minutes, notes, or other materials used in an executive session if the disclosure of these records may defeat the lawful purposes of the executive session. Once disclosure would no longer defeat the purposes of the executive session, however, minutes and other records from that executive session must be disclosed unless they fall within an exemption to the Public Records Law, G.L. c. 4, § 7, cl. 26, or the attorney-client privilege applies. Public bodies are also required to periodically review their executive session minutes to determine whether continued non-disclosure is warranted. These determinations must be included in the minutes of the body’s next meeting.

A public body must respond to a request to inspect or copy executive session minutes within ten days of the request. If the public body has determined, prior to the request, that the requested executive session minutes may be released, it must make those minutes available to the requestor at that time. If the body previously determined that executive session minutes should remain confidential because publication would defeat the lawful purposes of the executive session, it should respond by stating the reason the minutes continue to be withheld. And if, at the time of a request, the public body has not conducted a review of the minutes to determine whether continued nondisclosure is warranted, the body must perform such a review and release the minutes, if appropriate, no later than its next meeting or within 30 days, whichever occurs first. In such circumstances, the body should still respond to the request within ten days, notifying the requestor that it is conducting this review.

## Open Meeting Law Complaints

---

### What is the Attorney General's role in enforcing the Open Meeting Law?

The Attorney General's Division of Open Government is responsible for enforcing the Open Meeting Law. The Attorney General has the authority to receive and investigate complaints, bring enforcement actions, issue advisory opinions, and promulgate regulations.

The Division of Open Government regularly seeks feedback from the public on ways in which it can better support public bodies to help them comply with the law's requirements. The Division of Open Government offers periodic online and in-person training on the Open Meeting Law and will respond to requests for guidance and information from public bodies and the public.

The Division of Open Government will take complaints from members of the public and will work with public bodies to resolve problems. While any member of the public may file a complaint with a public body alleging a violation of the Open Meeting Law, a public body need not, and the Division of Open Government will not, investigate anonymous complaints.

### What is the Open Meeting Law complaint procedure?

#### *Step 1. Filing a Complaint with the Public Body*

Individuals who allege a violation of the Open Meeting Law must first file a complaint **with the public body** alleged to have violated the OML. The complaint must be filed within 30 days of the date of the violation, or the date the complainant could reasonably have known of the violation. The complaint must be filed on a [Complaint Form](#) available on the Attorney General's website, [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting). When filing a complaint with a local public body, the complainant must also file a copy of the complaint with the municipal clerk.

#### *Step 2. The Public Body's Response*

Upon receipt, the chair of the public body should distribute copies of the complaint to the members of the public body for their review. The public body has 14 business days from the date of receipt to meet to review the complainant's allegations, take remedial action if appropriate, notify the complainant of the remedial action, and forward a copy of the complaint and description of the remedial action taken to the complainant. The public body must simultaneously notify the Attorney General that it has responded to the complainant and provide the Attorney General with a copy of the response and a description of any remedial action taken. While the public body may delegate responsibility for responding to the complaint to counsel or another individual, it must first meet to do so. A public body is not required to respond to unsigned complaints or complaints not made on the Attorney General's complaint form.



The public body may request additional information from the complainant within seven business days of receiving the complaint. The complainant then has ten business days to respond; the public body will then have an additional ten business days after receiving the complainant's response to review the complaint and take remedial action. The public body may also request an extension of time to respond to the complaint. A request for an extension should be made within 14 business days of receipt of the complaint by the public body. The request for an extension should be made in writing to the Division of Open Government and should include a copy of the complaint and state the reason for the requested extension.

### *Step 3. Filing a Complaint with the Attorney General's Office*

A complaint is ripe for review by the Attorney General 30 days after the complaint is filed with the public body. This 30-day period is intended to provide a reasonable opportunity for the complainant and the public body to resolve the initial complaint. It is important to note that complaints are *not* automatically treated as filed for review by the Attorney General upon filing with the public body. A complainant who has filed a complaint with a public body and seeks further review by the Division of Open Government must file the complaint with the Attorney General after the 30-day local review period has elapsed but before 90 days have passed since the date of the violation or the date that the violation was reasonably discoverable.

When filing the complaint with the Attorney General, the complainant must include a copy of the original complaint and may include any other materials the complainant feels are relevant, including an explanation of why the complainant is not satisfied with the response of the public body. Note, however, that the Attorney General will not review allegations that were not raised in the initial complaint filed with the public body. Under most circumstances, complaints filed with the Attorney General, and any documents submitted with the complaint, will be considered a public record and will be made available to anyone upon request.

The Attorney General will review the complaint and any remedial action taken by the public body. The Attorney General may request additional information from both the complainant and the public body. The Attorney General will seek to resolve complaints in a reasonable period of time, generally within 90 days of the complaint becoming ripe for review by our office. The Attorney General may decline to investigate a complaint that is filed with our office more than 90 days after the date of the alleged violation.

### **May a public body request mediation to resolve a complaint?**

If a complainant files five complaints with the same public body or within the same municipality within 12 months, the public body may request mediation upon the fifth or subsequent complaint in order to resolve the complaint. The public body must request mediation prior to, or with, its response to the complaint, and will assume the expense of such mediation. If the parties cannot come to an agreement after mediation, the public body will



have ten business days to respond to the complaint and its resolution will proceed in the normal course.

Mediation may occur in open session or in executive session under Purpose 9. In addition, a public body may designate a representative to participate on behalf of the public body. If mediation does not resolve the complaint to each party's satisfaction, the complainant may file the complaint with the Attorney General. The complaint must be filed within 30 days of the last joint meeting with the mediator.

The mediator will be chosen by the Attorney General. If the complainant declines to participate in mediation after a request by the public body, the Attorney General may decline to review a complaint thereafter filed with our office. A public body may always request mediation to resolve a complaint, but only mediation requested upon a fifth or subsequent complaint triggers the requirement that the complainant participate in the mediation before the Attorney General will review the complaint.

Any written agreement reached in mediation must be disclosed at the public body's next meeting following execution of the agreement and will become a public record.

#### [When is a violation of the law considered "intentional"?](#)

Upon finding a violation of the Open Meeting Law, the Attorney General may impose a civil penalty upon a public body of not more than \$1,000 for each intentional violation. G.L. c. 30A, § 23(c)(4). An "intentional violation" is an act or omission by a public body or public body member in knowing violation of the Open Meeting Law. G.L. c. 30A, § 18. In determining whether a violation was intentional, the Attorney General will consider, among other things, whether the public body or public body member 1) acted with specific intent to violate the law; 2) acted with deliberate ignorance of the law's requirements; or 3) had been previously informed by a court decision or advised by the Attorney General that the conduct at issue violated the Open Meeting Law. 940 CMR 29.02. If a public body or public body member made a good faith attempt at compliance with the law but was reasonably mistaken about its requirements, its conduct will not be considered an intentional violation of the Law. G.L. c. 30A, § 23(g); 940 CMR 29.02. A fine will not be imposed where a public body or public body member acted in good faith compliance with the advice of the public body's legal counsel. G.L. 30A, § 23(g); 940 CMR 29.07.

## **Will the Attorney General's Office provide training on the Open Meeting Law?**

---

The Open Meeting Law directs the Attorney General to create educational materials and provide training to public bodies to foster awareness of and compliance with the Open Meeting Law. The Attorney General has established an Open Meeting Law website, [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting), on which government officials and members of public bodies can find the statute, regulations, FAQs, training materials, the Attorney General's determination letters resolving complaints, and other resources. The Attorney General offers periodic webinars and in-person regional training events for members of the public and public bodies, in addition to offering a free online training video.

## **Contacting the Attorney General**

---

If you have any questions about the Open Meeting Law or anything contained in this guide, please contact the Attorney General's Division of Open Government. The Attorney General also welcomes any comments, feedback, or suggestions you may have about the Open Meeting Law or this guide.

Division of Open Government  
Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108  
Tel: 617-963-2540  
[www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting)  
[OpenMeeting@state.ma.us](mailto:OpenMeeting@state.ma.us)

---

# *Appendix*

---

## The Open Meeting Law, G.L. c. 30A, §§ 18-25<sup>4</sup>

---

*Chapter 28 of the Acts of 2009, sections 17–20, repealed the existing state Open Meeting Law, G.L. c. 30A, §§ 11A, 11A-1/2, county Open Meeting Law, G.L. c. 34, §9F, 9G, and municipal Open Meeting Law, G.L. c. 39, §§ 23A, 23B, and 23C, and replaced them with a single Open Meeting Law covering all public bodies, G.L. c. 30A, §§ 18-25, enforced by the Attorney General.*

### *Section 18: [DEFINITIONS]*

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“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; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

“Emergency”, a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

“Executive session”, any part of a meeting of a public body closed to the public for deliberation of certain matters.

“Intentional violation”, an act or omission by a public body or a member thereof, in knowing violation of the open meeting law.

“Meeting”, a deliberation by a public body with respect to any matter within the body’s jurisdiction; provided, however, “meeting” shall not include:

- (a) an on-site inspection of a project or program, so long as the members do not deliberate;
- (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
- (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
- (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
- (e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session;

---

<sup>4</sup> NOTICE: This is NOT the official version of the Massachusetts General Law (MGL). While reasonable efforts have been made to ensure the accuracy and currency of the data provided, do not rely on this information without first checking an official edition of the MGL.

“Minutes”, the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

“Open meeting law”, sections 18 to 25, inclusive.

“Post notice”, to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

“Preliminary screening”, the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

“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; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

“Quorum”, a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

### *Section 19. Division of Open Government; Open Meeting Law Training; Open Meeting Law Advisory Commission; Annual Report*

- (a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.
- (b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:
1. the general background of the legal requirements for the open meeting law;
  2. applicability of sections 18 to 25, inclusive, to governmental bodies;
  3. the role of the attorney general in enforcing the open meeting law; and
  4. penalties and other consequences for failure to comply with this chapter.

- (c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

- (d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:
1. the number of open meeting law complaints received by the attorney general;
  2. the number of hearings convened as the result of open meeting law complaints by the attorney general;
  3. a summary of the determinations of violations made by the attorney general;
  4. a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;
  5. an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;
  6. the number of actions filed in superior court seeking relief from an order of the attorney general; and
  7. any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

*Section 20. Meetings of a Public Body to be Open to the Public; Notice of Meeting; Remote Participation; Recording and Transmission of Meeting; Removal of Persons for Disruption of Proceedings*

- (a) Except as provided in section 21, all meetings of a public body shall be open to the public.
- (b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.
- (c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or



town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose and a duplicate copy of the notice shall be filed with the regulations division of the state secretary's office.

The attorney general may prescribe or approve alternative methods of notice where the attorney general determines the alternative methods will afford more effective notice to the public.

- (d) The attorney general may, by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.
- (e) A local commission on disability may by majority vote of the commissioners at a regular meeting authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.
- (f) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting, the chair shall inform other attendees of any recordings.
- (g) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.
- (h) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the

appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

### *Section 21. Executive Sessions*

- (a) A public body may meet in executive session only for the following purposes:
1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:
    - i. to be present at such executive session during deliberations which involve that individual;
    - ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
    - iii. to speak on his own behalf; and
    - iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.
  2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
  3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
  4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
  5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
  7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
  8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;
  9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
    - i. any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
    - ii. no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or
  10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.
- (b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:
1. the body has first convened in an open session pursuant to section 21;
  2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
  3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
  4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
  5. accurate records of the executive session shall be maintained pursuant to section 23.

## *Section 22. Meeting Minutes; Records*

- (a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.
- (b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.
- (c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.
- (d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.
- (e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.
- (f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of

said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

- (g) (1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.
2. Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

### *Section 23. Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions*

- (a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.
- (b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.
- (c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:
1. compel immediate and future compliance with the open meeting law;
  2. compel attendance at a training session authorized by the attorney general;
  3. nullify in whole or in part any action taken at the meeting;
  4. impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
  5. reinstate an employee without loss of compensation, seniority, tenure or other benefits;
  6. compel that minutes, records or other materials be made public; or
  7. prescribe other appropriate action.



- (d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.
- (e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.
- (f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.
- Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.
- In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).
- In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.
- (g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.
- (h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.



#### *Section 24. Investigation by Attorney General of Violations of Open Meeting Law*

- (a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.
- (b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.
- (c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.
- (d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

- (e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.
- (f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.
- (g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

*Section 25. Regulations; Letter Rulings; Advisory Opinions*

- (a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.
- (b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

## **940 CMR 29.00: Open Meeting Law Regulations**

---

*The official regulations are published in the Massachusetts Register. For more information, contact the Secretary of the Commonwealth's State Publications and Regulations Division.*

### Section

29.01: Purpose, Scope and Other General Provisions

29.02: Definitions

29.03: Notice Posting Requirements

29.04: Certification

29.05: Complaints

29.06: Investigation

29.07: Resolution

29.08: Advisory Opinions

29.09: Other Enforcement Actions

29.10: Remote Participation

29.11: Meeting Minutes

### 29.01: Purpose, Scope and Other General Provisions

(1) **Purpose.** The purpose of 940 CMR 29.00 is to interpret, enforce and effectuate the purposes of the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25.

(2) **Severability.** If any provision of 940 CMR 29.00 or the application of such provision to any person, public body, or circumstances shall be held invalid, the validity of the remainder of 940 CMR 29.00 and the applicability of such provision to other persons, public bodies, or circumstances shall not be affected thereby.

(3) **Mailing.** All complaints, notices (except meeting notices) and other materials that must be sent to another party shall be sent by one of the following means: first class mail, email, hand delivery, or by any other means at least as expeditious as first class mail.

### 29.02: Definitions

As used in 940 CMR 29.00, the following terms shall, unless the context clearly requires otherwise, have the following meanings:

**County Public Body.** A public body created by county government with jurisdiction that comprises a single county.

**District Public Body.** A public body with jurisdiction that extends to two or more municipalities.

**Emergency.** A sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

**Intentional Violation.** An act or omission by a public body or a member thereof, in knowing violation of M.G.L. c. 30A, §§ 18 through 25. Evidence of an intentional violation of M.G.L. c. 30A, §§ 18 through 25 shall include, but not be limited to, the public body or public body member that:

(a) acted with specific intent to violate the law;

(b) acted with deliberate ignorance of the law's requirements; or

(c) was previously informed by receipt of a decision from a court of competent jurisdiction or advised by the Attorney General, pursuant to 940 CMR 29.07 or 940 CMR 29.08, that the conduct violates M.G.L. c. 30A, §§ 18 through 25. Where a public body or public body member has made a good faith attempt at compliance with the law, but was reasonably mistaken about its requirements, such conduct will not be considered an intentional violation of M.G.L. c. 30A, §§ 18 through 25.

**Person.** All individuals and entities, including governmental officials and employees. Person does not include public bodies.

**Post Notice.** To place a written announcement of a meeting on a bulletin board, electronic display, website, or in a loose-leaf binder in a manner conspicuously visible to the public, including persons with disabilities, at all hours, in accordance with 940 CMR 29.03.

**Public Body.** Has the identical meaning as set forth in M.G.L. c. 30A, § 18, that is, 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; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that **Public Body** shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

**Qualification for Office.** The election or appointment of a person to a public body and the taking of the oath of office, where required, and shall include qualification for a second or any subsequent term of office. Where no term of office for a member of a public body is specified, the member shall be deemed to be qualified for office on a biennial basis following appointment or election to office.

**Regional Public Body.** A public body with jurisdiction that extends to two or more municipalities.

**Remote Participation.** Participation by a member of a public body during a meeting of that public body where the member is not physically present at the meeting location.

### 29.03: Notice Posting Requirements

#### (1) Requirements Applicable to All Public Bodies.

- (a) Except in an emergency, public bodies shall file meeting notices sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meeting, excluding Saturdays, Sundays and legal holidays, in accordance with M.G.L. c. 30A, § 20. In an emergency, the notice shall be posted as soon as reasonably possible prior to such meeting.
- (b) Meeting notices shall be printed or displayed in a legible, easily understandable format and shall contain the date, time and place of such meeting, and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. The list of topics shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.
- (c) Notices posted under an alternative posting method authorized by 940 CMR 29.03(2) through (5) shall include the same content as required by 940 CMR 29.03(1)(b). If such an alternative posting method is adopted, the municipal clerk, in the case of a municipality, or the body, in all other cases, shall file with the Attorney General written notice of adoption of the alternative method, including the website address where applicable, and any change thereto, and the most current notice posting method on file with the Attorney General shall be consistently used.
- (d) The date and time that a meeting notice is posted shall be conspicuously recorded thereon or therewith. If an amendment occurs within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended shall also be conspicuously recorded thereon or therewith.

#### (2) Requirements Specific to Local Public Bodies.

- (a) The official method of posting notice shall be by filing with the municipal clerk, or other person designated by agreement with the municipal clerk, who shall post notice of the meeting in a manner conspicuously visible to the public at all hours in, on, or near the municipal building in which the clerk's office is located.
- (b) Alternatively, the municipality may adopt the municipal website as the official method of notice posting.
  1. The Chief Executive Officer of the municipality, as defined in M.G.L. c. 4, § 7, must authorize or, by a simple majority, vote to adopt the municipal website as the official method of posting notice. Any municipality that has adopted its website as the official method of posting notice by another method as of October 6, 2017 will have satisfied the adoption requirement.
  2. If adopted, a description of the website as the notice posting method, including directions on how to locate notices on the website, shall be posted in a manner conspicuously visible to the public at all hours on or adjacent to the main and handicapped accessible entrances to the municipal building in which the clerk's office is located.
  3. Once adopted as the official method of notice posting, the website shall host the official legal notice for meetings of all public bodies within the municipality.
  4. Notices must continue to be filed with the municipal clerk, or any other person designated by agreement with the municipal clerk.



- (c) A municipality may have only one official notice posting method for the purpose of M.G.L. c. 30A, §§ 18 through 25, either 940 CMR 29.03(2)(a) or (b). However, nothing precludes a municipality from choosing to post additional notices *via* other methods, including a newspaper. Such additional notice will not be the official notice for the purposes of M.G.L. c. 30A, §§ 18 through 25.
  - (d) Copies of notices shall also be accessible to the public in the municipal clerk's office during the clerk's business hours.
- (3) Requirements Specific to Regional or District Public Bodies.
- (a) Notice shall be filed and posted in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.
  - (b) As an alternative method of notice, a regional or district public body may, by majority vote, adopt the regional or district public body's website as its official notice posting method. A copy of each meeting notice shall be kept by the chair of the public body or the chair's designee in accordance with the applicable records retention schedules. The public body shall file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.
- (4) Requirements Specific to Regional School Districts.
- (a) The secretary of the regional school district committee shall be considered to be its clerk. The clerk of the regional school district committee shall file notice with the municipal clerk of each city and town within such district and each such municipal clerk shall post the notice in the manner prescribed for local public bodies in that city or town.
  - (b) As an alternative method of notice, a regional school district committee may, by majority vote, adopt the regional school district's website as its official notice posting method. A copy of each meeting notice shall be kept by the secretary of the regional school district committee or the secretary's designee in accordance with the applicable records retention schedules. The regional school district committee shall file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.
- (5) Requirements Specific to County Public Bodies.
- (a) Notice shall be filed and posted in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for this purpose.
  - (b) As an alternative method of notice, a county public body may, by majority vote, adopt the county public body's website as its official notice posting method. A copy of the notice shall be kept by the chair of the county public body or the chair's designee in accordance with the applicable records retention schedules. The county public body shall file and post notice of the website address, as well as directions on how to locate notices on the website, in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for this purpose.



(6) Requirements Specific to State Public Bodies. Notice shall be posted on a website. A copy of each notice shall also be sent by first class or electronic mail to the Secretary of the Commonwealth's Regulations Division. The chair of each state public body shall notify the Attorney General in writing of its webpage for listing meeting notices and any change to the webpage location. The public body shall consistently use the most current website location on file with the Attorney General. A copy of the notice shall be kept by the chair of the state public body or the chair's designee in accordance with the applicable records retention schedules.

(7) Websites. Where a public body adopts a website as its method of noticing meetings, it must make every effort to ensure that the website is accessible to the public at all hours. If a website becomes inaccessible to members of the public within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, the municipal clerk or other individual responsible for posting notice to the website must restore the website to accessibility within six hours of the time, during regular business hours, when such individual discovers that the website has become inaccessible. In the event that the website is not restored to accessibility within six business hours of the website's deficiency being discovered, the public body must re-post notice of its meeting for another date and time in accordance with M.G.L. c. 30A, § 20(b).

#### 29.04: Certification

(1) For local public bodies, the municipal clerk, and for all other public bodies, the appointing authority, executive director, or other appropriate administrator or their designees, shall, upon a public body member's qualification for office, either deliver to the public body member, or require the public body member to obtain from the Attorney General's website, the following educational materials:

- (a) The Attorney General's Open Meeting Law Guide, which will include an explanation of the requirements of the Open Meeting Law; the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25; and 940 CMR 29.00.
- (b) A copy of each Open Meeting Law determination issued to that public body by the Attorney General within the last five years in which the Attorney General found a violation of M.G.L. c. 30A, §§ 18 through 25. Open Meeting Law determinations are available at the Attorney General's website.

(2) Educational materials may be delivered to public body members by paper copy or in digital form.

(3) Within two weeks after receipt of the educational materials, the public body member shall certify, on the form prescribed by the Attorney General, receipt of the educational materials. The municipal clerk, appointing authority, executive director or other appropriate administrator, or their designees, shall maintain the signed certification for each such person, indicating the date the person received the materials.

(4) An individual serving on multiple public bodies must sign a certification for each public body on which he or she serves. A public body member does not need to sign a separate certification when joining a subcommittee of the public body.

(5) A public body member must sign a new certification upon reelection or reappointment to the public body.

## 29.05: Complaints

(1) All complaints shall be in writing, using the form approved by the Attorney General and available on the Attorney General's website. A public body need not, and the Attorney General will not, investigate or address anonymous complaints. A public body need not address a complaint that is not signed by the complainant. A public body need not address a complaint that is not filed using the Attorney General's complaint form.

(2) Public bodies, or the municipal clerk in the case of a local public body, should provide any person, on request, with an Open Meeting Law Complaint Form. If a paper copy is unavailable, then the public body should direct the requesting party to the Attorney General's website, where an electronic copy of the form will be available for downloading and printing.

(3) For local public bodies, the complainant shall file the complaint with the chair of the public body, who shall disseminate copies of the complaint to the members of the public body. The complainant shall also file a copy of the complaint with the municipal clerk, who shall keep such filings in an orderly fashion for public review on request during regular business hours. For all other public bodies, the complainant shall file the complaint with the chair of the relevant public body, or if there is no chair, then with the public body.

(4) The complaint shall be filed within 30 days of the alleged violation of M.G.L. c. 30A, §§ 18 through 25 or, if the alleged violation of M.G.L. c. 30A, §§ 18 through 25 could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered.

(5) Within 14 business days after receiving the complaint, unless an extension has been granted by the Attorney General as provided in 940 CMR 29.05(5)(b), the public body shall meet to review the complaint's allegations; take remedial action, if appropriate; and send to the complainant a response and a description of any remedial action taken. The public body shall simultaneously notify the Attorney General that it has sent such materials to the complainant and shall provide the Attorney General with a copy of the complaint, the response, and a description of any remedial action taken.

(a) Any remedial action taken by the public body in response to a complaint under 940 CMR 29.05(5) shall not be admissible as evidence that a violation occurred in any later administrative or judicial proceeding against the public body relating to the alleged violation.

(b) If the public body requires additional time to resolve the complaint, it may obtain an extension from the Attorney General by submitting a written request within 14 business days after receiving the complaint. A request may be submitted by the chair, the public body's attorney, or any person designated by the public body or the chair. The Attorney General will grant an extension if the request demonstrates good cause. Good cause will generally be found if, for example, the public body cannot meet within the 14 business day period to consider proposed remedial action. The Attorney General shall notify the complainant of any extension and the reason for it.

(6) If the public body needs additional information to resolve the complaint, then the chair may request it from the complainant within seven business days of receiving the complaint. The complainant shall respond within ten business days after receiving the request. The public body will then have an additional ten business days after receiving the complainant's response to review the complaint and take any remedial action pursuant to 940 CMR 29.05(5).

(7) If at least 30 days have passed after the complaint was filed with the public body, and if the complainant is unsatisfied with the public body's resolution of the complaint, the complainant may file a complaint with the Attorney General. When filing a complaint with the Attorney General, the complainant shall include a copy of the original complaint along with any other materials the complainant believes are relevant. The Attorney General shall decline to investigate complaints filed with the Attorney General more than 90 days after the alleged violation of M.G.L. c. 30A, §§ 18 through 25, or if the alleged violation of M.G.L. c. 30A, §§ 18 through 25, could not reasonably have been known at the time it occurred, then within 90 days of the date it should reasonably have been discovered. However, this time may be extended if the Attorney General grants an extension to the public body to respond to a complaint or if the complainant demonstrates good cause for the delay in filing with the Attorney General.

(8) The Attorney General shall acknowledge receipt of all complaints and will resolve them within a reasonable period of time, generally 90 days.

(9) Mediation to Resolve a Complaint.

- (a) If a complainant files five complaints alleging violations of M.G.L. c. 30A, §§ 18 through 25, with the same public body or within the same municipality within 12 months, upon the fifth or subsequent complaint to that public body or a public body within that municipality within the 12-month period, the public body may request mediation with the complainant, at the public body's expense, to resolve the complaint. A mediator is defined by M.G.L. c. 233, § 23C, and will be selected by the Attorney General.
- (b) A public body must request mediation prior to, or with, its response to the complaint. If the mediation does not produce an agreement, the public body will have ten business days from the last joint meeting with the mediator to respond to the complaint.
- (c) A public body may participate in mediation in open session, in executive session through M.G.L. c. 30A, § 21(a)(9), or by designating a representative to participate on behalf of the public body.
- (d) If the complainant declines to participate in mediation after a public body's request in accordance with 940 CMR 29.05(9)(a), the Attorney General may decline to review the complaint if it is thereafter filed with the Attorney General.
- (e) If the mediation does not resolve the complaint to the satisfaction of both parties, then the complainant may file a copy of his or her complaint with the Attorney General and request the Attorney General's review. The complaint must be filed with the Attorney General within 30 days of the last joint meeting with the mediator.
- (f) Any written agreement reached in mediation shall become a public record in its entirety and must be publicly disclosed at the next meeting of the public body following execution of the agreement.
- (g) Nothing in 940 CMR 29.05(9) shall prevent a complainant from filing subsequent complaints, however public bodies may continue to request mediation in an effort to resolve complaints in accordance with 940 CMR 29.05(9)(a).
- (h) Nothing in 940 CMR 29.05(9) shall prevent a public body or complainant from seeking mediation to resolve any complaint. However, only mediation requests that follow the requirements of 940 CMR 29.05(9)(a) will trigger the application of 940 CMR 29.05(9)(d).

#### 29.06: Investigation

Following a timely complaint filed pursuant to 940 CMR 29.05, where the Attorney General has reasonable cause to believe that a violation of M.G.L. c. 30A, §§ 18 through 25 has occurred, then the Attorney General may conduct an investigation.

(1) The Attorney General shall notify the public body or person that is the subject of a complaint of the existence of the investigation within a reasonable period of time. The Attorney General shall also notify the public body or person of the nature of the alleged violation.

(2) Upon notice of the investigation, the subject of the investigation shall provide the Attorney General with all information relevant to the investigation. The subject may also submit a memorandum or other writing to the Attorney General addressing the allegations being investigated.

If the subject of the investigation fails to voluntarily provide the necessary or relevant information within 30 days of receiving notice of the investigation, the Attorney General may issue one or more civil investigative demands to obtain the information in accordance with M.G.L. c. 30A, § 24(a), to:

- (a) Take testimony under oath;
- (b) Examine or cause to be examined any documentary material; or
- (c) Require attendance during such examination of documentary material by any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material.

Any documentary material or other information produced by any person pursuant to 940 CMR 29.06 shall not, unless otherwise ordered by a court of the Commonwealth for good cause shown, be disclosed without that person's consent by the Attorney General to any person other than the Attorney General's authorized agent or representative. However, the Attorney General may disclose the material in court pleadings or other papers filed in court; or, to the extent necessary, in an administrative hearing or in a written determination to resolve the investigation pursuant to 940 CMR 29.07.

#### 29.07: Resolution

(1) **No Violation.** If the Attorney General determines after investigation that M.G.L. c. 30A, §§ 18 through 25 has not been violated, the Attorney General shall issue a written determination to the subject of the complaint and copy any complainant.

(2) **Violation Resolved Without Hearing.** If the Attorney General determines after investigation that M.G.L. c. 30A, §§ 18 through 25 has been violated, the Attorney General may resolve the investigation without a hearing. The Attorney General shall determine whether the relevant public body, one or more of its members, or both, were responsible. The Attorney General will notify in writing any complainant of the investigation's resolution. Upon finding a violation of M.G.L. c. 30A, §§ 18 through 25, the Attorney General may take one of the following actions:

- (a) **Informal Action.** The Attorney General may resolve the investigation with a letter or other appropriate form of written communication that explains the violation and clarifies the subject's obligations under M.G.L. c. 30A, §§ 18 through 25, providing the subject with a reasonable period of time to comply with any outstanding obligations.
- (b) **Formal Order.** The Attorney General may resolve the investigation with a formal order. The order may require:
  1. immediate and future compliance with M.G.L. c. 30A, §§ 18 through 25;



2. attendance at a training session authorized by the Attorney General;
  3. nullification of any action taken at the relevant meeting, in whole or in part;
  4. that minutes, records or other materials be made public;
  5. that an employee be reinstated without loss of compensation, seniority, tenure or other benefits; or
  6. other appropriate action.
- (c) Orders shall be available on the Attorney General's website.

(3) Violation Resolved After Hearing. The Attorney General may conduct a hearing where the Attorney General deems appropriate. The hearing shall be conducted pursuant to 801 CMR 1.00: *Formal Rules*, as modified by any regulations issued by the Attorney General. At the conclusion of the hearing, the Attorney General shall determine whether a violation of M.G.L. c. 30A, §§ 18 through 25 occurred, and whether the public body, one or more of its members, or both, were responsible. The Attorney General will notify in writing any complainant of the investigation's resolution. Upon a finding that a violation occurred, the Attorney General may order:

- (a) immediate and future compliance with M.G.L. c. 30A, §§ 18 through 25;
- (b) attendance at a training session authorized by the Attorney General;
- (c) nullification of any action taken at the relevant meeting, in whole or in part;
- (d) imposition of a fine upon the public body of not more than \$1,000 for each intentional violation; however, a fine will not be imposed where a public body or public body member acted in good faith compliance with the advice of the public body's legal counsel, in accordance with M.G.L. 30A, § 23(g);
- (e) that an employee be reinstated without loss of compensation, seniority, tenure or other benefits;
- (f) that minutes, records or other materials be made public; or
- (g) other appropriate action.

Orders issued following a hearing shall be available on the Attorney General's website.

(4) A public body, subject to an order of the Attorney General following a written determination issued pursuant to 940 CMR 29.07, shall notify the Attorney General in writing of its compliance with the order within 30 days of receipt of the order, unless otherwise indicated by the order itself. A public body need not notify the Attorney General of its compliance with an order requiring immediate and future compliance pursuant to 940 CMR 29.07(2)(b)1. or 940 CMR 29.07(3)(a).

(5) A public body or any member of a body aggrieved by any order issued by the Attorney General under 940 CMR 29.07 may obtain judicial review of the order through an action in Superior Court seeking relief in the nature of *certiorari*. Any such action must be commenced in Superior Court within 21 days of receipt of the order.

#### 29.08: Advisory Opinions

The Attorney General will generally not issue advisory opinions. However, the Attorney General may issue written guidance to address common requests for interpretation. Such written guidance will appear on the Attorney General's website.

### 29.09: Other Enforcement Actions

Nothing in 940 CMR 29.06 or 29.07 shall limit the Attorney General's authority to file a civil action to enforce M.G.L. c. 30A, §§ 18 through 25 pursuant to M.G.L. c. 30A, § 23(f).

### 29.10: Remote Participation

(1) Preamble. Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating 940 CMR 29.10, the Attorney General hopes to promote greater participation in government. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of M.G.L. c. 30A, §§ 18 through 25, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) Adoption of Remote Participation. Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

- (a) Local Public Bodies. The Chief Executive Officer, as defined in M.G.L. c. 4, § 7, must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.
- (b) Regional or District Public Bodies. The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (c) Regional School Districts. The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (d) County Public Bodies. The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of all county public bodies in that county.
- (e) State Public Bodies. The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (f) Retirement Boards. A retirement board created pursuant to M.G.L. c. 32, § 20 or M.G.L. c. 34B, § 19 must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (g) Local Commissions on Disability. In accordance with M.G.L. c. 30A, § 20(e), a local commission on disability may, by majority vote of the commissioners at a regular meeting, authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.



(3) Revocation of Remote Participation. Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

(4) Minimum Requirements for Remote Participation.

- (a) Members of a 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. c. 30A, § 20(d);
- (b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location as required by M.G.L. c. 30A, § 20(d);
- (c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, § 23D.

(5) Permissible Reason for Remote Participation. If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting in accordance with the procedures described in 940 CMR 29.10(7) only if physical attendance would be unreasonably difficult.

(6) Technology.

- (a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.
  - 1. telephone, internet, or satellite enabled audio or video conferencing;
  - 2. any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.
- (b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- (c) The public body shall determine which of the acceptable methods may be used by its members.
- (d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged wherever possible to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.
- (e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

(7) Procedures for Remote Participation.

- (a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.
- (b) 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.

- (c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
- (d) A member participating remotely may participate in an executive session, but 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 a simple majority vote of the public body.
- (e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

(8) Further Restriction by Adopting Authority. 940 CMR 29.10 does not prohibit any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) from enacting policies, laws, rules or regulations that prohibit or further restrict the use of remote participation by public bodies within that person or entity's jurisdiction, provided those policies, laws, rules or regulations do not violate state or federal law.

(9) Remedy for Violation. If the Attorney General determines after investigation that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

#### 29.11: Meeting Minutes

(1) A public body shall create and maintain accurate minutes of all meetings including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes in accordance with M.G.L. c. 30A, § 22(a).

(2) Minutes of all open and executive sessions shall be created and approved in a timely manner. A "timely manner" will generally be considered to be within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay. The Attorney General encourages public bodies to approve minutes at the next meeting whenever possible.

#### REGULATORY AUTHORITY

940 CMR 29.00: M.G.L. c. 30A, § 25(a) and (b).

## Certificate of Receipt of Open Meeting Law Materials

I, \_\_\_\_\_, who qualified as a member of the  
(Name)

\_\_\_\_\_, on \_\_\_\_\_, certify pursuant  
(Public Body) (Date)

to G.L. c. 30A, § 20(h) and 940 CMR 29.04, that I have received and reviewed copies of the following Open Meeting Law materials:

- 1) the Open Meeting Law, G.L. c. 30A, §§ 18-25;
- 2) the Attorney General’s Regulations, 940 CMR 29.00–29.11;
- 3) the Attorney General’s Open Meeting Law Guide, explaining the Open Meeting Law and its application; and
- 4) if applicable, a copy of each Open Meeting Law determination issued by the Attorney General within the last five (5) years to the public body of which I am a member and in which the Attorney General found a violation of the Open Meeting Law.

I have read and understand the requirements of the Open Meeting Law and the consequences of violating it. I further understand that the materials I have received may be revised or updated from time to time, and that I have a continuing obligation to implement any changes to the Open Meeting Law during my term of office.

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Name of Public Body)

\_\_\_\_\_  
(Date)

*Pursuant to G.L. c. 30A, § 20(h), an executed copy of this certificate shall be retained, according to the relevant records retention schedule, by the appointing authority, city or town clerk, or the executive director or other appropriate administrator of a state or regional body, or their designee.*

# **Exhibit D:**

Public Meeting Posting  
of the Joint Convention  
of February 22, 2022

**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
CITY COUNCIL



**NOTICE OF JOINT CONVENTION OF  
CITY COUNCIL AND GARDNER SCHOOL COMMITTEE**  
**Montachusett Regional Vocational Technical  
School District Committee Appointment**

The City Council and School Committee will meet in Joint Convention on **Tuesday, February 22, 2022 at 7:00 p.m.** in the City Council Chamber, Room 219, City Hall, to appoint two (2) Gardner residents to serve on the Montachusett Regional Vocational Technical School District Committee.

Any Gardner registered voter interested in being considered for the position shall submit a Letter of Interest with qualifications to the City Council and School Committee, delivered to the City Clerk, 95 Pleasant Street, Room 121, no later than 10:00 a.m. on Wednesday, February 16, 2022.

**TITI SIRIPHAN**  
**CITY CLERK**



**Exhibit E:**

Information Packet  
posted for the  
February 22, 2022  
Joint Convention

**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
CITY COUNCIL



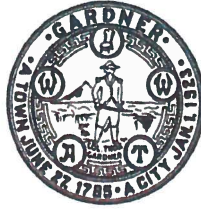
**NOTICE OF JOINT CONVENTION OF  
CITY COUNCIL AND GARDNER SCHOOL COMMITTEE**  
**Montachusett Regional Vocational Technical  
School District Committee Appointment**

The City Council and School Committee will meet in Joint Convention on **Tuesday, February 22, 2022 at 7:00 p.m.** in the City Council Chamber, Room 219, City Hall, to appoint two (2) Gardner residents to serve on the Montachusett Regional Vocational Technical School District Committee.

Any Gardner registered voter interested in being considered for the position shall submit a Letter of Interest with qualifications to the City Council and School Committee, delivered to the City Clerk, 95 Pleasant Street, Room 121, no later than 10:00 a.m. on Wednesday, February 16, 2022.

**TITI SIRIPHAN**  
**CITY CLERK**

**CITY OF GARDNER  
MASSACHUSETTS**



**MONTY TECH SCHOOL COMMITTEE VACANCY  
NOMINATION AND APPOINTMENT PROCEDURE**

Nomination process outlined under Robert's Rules of Order, Chapter XIV, §46 (pp.416-418)  
Requirements for Appointment outlined under the 3<sup>rd</sup> Amendment (1989)  
to the Montachusett Regional Vocational School District Agreement

- ❖ Nominations from the floor will be recognized.
- ❖ A nomination does not require a second; however, a nomination may be seconded to indicate endorsement.
- ❖ If no further nominations are offered, the Presiding Officer will call for a motion to close nominations.
- ❖ A two-thirds vote is required to close nominations.
- ❖ A majority vote is required to reopen nominations.
- ❖ The City Clerk will call the roll, whereupon each Councillor and School Committee member shall state the names of the persons whom they choose.
- ❖ The nominees receiving a majority vote of those present and voting shall be declared appointed.
- ❖ Further balloting shall be undertaken until someone is appointed.

\*\*\*\*\*

FROM MONTY TECH

| Date     | Mr. Boone              | Mr. Vance |                               |       |  |
|----------|------------------------|-----------|-------------------------------|-------|--|
| 12/5/18  | Absent                 | Absent    | In Person                     |       |  |
| 1/2/19   | Absent                 | Present   | In Person                     |       |  |
| 2/13/19  | Absent                 | Present   | In Person                     |       |  |
| 3/6/19   | Present                | Present   | In Person                     |       |  |
| 4/10/19  | Absent                 | Present   | In Person                     |       |  |
| 5/1/19   | Present                | Absent    | In Person                     |       |  |
| 6/5/19   | Absent                 | Present   | In Person                     |       |  |
| 9/4/19   | Absent                 | Present   | In Person                     |       |  |
| 10/2/19  | Present                | Absent    | In Person                     |       |  |
| 11/13/19 | Present                | Present   | In Person                     |       |  |
| 12/4/19  | Absent                 | Present   | In Person                     |       |  |
| 1/8/20   | Present                | Present   | In Person                     |       |  |
| 2/12/20  | Present                | Absent    | In Person                     |       |  |
| 3/4/20   | Present                | Present   | In Person                     |       |  |
| 4/16/20  | Present                | Present   | Remote                        | COVID |  |
| 5/6/20   | Present                | Present   | Remote                        | COVID |  |
| 6/3/20   | Present                | Absent    | Remote                        | COVID |  |
| 6/17/20  | Absent                 | Present   | Remote                        | COVID |  |
| 8/5/20   | Absent                 | Present   | Remote                        | COVID |  |
| 9/2/20   | Present                | Absent    | Remote                        | COVID |  |
| 10/7/20  | Absent                 | Present   | Remote                        | COVID |  |
| 11/4/20  | Present                | Present   | Remote                        | COVID |  |
| 12/2/20  | Present                | Present   | Remote                        | COVID |  |
| 1/7/21   | Present                | Present   | Remote                        | COVID |  |
| 2/3/21   | Absent                 | Absent    | Remote                        | COVID |  |
| 3/3/21   | Present                | Present   | Remote                        | COVID |  |
| 4/7/21   | Present                | Present   | Remote                        | COVID |  |
| 5/5/21   | Present - Left at 8:00 | Present   | Remote                        | COVID |  |
| 6/2/21   | Present                | Absent    | Remote                        | COVID |  |
| 8/4/21   | Absent                 | Absent    | Remote                        | COVID |  |
| 9/1/21   | Present - Left at 8:00 | Present   | Remote                        | COVID |  |
| 10/6/21  | Present                | Present   | Remote                        | COVID |  |
| 11/10/21 | Present                | Present   | Remote                        | COVID |  |
| 12/1/21  | Present                | Absent    | Remote                        | COVID |  |
| 1/5/22   | Absent                 | Present   | Remote                        | COVID |  |
| 2/2/22   | Present                | Present   | Remote                        | COVID |  |
| 2/16/22  | Absent                 | Present   | Hybrid - In Person and Remote |       |  |



# Eric Commodore

February 14, 2022



978.424.1410



eric.commodore@gmail.com



Gardner, MA

City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 014400

Members of the Gardner City Council  
Member of the Gardner School Committee

Please accept this letter as my request to be considered for appointment to the Montachusett Regional Vocational Technical School District School Committee. My professional work experience coupled with my 8 years of experience as a member the Monty Tech School Committee make me an excellent candidate to represent the City of Gardner and its residents.

From 2010 – 2018 I represented the City of Gardner on the Monty Tech School Committee. I regularly attended committee meetings, held leadership roles on several subcommittees, served a Vice Chair of the committee and actively supported and participated in student activities such as CyberPatriot and MCJROTC volunteer activities. Subcommittee leadership roles included:

- Chair of the Financial Planning Subcommittee
- Chair of the Technology Subcommittee
- Vice Chair of the Workforce Planning Subcommittee

As a member of the committee, I leveraged my private sector experience to help the district achieve it strategic goals and objectives. Some key accomplishments during my time on the committee include:

- Hiring 2 Superintendent Directors
- Negotiating 3 contracts with the Montachusett Regional Teachers Association
- Delivering annual budgets that were at or near net minimum school spend
- Completing \$10.8 Million in energy efficiency upgrades and replacing the roof of the main building without incremental expense to district members
- Implementing a One for One initiative for 1,435 students without increasing assessments to district members
- Adding a Veterinarian Tech program. This included the construction of a 7,500 square foot building funded through generous donations and constructed by the students

If selected to serve as your representative on the Monty Tech School Committee you can count on me to represent the interests of the City of Gardner, our residents and most importantly our students.

Sincerely,

*Eric D. Commodore*

RECEIVED

2022 FEB 14 PM 1:53

CITY CLERK'S OFFICE  
GARDNER, MA

# Eric Commodore



978.424.1410



eric.commodore@gmail.com



LinkedIn.com/in/ericcommodore

## EXPERTISE

Strategic Planning

Financial Management

Process Improvement

Onshore / Offshore Staffing

Risk Assessment

Resource Management

Project Management

Demand Management

Disaster Recovery

Team Leadership

## EDUCATION

Masters of  
Business Administration  
Bentley University

Bachelor of Science  
Business Administration  
Fitchburg State University

## CERTIFICATIONS

AWS Cloud Practitioner  
Amazon Web Services

Certified Scrum Product Owner  
The Scrum Alliance

Scrum Master  
Scrum Inc

Project Management Professional  
Project Management Institute

## CAREER SUMMARY

Senior Leader with experience operating at all levels of the organization. A combination of technology and business skills have resulted in a demonstrated track record of delivering complex projects of strategic importance. Extensive background in leading technology teams, managing staff members, developing budgets, managing expenses, managing vendors, and remediating enterprise technology risk.

## EXPERIENCE

**Senior Information Risk Officer, Technology Embedded Control Officer**  
BNY Mellon, Westborough, MA | May 2021 – Present

Responsible for driving IT and cyber risk management practices across Asset Servicing Technology. Efforts include leading risk assessments, monitoring and reporting on technology, cyber and information security risk and coordinating responses to internal and external audits.

- Reduced business owned RCSA action items by developing a joint review and tracking process
- Led the effort to board AST applications to Identity & Access Management Controls

**Director, Technology Enterprise Resilience, Office of the CIO**  
BNY Mellon, Westborough, MA | August 2018 – March 2020

Led efforts related to Business Resiliency and Disaster Recovery including the coordination of Planning, Testing, Oversight and Program Governance.

- Reduced non-compliance risk by closing DR gaps and revising the DR standards
- Developed a repeatable tracking process for test participation acceptance resulting in 4 consecutive quarters of 100% application response rates
- Addressed IT Asset Management data quality issues by leading the effort to review and update key BR/DR data elements
- Created a repeatable procedure for selecting applications for DR tests resulting in a 66% reduction in selection time
- Improved program communication by creating a confluence site to share program documentation and best practices
- Collaborated with the CIO of Global Transfer Agency to increase Pre-Tax Income by \$5 Million

**Managing Director, Stability Management**

BNY Mellon, Westborough, MA | March 2016 – August 2018

Directed efforts associated with evaluating, classifying, and improving the stability of the technology platforms supporting the firm's critical business services.

- Developed processes, procedures, and standards for requesting and implementing changes to the mapping and tiering of critical business service applications
- Directed the effort to collect, classify and track self-identified risks allowing the CIO's to understand and prioritize remediation efforts
- Led the vendor selection process for the development of an automated testing framework which was used to significantly reduced testing efforts
- Negotiated sliding scale vendor discounts delivering automated testing program savings exceeding \$2.5 Million



# Eric Commodore

## TECHNICAL SKILLS

SDLC

Confluence

Data Analysis

Systems Analysis

Software Development

Jira

SharePoint

Project

Power Query

PPM

SQL

## VOLUNTEER

Monty Tech Foundation  
Board Member  
2018 - Present

Air Force Association  
CyberPatriot Mentor  
2011 - Present

The Possible Project  
IT Consultant  
2019 - 2021

Marine Corps JROTC  
Cyber STEM Instructor  
2015 - 2020

Fitchburg State University  
Alumni Board President,  
President-Elect, Treasurer  
2009 - 2019

Monty Tech School Committee  
Vice-Chair of Committee  
Chair of Finance Sub-Committee  
2010 - 2018

## EXPERIENCE continued

Chief Administrative Officer, Asset Service Technology

BNY Mellon, Westborough, MA | July 2010 - March 2016

Supported Divisional CIO with Financial Management, Strategic Planning, Staffing, Recruiting, Salary Administration, Demand Management and Vendor Management for a 2,000+ person organization with an annual budget exceeding \$200 Million.

- Ensured timely communication of strategic events and corporate updates were completed by holding regular town hall meetings
- Directed the creation of the 3-year strategic plan which included reducing technical debt, consolidating IT platforms, and reducing reliance on external vendors
- Improved the quality of financial data by implemented standardized processes and procedures for the CAO's within Asset Servicing Technology
- Analyzed project portfolio and achieved a 26% reduction in administrative hours by implementing enhanced oversight of project time reporting
- Analyzed financial data and identified significant under reporting of capitalized software development. Deployed project review processes yielding a 23% improvement in capitalization
- Spearheaded hardware acquisition for the Subaccounting Data Center Migration. Saved \$700K by substituting Itanium servers for Alpha servers
- Analyzed storage footprint and executed a disk array replacement initiative which reduced operating expenses by \$828K
- Achieved \$5.25 Million in cost reductions by leading a project to review and optimize the infrastructure footprint
- Established offshore development team to reduce development and support expenses for the US Transfer Agency

Systems Director, Enterprise Investor Services

PNC Global Investment Servicing, Westborough, MA | March 2005 - July 2010

Directed the Distributed Systems Development team. The team was focused on developing Call Center, Imaging, Workflow, Intelligent Character Recognition, Voice Response, Cost Basis and Tax Reporting functionality for the US Transfer Agency

- Mitigated migration roadblocks for the acquisition of PNC Global Investment Servicing by BNY Mellon by performing an analysis of the as-is and to-be IT environments
- Developed the Tax Shared Service Reporting platform which reduce annual expenses by \$1.1 Million and significantly improved the quality of tax reporting
- Established the Operational Desktop team to develop a J2EE based Web Front-End allowing the product set to remain competitive
- Improved the Document Scanning Process, resulting in higher quality images, reduced scanning time and annual savings of \$300K
- Avoided \$700K Data Center Cooling expansion by decommissioning idle servers and consolidating applications to under-utilized servers
- Saved \$525K in annual VPN charges by analyzing VPN usage data and migrating users to local access numbers

Alexander A. Commodore  
159 Sawyer Street  
Gardner, MA 01440

February 15, 2022

City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

Gardner School Committee and City Council,

I request to be considered for appointment to the Monty Tech School Committee. I am a lifelong resident of Gardner who graduated from Monty Tech in 2018. I am a student at Fitchburg State University studying for my Bachelor in Business Administration. During my senior year In 2018 I was the Student Advisor to the governing school committee. I was also a member of the Information Technology vocational advisory committee.

In this position I had the opportunity to understand the function of meetings as well as conduct and expectations of committee members. Provided regular reports to the committee of student activities, events, and concerns from the student body. This puts me in a position to represent the school and city of Gardner in a professional manner.

I am interested in becoming a committee member because I want to contribute toward decision making to improve the quality of the school system. As a student Monty Tech gave me many opportunities to increase my knowledge. In a vocational setting, academic setting, and leadership setting. In the MCJROTC program I held various leadership roles such as Battalion Executive Officer and CyberPatriot team captain.

This school played a positive part in my development then to present and I want to contribute to enhancing the educational environment that did so much for me.

Sincerely,



Alexander A. Commodore

RECEIVED  
2022 FEB 16 AM 9:09  
CITY CLERK  
CITY OF GARDNER OFFICE

City Council and School Committee,

Please accept this letter as my letter of interest for reappointment to serve on the Monty Tech School Committee.

My name is Matthew Vance. I am a (nearly) Lifelong resident of Gardner and a 2008 graduate of Monty Tech. I am a former member of the Gardner School Committee (2010-2014), A former member of the Gardner City Council (2014-2018). I currently serve on the Monty Tech School Committee (2018-present).

I am proud to have been able to serve on the school committee for the past four years. Monty tech is an outstanding school that provides our students with an exceptional academic and vocational education. As with most things there continue to be areas of improvement. I hope to be able to continue that work,

I believe wholeheartedly in vocational education. It is a vehicle to help improve the lives of our students and to improve our community.

I have always been an outspoken member of the community. I make myself available to and listen to all of the stakeholders involved in a decision. I represent the community and take that to heart when I make decision on the committee. I continually stand up for the things that I believe in. I am not afraid to be one of the few dissenting voices when proposals are not in the best interest of the students or our community.

I humbly ask for your vote to serve for another four years on the Monty Tech School Committee.

Please do not hesitate to reach out to me,

Thank you,

Matthew Vance

m-vance@montytech.net

(978)424-7522

RECEIVED  
2022 FEB 16 AM 9:38  
CITY CLERK'S OFFICE  
GARDNER, MA



**3rd AMENDMENT 1989**  
**Appointive Method**

This Amendment amends the agreement among the cities of Fitchburg and Gardner and the Towns of Ashburnham, Ashby, Athol, Barre, Harvard, Hubbardston, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster and Winchendon with respect to the establishment of the Montachusett Regional Vocational Technical School District pursuant to Chapter 568 of the Acts of 1964, as amended by Chapter 543 of the Acts of 1965 (the "Agreement") as follows:

- A. Section I(A) - "Composition" shall be amended by Striking out said paragraph and inserting in lieu thereof the following: "The Committee shall consist of four members from the city of Fitchburg, two members from the city of Gardner, and one member from each of the member towns. Except as provided in subsection I(B), members shall be appointed (i) from the Cities of Fitchburg and Gardner by majority vote of the members of the Cities Council, Mayor, and School Committee, and (ii) from each town by majority vote of the members of the Board of Selectmen, Town Moderator, and local School Committee members. All members shall be residents of the municipalities they represent and they shall serve until their respective successors are appointed and qualified."
- B. Section I(C) of the Agreement is stricken and the following language inserted in lieu thereof: "Within thirty days after the annual town meeting in each town and within thirty days after January 1st in each city, members of the Regional District School Committee shall be appointed for a term of four years as set forth in Section I(A)."

Within ten days after admission of any new municipality to the Montachusett Regional Vocational Technical School District, each such municipality shall appoint in accordance with subsection I(A) one member to serve on the committee until the municipality shall appoint a member as set forth in the preceding paragraph of this section.

Notwithstanding the foregoing, all members of the Committee elected to office under the terms of the Agreement as enacted July 1965 shall continue to serve until the expiration of their elected terms.

- C. Section I(D) - "Vacancies" shall be amended by striking out said paragraph and inserting in lieu thereof the following: "Any vacancy occurring among the members of the Committee during appointed or elected term shall be filled by appointment in the manner set forth in subsection I(A) to serve for the balance of the unexpired term."

File From City Clerk's Office



**From:** [Rachel Stephano \(Mayor's Office\)](#)  
**To:** [Alan Agnelli](#)  
**Cc:** [James M. Walsh](#)  
**Subject:** Communication from Acting Mayor Walsh  
**Date:** Thursday, January 30, 2020 1:58:05 PM  
**Attachments:** [Xerox Scan\\_01302020135307.pdf](#)

---

Good Afternoon Alan,

Please see attached from Acting Mayor Walsh.

Thank you,

RJS

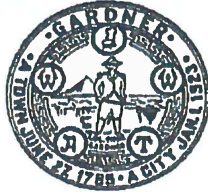
***Rachel J. Stephano***  
***Executive Assistant to the Mayor***

City Hall  
95 Pleasant Street, Room 125  
Gardner, MA 01440  
Tel: 978-630-1490  
Fax: 978-630-3778  
[rstephano@gardner-ma.gov](mailto:rstephano@gardner-ma.gov)  
Website: [www.gardner-ma.gov](http://www.gardner-ma.gov)

*When responding, please remember the Secretary of State considers e-mail a public record.*

**Confidentiality Notice:** This email message, including any attachments, is for the use of the intended recipient(s) only and may contain information that is privileged, confidential, and prohibited from unauthorized disclosure under applicable law. If you are not the intended recipient of this message, any dissemination, distribution, or copying of this message is strictly prohibited. If you received this message in error, please notify the sender by reply email and destroy all copies of the original message and attachments. Please be advised that the Massachusetts Secretary of State considers e-mail to be a public record, and therefore subject to public access under the Massachusetts Public Records Law, M.G.L. c. 66 section 10.

**RECEIVED**  
2022 FEB 22 PM 12:27  
CITY CLERK'S OFFICE  
GARDNER, MA



**CITY OF GARDNER, Executive Department**  
**James M. Walsh, Acting Mayor**  
95 Pleasant Street, Room 125  
Gardner, MA 01440  
1-978-630-1490

January 30, 2020

Alan Agnelli, Clerk  
Gardner City Hall  
95 Pleasant St., Rm. 121  
Gardner, MA 01440

***RE: Montachusett Vocational Technical School District Committee***

Dear Mr. Clerk

It appears that the term of office for one of our Monty Tech School Committee members has expired.

I recommend that the Council schedule a joint convention of the Council and School Committee in order to fill in the position.

Please contact me if you have any questions.

Very truly yours,

James M. Walsh  
Acting Mayor

**Mayor**

---

**From:** aagnelli@gardner-ma.gov  
**Sent:** Thursday, February 20, 2020 9:30 AM  
**To:** James Boone  
**Subject:** Oath of Office

Jim,

Please stop in at your earliest convenience to take the oath for your new term on the Monty Tech School Committee.

Thanks,

Alan

**Alan L. Agnelli**  
**City Clerk**  
**95 Pleasant Street, Room 121**  
**Gardner, MA 01440**  
**Tel 978-630-4058**  
**Fax 978-630-2589**

*When writing or responding, please remember that the MA Secretary of State's Office has determined that email is a public record and therefore subject to public access under the Mass Public Records Law. M.G.L.c.66§10.*

RECEIVED  
2022 FEB 22 PM 12: 27  
CITY CLERK'S OFFICE  
GARDNER, MA

**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
CITY COUNCIL



RECEIVED

2020 FEB -5 PM 2:48

CITY CLERK'S OFFICE  
GARDNER, MA.

**NOTICE OF JOINT CONVENTION OF THE GARDNER  
CITY COUNCIL AND GARDNER SCHOOL COMMITTEE**

**Montachusett Regional Vocational Technical  
School District Committee Appointment**

The City Council and School Committee will meet in Joint Convention on **Tuesday, February 18, 2020 at 7:00 p.m.** in the City Council Chamber, Room 219, City Hall, to appoint a Gardner resident to serve on the Montachusett Regional Vocational Technical School District Committee for four years.

**ALAN L. AGNELLI**  
CITY CLERK

**JOINT CONVENTION OF FEBRUARY 18, 2020**

Tuesday evening, February 18, 2020. The Joint Convention of the City Council and School Committee, held in the City Council Chamber, was called to order by Council President James Walsh at 7:00 o'clock p.m. for the purpose of appointing a Representative to the Montachusett Regional Vocational Technical School District Committee for four years.

City Clerk Alan L. Agnelli called the Roll of Convention. Present were:

**Members of the City Council (10)**

James M. Walsh, President  
James S. Boone  
Nathan R. Boudreau  
Craig R. Cormier  
Ronald F. Cormier  
Aleksander Dernalowicz  
Scott Joseph Graves  
Karen G. Hardern  
Elizabeth J. Kazinskas  
George C. Tyros

**Members of the School Committee (6)**

James R. Abare  
Rachel A. Cormier  
Anne F. Hurst  
John M. LaFreniere  
Jennifer Z. Pelavin  
Robert J. Swartz

Councillor Judy A. Mack was absent.

Council President James Walsh called for nominations from the floor.

Councillor Scott Joseph Graves nominated Councillor James S. Boone. Councillor Nathan Boudreau seconded the nomination.

On a motion by Councillor Scott Joseph Graves and seconded by Councillor Karen Hardern, it was voted viva voce to close nominations.

The City Clerk called the roll.

On Call of the Roll:

Councillor James S. Boone voting for James S. Boone  
Councillor Nathan R. Boudreau voting for James S. Boone  
Councillor Craig R. Cormier voting for James S. Boone  
Councillor Ronald F. Cormier voting for James S. Boone  
Councillor Scott Joseph Graves voting for James S. Boone  
Councillor Karen G. Hardern voting for James S. Boone  
Councillor Elizabeth J. Kazinskas voting for James S. Boone





JOINT CONVENTION OF FEBRUARY 18, 2020

---

James R. Abare voting for James S. Boone  
Rachel A. Cormier voting for James S. Boone  
Anne F. Hurst voting for James S. Boone  
John M. LaFreniere voting for James S. Boone  
Jennifer Z. Pelavin voting for James S. Boone  
Robert J. Swartz voting for James S. Boone

Having received sixteen (16) votes, James S. Boone was appointed Representative to the MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE for term expiring February 18, 2024.

On a motion by Councillor Scott Graves and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce to adjourn at 7:03 p.m.

Accepted by the City Council: *March 2, 2020*

*City of Gardner  
Massachusetts*



*Certificate of Appointment*

*At a Joint Convention of the City Council and School Committee  
held on the 18<sup>th</sup> day of January 2020*

*James S. Boone*

*was appointed*

*Gardner Representative*

*To the Montachusett Regional Vocational  
Technical School District Committee*

*for the term expiring the 15<sup>th</sup> day of February in the Year Two Thousand Twenty-four.  
Said action taken in accordance with the provisions of Section A (A) of the Montachusett  
Regional Vocational Technical School District Agreement.*

*Further, in accordance with the provisions of Section 107 of Chapter 41 of the General  
Laws of Massachusetts **James S. Boone** was administered the Oath of Office for the  
faithful performance of duties on the           <sup>th</sup> day of February in the Year Two Thousand  
Twenty.*

*A true copy Attest:*

*Alan L. Agnelli  
City Clerk*

**REGULAR MEETING OF MARCH 2, 2020**

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 2, 2020.

**CALL TO ORDER**

Council President James Walsh called the meeting to order at 7:30 o'clock p.m.

**CALL OF THE ROLL**

City Clerk Alan Agnelli called the Roll of Members. Ten (10) Councillors were present including President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros. Councillor James Boone was absent.

**OPENING PRAYER**

President Walsh led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

President Walsh led the Council in reciting the "Pledge of Allegiance".

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Walsh announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

**READING & ACCEPTANCE OF MINUTES**

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to waive reading and to accept the Minutes of the February 18, 2020 Joint Convention and Regular Meeting, as printed.

**COMMUNICATIONS FROM THE ACTING MAYOR****ORDERS**

#10250

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to refer the following Order to the Finance Committee for study and report:

**REGULAR MEETING OF MARCH 16, 2020**

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 16, 2020.

**CALL TO ORDER**

Council President James Walsh called the meeting to order at 7:30 o'clock p.m. and announced that Councillor Craig Cormier would participate remotely due, in part, to the Governor's State of Emergency Order, and that all votes taken would be by roll call.

**CALL OF THE ROLL**

City Clerk Alan Agnelli called the Roll of Members. Ten (10) Councillors were present including President James Walsh and Councillors Nathan Boudreau, Craig Cormier (remotely), Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros. Councillor James Boone was absent.

**OPENING PRAYER**

President Walsh led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

President Walsh led the Council in reciting the "Pledge of Allegiance".

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Walsh announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

**READING & ACCEPTANCE OF MINUTES**

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to waive reading and to accept the Minutes of the March 2, 2020 Regular Meeting, as printed.

**COMMUNICATIONS FROM THE ACTING MAYOR****ORDER**

#10253

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the appropriation would supplement the construction of a 6-unit T-Hangar at the Airport. The Airport Commission, he said, is confident that the hangar will generate about \$20,000 annually in revenue. In addition, he reported that the first half of the City's share was paid in 2015, but



**INFORMAL MEETING OF MARCH 30, 2020**

Informal Meeting of the City Council was held Monday evening, March 30, 2020. Council President James Walsh and City Clerk Alan Agnelli were present in the City Council Chamber, Room 219, City Hall, while all other Councillors participated remotely.

**CALL TO ORDER**

Council President James Walsh called the meeting to order at 6:00 o'clock p.m.

**ATTENDANCE**

Eleven (11) Councillors participated including President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, Elizabeth Kazinskas, and George Tyros.

**INFORMAL MEETING NOTICE**

Council President James Walsh announced that the Informal meeting was called to provide the Council with the opportunity to confer with the City Clerk as local election official and with the Acting Mayor as Chief Operating Officer to discuss the feasibility and logistics of postponing the April 7, 2020 Special City Preliminary Election and the May 5, 2020 Special City Election to new dates, as provided for under Section 1 of *Chapter 45 of the Acts of 2020*, adopted in response to the COVID-19 pandemic. He said that he would suggest that the Council take up only the question of postponement and consider re-scheduling to dates specific at a later meeting, following a vote to postpone. He added that the Preliminary election and the final Election are 4 weeks apart and new election dates must be held on or before June 30, 2020 for those already scheduled on or before May 30, 2020.

The City Clerk, as the designated local election official, informed the Council that the City Clerk's Office is prepared for any election dates that the Council chooses. He noted the following:

- Early voting by mail, the first time offered for a municipal election, as well as absentee voting.
- The April 7, 2020 Ballots used for absentee voting will be used and are valid for any re-scheduled date for the Preliminary election.
- Notices will be mailed to all registered voters along with an Early Ballot Application form, to be completed and returned to the Clerk's Office.

Council President James Walsh suggested postponement, citing the stay-at-home advisory by the Governor and the rise of COVID cases, so conducting an election in a week is out of the question. He suggested the Council vote tonight to postpone and then vote to set new dates as early as the next Council meeting. If the Council chooses May 5<sup>th</sup> for the Preliminary, it may



**REGULAR MEETING OF APRIL 6, 2020**

Regular Meeting of the City Council was held remotely on Monday evening, April 6, 2020.

**CALL TO ORDER**

As a result of the Council President vacancy, City Clerk Alan Agnelli called the meeting to order at 7:30 o'clock p.m. and announced that Councillors would participate remotely via Zoom Video Conferencing due to the Governor's State of Emergency Order and that all votes taken would be by roll call.

**CALL OF THE ROLL**

City Clerk Alan Agnelli called the Roll of Members. Eleven (11) Councillors were present including Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, George Tyros, and James Walsh.

**ELECTION OF THE COUNCIL PRESIDENT**

The City Clerk announced that nominations were in order for the election of the Council President (Councillor James M. Walsh submitted his resignation, effective at 7:30 p.m.)

Reading from a prepared Statement, Councillor Karen Hardern nominated Councillor Scott Joseph Graves, noting his strength, maturity, experience, and someone with a great mind to be Council President and Acting Mayor. Councillor James Boone seconded the nomination.

Councillor Judy Mack nominated Councillor Elizabeth J. Kazinskas, reading aloud the following Statement (submitted):

"It is with pleasure that I nominate Ward 2 Councillor Elizabeth Kazinskas for Council President. Councillor Kazinskas has served the city and her constituents well during her tenure on the council.

Experience comes in a number of different ways. Many of the city's former mayors have had less experience and served the city admirably. Councillor Kazinskas has worked previously in the Mayor's office and is familiar with the daily running of city government. She has worked closely with the department heads and continues to do so on behalf of her constituents as she serves on the finance and public safety committees.

Councillor Kazinskas is committed to the city, I think it's fair to say she is at more community events than any other member of the council. Her passions for the city with her business knowledge, levelheadedness and professional demeanor, as well as her availability to commit the time needed to both positions as council president and for the remaining brief tenure of acting mayor is why I without hesitation make this nomination."

Councillor Nathan Boudreau seconded the nomination.

## Titi Siriphan

---

**From:** James Boone  
**Sent:** Thursday, February 10, 2022 2:58 PM  
**To:** Titi Siriphan  
**Subject:** Re: Joint Convention of City Council and School Committee - February 22, 2022

Ti, is Vance term expiring? (wish mine was) 🤔

---

**From:** James Boone <jboone@gardner-ma.gov>  
**Sent:** Monday, February 7, 2022 7:07 PM  
**To:** Titi Siriphan <tsiriphan@gardner-ma.gov>  
**Subject:** Re: Joint Convention of City Council and School Committee - February 22, 2022

Am I up for Vance?

---

**From:** Titi Siriphan <tsiriphan@gardner-ma.gov>  
**Sent:** Monday, February 7, 2022 10:20 AM  
**To:** Alek Dernalowicz <adernalowicz@gardner-ma.gov>; Craig Cormier <ccormier@gardner-ma.gov>; Dana Heath <dheath@gardner-ma.gov>; Elizabeth Kazinskas <ekazinskas@gardner-ma.gov>; George Tyros <gtyros@gardner-ma.gov>; James M. Walsh <jwalsh@gardner-ma.gov>; James Boone <jboone@gardner-ma.gov>; Judy Mack <jmack@gardner-ma.gov>; Councillor Karen G. Hardern <karenhardern@hotmail.com>; Karen G. Hardern <khardern@gardner-ma.gov>; Nathan R. Boudreau <nboudreau@gardner-ma.gov>; Councillor Ronald F. Cormier <railron@aol.com>; Ronald F Cormier <roncormier@gardner-ma.gov>  
**Subject:** Joint Convention of City Council and School Committee - February 22, 2022

President Kazinskas and Councillors:

Please see attached Joint Convention of City Council and School Committee notice.

Meeting notice is also posted on the City's website. Link to agenda: <http://www.gardner-ma.gov/AgendaCenter/ViewFile/Agenda/02222022-3274>

Regards,

Ti

Titi Siriphan  
City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
Tel 978-630-4058  
Fax 978-630-2589

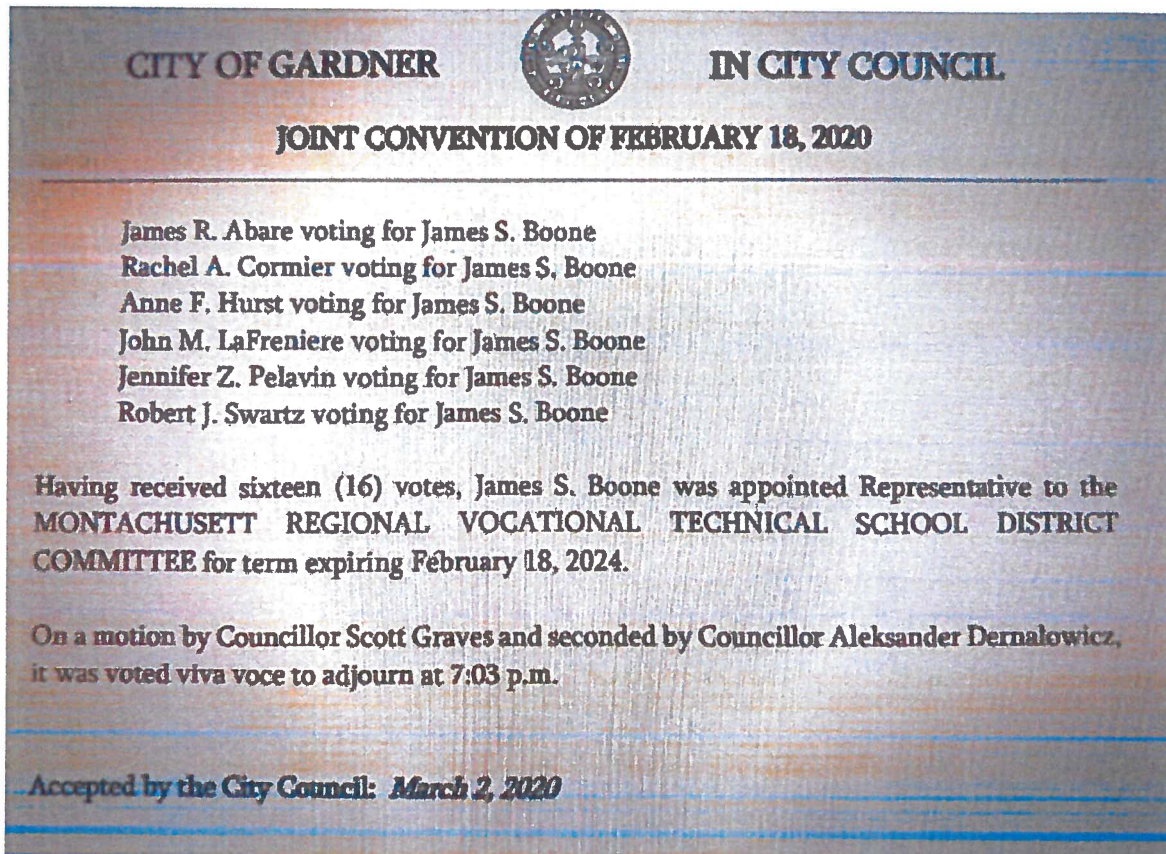
*When writing or responding, please remember that the MA Secretary of State's Office has determined that email is a public record and therefore subject to public access under the Mass Public Records Law. M.G.L.c.66§10.*

From Mr. James Boone

February 22, 2022

Dear Mayor, Councilors and School Committee,

You may have noticed I did not submit a letter of interest to be re-appointed to the Monty Tech School Committee representing Gardner. The reason is I am not up for appointment. I was elected to serve as Gardner's (alternating term) rep February 18, 2020. Excerpt below:



Some excerpts of the District Agreement as it pertains to Gardner and appointments for your information:

RECEIVED  
2022 FEB 22 PM 12:29  
CITY CLERK'S OFFICE  
GARDNER, MA



## AGREEMENT

### MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT

This agreement is entered into pursuant to Chapter 568 of the Acts of 1964 as amended by Chapter 543 of the Acts of 1965 by and among the Cities of Fitchburg and Gardner, and the Towns of Ashby, Barre, Harvard, Holden, Hubbardston, Lunenburg, Royalston, Sterling, and Winchendon, Massachusetts (or by and among the cities of Fitchburg and Gardner and any two or more of said towns as shall accept said Chapter 568 as amended by said Chapter 543). In consideration of the mutual promises herein contained, it is hereby agreed as follows: \* and \*\*\*

#### SECTION I THE REGIONAL DISTRICT SCHOOL COMMITTEE

##### (A) Composition -- Reference to non-accepting towns

The powers and duties of the regional school district shall be vested in and exercised by a regional district school committee herein after sometimes referred to as the Committee. The Committee shall consist of two members from each of the cities of Fitchburg and Gardner and one member from each of the member towns. Except as provided in sub section 1 (B), members shall be elected at the regular city elections or at the annual town elections. All members shall serve until their respective successors are elected and qualified. Any references in this agreement to any town which does not accept the provisions of Chapter 568 of the Acts of 1964 as amended by Chapter 543 of the Acts of 1965 shall be deemed to be stricken from this agreement. \*\*

(B) Within ten days after the establishment of the regional school district, the mayor of each of the cities of Fitchburg and Gardner shall appoint one member to serve on the regional district school committee until January 1, 1968, and the local school committee of each of the said cities shall appoint one member (who need not be from its own membership) to serve on the regional district school committee until January 1, 1970, and the moderator of each member town shall appoint one member to serve on the regional district school committee until April 1, 1968; and each of the members so appointed shall have been a member of the regional school district planning board which submitted this agreement, if such a person is available and willing to serve.

(C) At the regular city elections in 1967 and at the regular city elections in every odd-numbered year thereafter, the cities of Fitchburg and Gardner shall each elect one member to serve on the Committee for a term of four years. At the annual town elections in 1968 and at the annual town elections in every fourth year thereafter, the towns of Ashby, Barre, Harvard, Hubbardston and Lunenburg shall each elect one member to serve on the Committee for a term of four years. At the annual town elections in 1968, the towns of Royalston, Sterling and Winchendon shall each elect one member to serve on the Committee for a term of two years and at the annual town elections in 1970 and at the annual town elections in every fourth year thereafter, the said towns shall each elect one member to serve on the Committee for a term of four years. \* \*\*

\* Refer to 2nd Amendment 1989 Expansion Method, page 12

\*\* Refer to 3rd Amendment 1989 Appointive Method, page 13

\*\*\* Refer to 4th Amendment 1999 Expansion Method, page 12



**3rd AMENDMENT 1989**  
**Appointive Method**

This Amendment amends the agreement among the cities of Fitchburg and Gardner and the Towns of Ashburnham, Ashby, Athol, Barre, Harvard, Hubbardston, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster and Winchendon with respect to the establishment of the Montachusett Regional Vocational Technical School District pursuant to Chapter 568 of the Acts of 1964, as amended by Chapter 543 of the Acts of 1965 (the "Agreement") as follows:

- A. Section I(A) - "Composition" shall be amended by Striking out said paragraph and inserting in lieu thereof the following: "The Committee shall consist of four members from the city of Fitchburg, two members from the city of Gardner, and one member from each of the member towns. Except as provided in subsection I(B), members shall be appointed (i) from the Cities of Fitchburg and Gardner by majority vote of the members of the Cities Council, Mayor, and School Committee, and (ii) from each town by majority vote of the members of the Board of Selectmen, Town Moderator, and local School Committee members. All members shall be residents of the municipalities they represent and they shall serve until their respective successors are appointed and qualified.
- B. Section I(C) of the Agreement is stricken and the following language inserted in lieu thereof: "Within thirty days after the annual town meeting in each town and within thirty days after January 1st in each city, members of the Regional District School Committee shall be appointed for a term of four years as set forth in Section I(A)."

In closing I have been an outspoken representative for the city of Gardner and its citizens, to ensure while supporting the school, that Finances are spent wisely, and Monty Tech admission is equitable to all students wanting to obtain a Vocational education and will continue to do so. BTW, even as a City Councilor, I haven't been able to get a clear answer as to why we are voting for 2 representatives except someone from Monty Tech told the city both appointments are up. We have always had alternating 4 year terms similar to Gardner School Committee.

Respectfully,

Councilor James Boone

Gardner Rep to Monty Tech SC

**Exhibit F:**

Approved Minutes of  
the Joint Convention of  
February 22, 2022



JOINT CONVENTION OF FEBRUARY 22, 2022

---

Tuesday evening, February 22, 2022. The Joint Convention of the City Council and School Committee, held in the City Council Chamber, was called to order by Council President Elizabeth Kazinskas at 7:00 o'clock p.m. for the purpose of appointing a Representative to the Montachusett Regional Vocational Technical School District Committee.

City Clerk Titi Siriphan called the Roll of Convention. Present were:

**Members of the City Council (10)**

Elizabeth J. Kazinskas, President  
James S. Boone  
Nathan R. Boudreau  
Craig R. Cormier  
Ronald F. Cormier  
Aleksander Dernalowicz  
Karen G. Hardern  
Dana M. Heath  
George C. Tyros  
James M. Walsh

**Members of the School Committee (4)**

Anne F. Hurst  
Jennifer Z. Pelavin  
Robert J. Swartz  
Shannon Ward-Leighton

Councillor Judy A. Mack was absent.

School Committee Members Rachel Cormier and John M. LaFreniere were absent.

President Elizabeth Kazinskas announced that on Saturday, February 19<sup>th</sup>, Mayor Nicholson notified the members of the Council and the School Committee that he would be recusing from the proceedings of this Joint Convention due to a conflict of interest. Per section 32 of the charter whenever the Mayor is unable from any cause temporarily to perform his duties shall be performed by the President of the City Council. Since section 37 of the City Charter names the Mayor as the chair of the School Committee and since chapter 43 of the City Charter states that the Mayor shall serve as the chair over Joint Conventions of the School Committee and City Council, President Elizabeth Kazinskas will be serving as chair of the evenings proceedings

Council President Elizabeth Kazinskas called for nominations from the floor.

Councillor Karen Hardern nominated Matthew Vance. Councillor Nathan Boudreau seconded the nomination.

JOINT CONVENTION OF FEBRUARY 22, 2022

---

Councillor Ronald Cormier nominated Eric Commodore. School Committee Member Robert Swartz seconded the nomination.

On a motion by Councillor James Walsh and seconded by Councillor Nathan Boudreau, it was voted viva voce to close nominations.

The City Clerk called the roll.

On Call of the Roll:

Councillor James S. Boone voting for Matthew Vance  
Councillor Nathan R. Boudreau voting for Matthew Vance  
Councillor Craig R. Cormier voting for Eric Commodore  
Councillor Ronald F. Cormier voting for Eric Commodore  
Councillor Aleksander Dernalowicz voting for Eric Commodore  
Councillor Karen G. Hardern voting for Matthew Vance  
Councillor Dana M. Heath voting for Eric Commodore  
Councillor Elizabeth J. Kazinskas voting for Eric Commodore  
Councillor George C. Tyros voting for Eric Commodore  
Councillor James M. Walsh voting for Eric Commodore  
Anne F. Hurst voting for Eric Commodore  
Jennifer Z. Pelavin voting for Eric Commodore  
Robert J. Swartz voting for Eric Commodore  
Shannon Ward-Leighton voting for Eric Commodore

Having received fourteen (14) votes, Eric Commodore was appointed Representative to the MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE for term expiring February 22, 2026.

Councillor James Walsh questioned the validity of a vacant position that was held by Councillor James Boone who was elected two years ago at a joint convention in February 2020 to serve a four-year term. It was initiated by a phone call from the Superintendent office at Monty Tech. The alleged reason for the vacancy has to do with being sworn in. There is no legal interpretation or facts to support this claim.

On a motion made by Councillor James Walsh seconded by Councillor Nathan Boudreau, on call of the roll, fourteen (14) yeas including President Kazinskas, Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Karen Hardern, Dana Heath, George Tyros, and James Walsh; Anne Hurst, Jennifer Z. Pelavin, Robert Swartz

CITY OF GARDNER



IN CITY COUNCIL

**JOINT CONVENTION OF FEBRUARY 22, 2022**

---

and Shannon Ward-Leighton; to postpone the election of a vacant two year term for the Montachusett Regional Vocational Technical School District Committee and request written documentation from the Monty Tech School Committee on whether or not a vacancy exists.

On a motion by Robert Swartz and seconded by Councillor Nathan Boudreau, it was voted viva voce to adjourn at 7:15 p.m.

**Accepted by the City Council: March 21, 2022**



**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
CITY COUNCIL



**NOTICE OF JOINT CONVENTION OF  
CITY COUNCIL AND GARDNER SCHOOL COMMITTEE**  
**Montachusett Regional Vocational Technical  
School District Committee Appointment**

The City Council and School Committee will meet in Joint Convention on **Tuesday, February 22, 2022 at 7:00 p.m.** in the City Council Chamber, Room 219, City Hall, to appoint two (2) Gardner residents to serve on the Montachusett Regional Vocational Technical School District Committee.

Any Gardner registered voter interested in being considered for the position shall submit a Letter of Interest with qualifications to the City Council and School Committee, delivered to the City Clerk, 95 Pleasant Street, Room 121, no later than 10:00 a.m. on Wednesday, February 16, 2022.

**TITI SIRIPHAN**  
**CITY CLERK**

**CITY OF GARDNER  
MASSACHUSETTS**



**MONTY TECH SCHOOL COMMITTEE VACANCY  
NOMINATION AND APPOINTMENT PROCEDURE**

Nomination process outlined under Robert's Rules of Order, Chapter XIV, §46 (pp.416-418)  
Requirements for Appointment outlined under the 3<sup>rd</sup> Amendment (1989)  
to the Montachusett Regional Vocational School District Agreement

- ❖ Nominations from the floor will be recognized.
- ❖ A nomination does not require a second; however, a nomination may be seconded to indicate endorsement.
- ❖ If no further nominations are offered, the Presiding Officer will call for a motion to close nominations.
- ❖ A two-thirds vote is required to close nominations.
- ❖ A majority vote is required to reopen nominations.
- ❖ The City Clerk will call the roll, whereupon each Councillor and School Committee member shall state the names of the persons whom they choose.
- ❖ The nominees receiving a majority vote of those present and voting shall be declared appointed.
- ❖ Further balloting shall be undertaken until someone is appointed.

\*\*\*\*\*

FROM MONTY TECH

| Date     | Mr. Boone              | Mr. Vance |                               |       |  |
|----------|------------------------|-----------|-------------------------------|-------|--|
| 12/5/18  | Absent                 | Absent    | In Person                     |       |  |
| 1/2/19   | Absent                 | Present   | In Person                     |       |  |
| 2/13/19  | Absent                 | Present   | In Person                     |       |  |
| 3/6/19   | Present                | Present   | In Person                     |       |  |
| 4/10/19  | Absent                 | Present   | In Person                     |       |  |
| 5/1/19   | Present                | Absent    | In Person                     |       |  |
| 6/5/19   | Absent                 | Present   | In Person                     |       |  |
| 9/4/19   | Absent                 | Present   | In Person                     |       |  |
| 10/2/19  | Present                | Absent    | In Person                     |       |  |
| 11/13/19 | Present                | Present   | In Person                     |       |  |
| 12/4/19  | Absent                 | Present   | In Person                     |       |  |
| 1/8/20   | Present                | Present   | In Person                     |       |  |
| 2/12/20  | Present                | Absent    | In Person                     |       |  |
| 3/4/20   | Present                | Present   | In Person                     |       |  |
| 4/16/20  | Present                | Present   | Remote                        | COVID |  |
| 5/6/20   | Present                | Present   | Remote                        | COVID |  |
| 6/3/20   | Present                | Absent    | Remote                        | COVID |  |
| 6/17/20  | Absent                 | Present   | Remote                        | COVID |  |
| 8/5/20   | Absent                 | Present   | Remote                        | COVID |  |
| 9/2/20   | Present                | Absent    | Remote                        | COVID |  |
| 10/7/20  | Absent                 | Present   | Remote                        | COVID |  |
| 11/4/20  | Present                | Present   | Remote                        | COVID |  |
| 12/2/20  | Present                | Present   | Remote                        | COVID |  |
| 1/7/21   | Present                | Present   | Remote                        | COVID |  |
| 2/3/21   | Absent                 | Absent    | Remote                        | COVID |  |
| 3/3/21   | Present                | Present   | Remote                        | COVID |  |
| 4/7/21   | Present                | Present   | Remote                        | COVID |  |
| 5/5/21   | Present - Left at 8:00 | Present   | Remote                        | COVID |  |
| 6/2/21   | Present                | Absent    | Remote                        | COVID |  |
| 8/4/21   | Absent                 | Absent    | Remote                        | COVID |  |
| 9/1/21   | Present - Left at 8:00 | Present   | Remote                        | COVID |  |
| 10/6/21  | Present                | Present   | Remote                        | COVID |  |
| 11/10/21 | Present                | Present   | Remote                        | COVID |  |
| 12/1/21  | Present                | Absent    | Remote                        | COVID |  |
| 1/5/22   | Absent                 | Present   | Remote                        | COVID |  |
| 2/2/22   | Present                | Present   | Remote                        | COVID |  |
| 2/16/22  | Absent                 | Present   | Hybrid - In Person and Remote |       |  |

# Eric Commodore

February 14, 2022



978.424.1410



eric.commodore@gmail.com



Gardner, MA

City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 014400

Members of the Gardner City Council  
Member of the Gardner School Committee

Please accept this letter as my request to be considered for appointment to the Montachusett Regional Vocational Technical School District School Committee. My professional work experience coupled with my 8 years of experience as a member the Monty Tech School Committee make me an excellent candidate to represent the City of Gardner and its residents.

From 2010 – 2018 I represented the City of Gardner on the Monty Tech School Committee. I regularly attended committee meetings, held leadership roles on several subcommittees, served a Vice Chair of the committee and actively supported and participated in student activities such as CyberPatriot and MCJROTC volunteer activities. Subcommittee leadership roles included:

- Chair of the Financial Planning Subcommittee
- Chair of the Technology Subcommittee
- Vice Chair of the Workforce Planning Subcommittee

As a member of the committee, I leveraged my private sector experience to help the district achieve it strategic goals and objectives. Some key accomplishments during my time on the committee include:

- Hiring 2 Superintendent Directors
- Negotiating 3 contracts with the Montachusett Regional Teachers Association
- Delivering annual budgets that were at or near net minimum school spend
- Completing \$10.8 Million in energy efficiency upgrades and replacing the roof of the main building without incremental expense to district members
- Implementing a One for One initiative for 1,435 students without increasing assessments to district members
- Adding a Veterinarian Tech program. This included the construction of a 7,500 square foot building funded through generous donations and constructed by the students

If selected to serve as your representative on the Monty Tech School Committee you can count on me to represent the interests of the City of Gardner, our residents and most importantly our students.

Sincerely,

*Eric D. Commodore*

RECEIVED

2022 FEB 14 PM 1:53

CITY CLERK'S OFFICE



# Eric Commodore

---



978.424.1410



eric.commodore@gmail.com



LinkedIn.com/in/ericcommodore

## EXPERTISE

Strategic Planning

Financial Management

Process Improvement

Onshore / Offshore Staffing

Risk Assessment

Resource Management

Project Management

Demand Management

Disaster Recovery

Team Leadership

## EDUCATION

Masters of  
Business Administration  
Bentley University

Bachelor of Science  
Business Administration  
Fitchburg State University

## CERTIFICATIONS

AWS Cloud Practitioner  
Amazon Web Services

Certified Scrum Product Owner  
The Scrum Alliance

Scrum Master  
Scrum Inc

Project Management Professional  
Project Management Institute

## CAREER SUMMARY

Senior Leader with experience operating at all levels of the organization. A combination of technology and business skills have resulted in a demonstrated track record of delivering complex projects of strategic importance. Extensive background in leading technology teams, managing staff members, developing budgets, managing expenses, managing vendors, and remediating enterprise technology risk.

## EXPERIENCE

### Senior Information Risk Officer, Technology Embedded Control Officer

BNY Mellon, Westborough, MA | May 2021 – Present

Responsible for driving IT and cyber risk management practices across Asset Servicing Technology. Efforts include leading risk assessments, monitoring and reporting on technology, cyber and information security risk and coordinating responses to internal and external audits.

- Reduced business owned RCSA action items by developing a joint review and tracking process
- Led the effort to board AST applications to Identity & Access Management Controls

### Director, Technology Enterprise Resilience, Office of the CIO

BNY Mellon, Westborough, MA | August 2018 – March 2020

Led efforts related to Business Resiliency and Disaster Recovery including the coordination of Planning, Testing, Oversight and Program Governance.

- Reduced non-compliance risk by closing DR gaps and revising the DR standards
- Developed a repeatable tracking process for test participation acceptance resulting in 4 consecutive quarters of 100% application response rates
- Addressed IT Asset Management data quality issues by leading the effort to review and update key BR/DR data elements
- Created a repeatable procedure for selecting applications for DR tests resulting in a 66% reduction in selection time
- Improved program communication by creating a confluence site to share program documentation and best practices
- Collaborated with the CIO of Global Transfer Agency to increase Pre-Tax Income by \$5 Million

### Managing Director, Stability Management

BNY Mellon, Westborough, MA | March 2016 – August 2018

Directed efforts associated with evaluating, classifying, and improving the stability of the technology platforms supporting the firm's critical business services.

- Developed processes, procedures, and standards for requesting and implementing changes to the mapping and tiering of critical business service applications
- Directed the effort to collect, classify and track self-identified risks allowing the CIO's to understand and prioritize remediation efforts
- Led the vendor selection process for the development of an automated testing framework which was used to significantly reduced testing efforts
- Negotiated sliding scale vendor discounts delivering automated testing program savings exceeding \$2.5 Million



# Eric Commodore

## TECHNICAL SKILLS

SDLC

Confluence

Data Analysis

Systems Analysis

Software Development

Jira

SharePoint

Project

Power Query

PPM

SQL

## VOLUNTEER

Monty Tech Foundation  
Board Member  
2018 - Present

Air Force Association  
CyberPatriot Mentor  
2011 - Present

The Possible Project  
IT Consultant  
2019 - 2021

Marine Corps JROTC  
Cyber STEM Instructor  
2015 - 2020

Fitchburg State University  
Alumni Board President,  
President-Elect, Treasurer  
2009 - 2019

Monty Tech School Committee  
Vice-Chair of Committee  
Chair of Finance Sub-Committee  
2010 - 2018

## EXPERIENCE continued

Chief Administrative Officer, Asset Service Technology

BNY Mellon, Westborough, MA | July 2010 - March 2016

Supported Divisional CIO with Financial Management, Strategic Planning, Staffing, Recruiting, Salary Administration, Demand Management and Vendor Management for a 2,000+ person organization with an annual budget exceeding \$200 Million.

- Ensured timely communication of strategic events and corporate updates were completed by holding regular town hall meetings
- Directed the creation of the 3-year strategic plan which included reducing technical debt, consolidating IT platforms, and reducing reliance on external vendors
- Improved the quality of financial data by implemented standardized processes and procedures for the CAO's within Asset Servicing Technology
- Analyzed project portfolio and achieved a 26% reduction in administrative hours by implementing enhanced oversight of project time reporting
- Analyzed financial data and identified significant under reporting of capitalized software development. Deployed project review processes yielding a 23% improvement in capitalization
- Spearheaded hardware acquisition for the Subaccounting Data Center Migration. Saved \$700K by substituting Itanium servers for Alpha servers
- Analyzed storage footprint and executed a disk array replacement initiative which reduced operating expenses by \$828K
- Achieved \$5.25 Million in cost reductions by leading a project to review and optimize the infrastructure footprint
- Established offshore development team to reduce development and support expenses for the US Transfer Agency

Systems Director, Enterprise Investor Services

PNC Global Investment Servicing, Westborough, MA | March 2005 - July 2010

Directed the Distributed Systems Development team. The team was focused on developing Call Center, Imaging, Workflow, Intelligent Character Recognition, Voice Response, Cost Basis and Tax Reporting functionality for the US Transfer Agency

- Mitigated migration roadblocks for the acquisition of PNC Global Investment Servicing by BNY Mellon by performing an analysis of the as-is and to-be IT environments
- Developed the Tax Shared Service Reporting platform which reduce annual expenses by \$1.1 Million and significantly improved the quality of tax reporting
- Established the Operational Desktop team to develop a J2EE based Web Front-End allowing the product set to remain competitive
- Improved the Document Scanning Process, resulting in higher quality images, reduced scanning time and annual savings of \$300K
- Avoided \$700K Data Center Cooling expansion by decommissioning idle servers and consolidating applications to under-utilized servers
- Saved \$525K in annual VPN charges by analyzing VPN usage data and migrating users to local access numbers

Alexander A. Commodore  
159 Sawyer Street  
Gardner, MA 01440

February 15, 2022

City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440

Gardner School Committee and City Council,

I request to be considered for appointment to the Monty Tech School Committee. I am a lifelong resident of Gardner who graduated from Monty Tech in 2018. I am a student at Fitchburg State University studying for my Bachelor in Business Administration. During my senior year In 2018 I was the Student Advisor to the governing school committee. I was also a member of the Information Technology vocational advisory committee.

In this position I had the opportunity to understand the function of meetings as well as conduct and expectations of committee members. Provided regular reports to the committee of student activities, events, and concerns from the student body. This puts me in a position to represent the school and city of Gardner in a professional manner.

I am interested in becoming a committee member because I want to contribute toward decision making to improve the quality of the school system. As a student Monty Tech gave me many opportunities to increase my knowledge. In a vocational setting, academic setting, and leadership setting. In the MCJROTC program I held various leadership roles such as Battalion Executive Officer and CyberPatriot team captain.

This school played a positive part in my development then to present and I want to contribute to enhancing the educational environment that did so much for me.

Sincerely,



Alexander A. Commodore

RECEIVED  
2022 FEB 16 AM 9:09  
CITY CLERK'S OFFICE

City Council and School Committee,

Please accept this letter as my letter of interest for reappointment to serve on the Monty Tech School Committee.

My name is Matthew Vance. I am a (nearly) Lifelong resident of Gardner and a 2008 graduate of Monty Tech. I am a former member of the Gardner School Committee (2010-2014), A former member of the Gardner City Council (2014-2018). I currently serve on the Monty Tech School Committee (2018-present).

I am proud to have been able to serve on the school committee for the past four years. Monty tech is an outstanding school that provides our students with an exceptional academic and vocational education. As with most things there continue to be areas of improvement. I hope to be able to continue that work,

I believe wholeheartedly in vocational education. It is a vehicle to help improve the lives of our students and to improve our community.

I have always been an outspoken member of the community. I make myself available to and listen to all of the stakeholders involved in a decision. I represent the community and take that to heart when I make decision on the committee. I continually stand up for the things that I believe in. I am not afraid to be one of the few dissenting voices when proposals are not in the best interest of the students or our community.

I humbly ask for your vote to serve for another four years on the Monty Tech School Committee.

Please do not hesitate to reach out to me,

Thank you,

Matthew Vance

m-vance@montytech.net

(978)424-7522

RECEIVED  
2022 FEB 16 AM 9:38  
CITY CLERK'S OFFICE  
GARDNER, MA



### 3rd AMENDMENT 1989

#### Appointive Method

This Amendment amends the agreement among the cities of Fitchburg and Gardner and the Towns of Ashburnham, Ashby, Athol, Barre, Harvard, Hubbardston, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster and Winchendon with respect to the establishment of the Montachusett Regional Vocational Technical School District pursuant to Chapter 568 of the Acts of 1964, as amended by Chapter 543 of the Acts of 1965 (the "Agreement") as follows:

- A. Section I(A) - "Composition" shall be amended by Striking out said paragraph and inserting in lieu thereof the following: "The Committee shall consist of four members from the city of Fitchburg, two members from the city of Gardner, and one member from each of the member towns. Except as provided in subsection I(B), members shall be appointed (i) from the Cities of Fitchburg and Gardner by majority vote of the members of the Cities Council, Mayor, and School Committee, and (ii) from each town by majority vote of the members of the Board of Selectmen, Town Moderator, and local School Committee members. All members shall be residents of the municipalities they represent and they shall serve until their respective successors are appointed and qualified."
- B. Section I(C) of the Agreement is stricken and the following language inserted in lieu thereof: "Within thirty days after the annual town meeting in each town and within thirty days after January 1st in each city, members of the Regional District School Committee shall be appointed for a term of four years as set forth in Section I(A)."

Within ten days after admission of any new municipality to the Montachusett Regional Vocational Technical School District, each such municipality shall appoint in accordance with subsection I(A) one member to serve on the committee until the municipality shall appoint a member as set forth in the preceding paragraph of this section.

Notwithstanding the foregoing, all members of the Committee elected to office under the terms of the Agreement as enacted July 1965 shall continue to serve until the expiration of their elected terms.

- C. Section I(D) - "Vacancies" shall be amended by striking out said paragraph and inserting in lieu thereof the following: "Any vacancy occurring among the members of the Committee during appointed or elected term shall be filled by appointment in the manner set forth in subsection I(A) to serve for the balance of the unexpired term."

**File From City Clerk's Office**



**From:** Rachel Stephano (Mayor's Office)  
**To:** Alan Agnelli  
**Cc:** James M. Walsh  
**Subject:** Communication from Acting Mayor Walsh  
**Date:** Thursday, January 30, 2020 1:58:05 PM  
**Attachments:** Xerox Scan\_01302020135307.pdf

---

Good Afternoon Alan,

Please see attached from Acting Mayor Walsh.

Thank you,

RJS

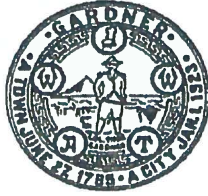
**Rachel J. Stephano**  
**Executive Assistant to the Mayor**

City Hall  
95 Pleasant Street, Room 125  
Gardner, MA 01440  
Tel: 978-630-1490  
Fax: 978-630-3778  
[rstephano@gardner-ma.gov](mailto:rstephano@gardner-ma.gov)  
Website: [www.gardner-ma.gov](http://www.gardner-ma.gov)

RECEIVED  
2022 FEB 22 PM 12:27  
CITY CLERK'S OFFICE  
GARDNER, MA

*When responding, please remember the Secretary of State considers e-mail a public record.*

**Confidentiality Notice:** This email message, including any attachments, is for the use of the intended recipient(s) only and may contain information that is privileged, confidential, and prohibited from unauthorized disclosure under applicable law. If you are not the intended recipient of this message, any dissemination, distribution, or copying of this message is strictly prohibited. If you received this message in error, please notify the sender by reply email and destroy all copies of the original message and attachments. Please be advised that the Massachusetts Secretary of State considers e-mail to be a public record, and therefore subject to public access under the Massachusetts Public Records Law, M.G.L. c. 66 section 10.



**CITY OF GARDNER, Executive Department**  
**James M. Walsh, Acting Mayor**  
95 Pleasant Street, Room 125  
Gardner, MA 01440  
1-978-630-1490

January 30, 2020

Alan Agnelli, Clerk  
Gardner City Hall  
95 Pleasant St., Rm. 121  
Gardner, MA 01440

***RE: Montachusett Vocational Technical School District Committee***

Dear Mr. Clerk

It appears that the term of office for one of our Monty Tech School Committee members has expired.

I recommend that the Council schedule a joint convention of the Council and School Committee in order to fill in the position.

Please contact me if you have any questions.

Very truly yours,

James M. Walsh  
Acting Mayor

**Mayor**

---

**From:** aagnelli@gardner-ma.gov  
**Sent:** Thursday, February 20, 2020 9:30 AM  
**To:** James Boone  
**Subject:** Oath of Office

Jim,

Please stop in at your earliest convenience to take the oath for your new term on the Monty Tech School Committee.

Thanks,

Alan

**Alan L. Agnelli**  
**City Clerk**  
**95 Pleasant Street, Room 121**  
**Gardner, MA 01440**  
**Tel 978-630-4058**  
**Fax 978-630-2589**

*When writing or responding, please remember that the MA Secretary of State's Office has determined that email is a public record and therefore subject to public access under the Mass Public Records Law. M.G.L.c.66§10.*

RECEIVED  
2022 FEB 22 PM 12: 27  
CITY CLERK'S OFFICE  
GARDNER, MA

**CITY OF GARDNER**  
**MASSACHUSETTS 01440-2630**

OFFICE OF THE  
CITY COUNCIL



RECEIVED

2020 FEB -5 PM 2:48

CITY CLERK'S OFFICE  
GARDNER, MA

**NOTICE OF JOINT CONVENTION OF THE GARDNER  
CITY COUNCIL AND GARDNER SCHOOL COMMITTEE**

**Montachusett Regional Vocational Technical  
School District Committee Appointment**

The City Council and School Committee will meet in Joint Convention on **Tuesday, February 18, 2020 at 7:00 p.m.** in the City Council Chamber, Room 219, City Hall, to appoint a Gardner resident to serve on the Montachusett Regional Vocational Technical School District Committee for four years.

**ALAN L. AGNELLI**  
**CITY CLERK**



**JOINT CONVENTION OF FEBRUARY 18, 2020**

Tuesday evening, February 18, 2020. The Joint Convention of the City Council and School Committee, held in the City Council Chamber, was called to order by Council President James Walsh at 7:00 o'clock p.m. for the purpose of appointing a Representative to the Montachusett Regional Vocational Technical School District Committee for four years.

City Clerk Alan L. Agnelli called the Roll of Convention. Present were:

**Members of the City Council (10)**

- James M. Walsh, President
- James S. Boone
- Nathan R. Boudreau
- Craig R. Cormier
- Ronald F. Cormier
- Aleksander Dernalowicz
- Scott Joseph Graves
- Karen G. Hardern
- Elizabeth J. Kazinskas
- George C. Tyros

**Members of the School Committee (6)**

- James R. Abare
- Rachel A. Cormier
- Anne F. Hurst
- John M. LaFreniere
- Jennifer Z. Pelavin
- Robert J. Swartz

Councillor Judy A. Mack was absent.

Council President James Walsh called for nominations from the floor.

Councillor Scott Joseph Graves nominated Councillor James S. Boone. Councillor Nathan Boudreau seconded the nomination.

On a motion by Councillor Scott Joseph Graves and seconded by Councillor Karen Hardern, it was voted viva voce to close nominations.

The City Clerk called the roll.

On Call of the Roll:

- Councillor James S. Boone voting for James S. Boone
- Councillor Nathan R. Boudreau voting for James S. Boone
- Councillor Craig R. Cormier voting for James S. Boone
- Councillor Ronald F. Cormier voting for James S. Boone
- Councillor Scott Joseph Graves voting for James S. Boone
- Councillor Karen G. Hardern voting for James S. Boone
- Councillor Elizabeth J. Kazinskas voting for James S. Boone



CITY OF GARDNER



IN CITY COUNCIL

JOINT CONVENTION OF FEBRUARY 18, 2020

---

James R. Abare voting for James S. Boone  
Rachel A. Cormier voting for James S. Boone  
Anne F. Hurst voting for James S. Boone  
John M. LaFreniere voting for James S. Boone  
Jennifer Z. Pelavin voting for James S. Boone  
Robert J. Swartz voting for James S. Boone

Having received sixteen (16) votes, James S. Boone was appointed Representative to the MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE for term expiring February 18, 2024.

On a motion by Councillor Scott Graves and seconded by Councillor Aleksander Dernalowicz, it was voted viva voce to adjourn at 7:03 p.m.

Accepted by the City Council: *March 2, 2020*

*City of Gardner  
Massachusetts*



*Certificate of Appointment*

*At a Joint Convention of the City Council and School Committee  
held on the 18<sup>th</sup> day of January 2020*

*James S. Boone*

*was appointed*

*Gardner Representative  
To the Montachusett Regional Vocational  
Technical School District Committee*

*for the term expiring the 18<sup>th</sup> day of February in the Year Two Thousand Twenty-four.  
Said action taken in accordance with the provisions of Section M (A) of the Montachusett  
Regional Vocational Technical School District Agreement.*

*Further, in accordance with the provisions of Section 107 of Chapter 41 of the General  
Laws of Massachusetts **James S. Boone** was administered the Oath of Office for the  
faithful performance of duties on the           <sup>th</sup> day of February in the Year Two Thousand  
Twenty.*

*Attest:*

*Alan L. Agnelli  
City Clerk*



**REGULAR MEETING OF MARCH 2, 2020**

---

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 2, 2020.

**CALL TO ORDER**

Council President James Walsh called the meeting to order at 7:30 o'clock p.m.

**CALL OF THE ROLL**

City Clerk Alan Agnelli called the Roll of Members. Ten (10) Councillors were present including President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros. Councillor James Boone was absent.

**OPENING PRAYER**

President Walsh led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

President Walsh led the Council in reciting the "Pledge of Allegiance".

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Walsh announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

**READING & ACCEPTANCE OF MINUTES**

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to waive reading and to accept the Minutes of the February 18, 2020 Joint Convention and Regular Meeting, as printed.

**COMMUNICATIONS FROM THE ACTING MAYOR**

**ORDERS**

#10250

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, it was voted viva voce, ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to refer the following Order to the Finance Committee for study and report:

**REGULAR MEETING OF MARCH 16, 2020**

Regular Meeting of the City Council was held in the City Council Chamber, Room 219, City Hall, on Monday evening, March 16, 2020.

**CALL TO ORDER**

Council President James Walsh called the meeting to order at 7:30 o'clock p.m. and announced that Councillor Craig Cormier would participate remotely due, in part, to the Governor's State of Emergency Order, and that all votes taken would be by roll call.

**CALL OF THE ROLL**

City Clerk Alan Agnelli called the Roll of Members. Ten (10) Councillors were present including President James Walsh and Councillors Nathan Boudreau, Craig Cormier (remotely), Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros. Councillor James Boone was absent.

**OPENING PRAYER**

President Walsh led the Council in reciting the Opening Prayer.

**PLEDGE OF ALLEGIANCE**

President Walsh led the Council in reciting the "Pledge of Allegiance".

**OPEN MEETING RECORDING & PUBLIC RECORDS ANNOUNCEMENT**

President Walsh announced to the assembly that the Open Meeting Recording and Public Records Announcement is posted at the entrance to the Chamber, and that any person planning to record the meeting by any means should identify themselves.

**READING & ACCEPTANCE OF MINUTES**

On a motion by Councillor Ronald Cormier and seconded by Councillor Elizabeth Kazinskas, on call of the roll, it was voted ten (10) yeas, President James Walsh and Councillors Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, and George Tyros, to waive reading and to accept the Minutes of the March 2, 2020 Regular Meeting, as printed.

**COMMUNICATIONS FROM THE ACTING MAYOR****ORDER**

#10253

Reporting for the Finance Committee, Councillor Ronald Cormier informed the Council that the appropriation would supplement the construction of a 6-unit T-Hangar at the Airport. The Airport Commission, he said, is confident that the hangar will generate about \$20,000 annually in revenue. In addition, he reported that the first half of the City's share was paid in 2015, but



**INFORMAL MEETING OF MARCH 30, 2020**

---

Informal Meeting of the City Council was held Monday evening, March 30, 2020. Council President James Walsh and City Clerk Alan Agnelli were present in the City Council Chamber, Room 219, City Hall, while all other Councillors participated remotely.

**CALL TO ORDER**

Council President James Walsh called the meeting to order at 6:00 o'clock p.m.

**ATTENDANCE**

Eleven (11) Councillors participated including President James Walsh and Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Judy Mack, Elizabeth Kazinskas, and George Tyros.

**INFORMAL MEETING NOTICE**

Council President James Walsh announced that the Informal meeting was called to provide the Council with the opportunity to confer with the City Clerk as local election official and with the Acting Mayor as Chief Operating Officer to discuss the feasibility and logistics of postponing the April 7, 2020 Special City Preliminary Election and the May 5, 2020 Special City Election to new dates, as provided for under Section 1 of *Chapter 45 of the Acts of 2020*, adopted in response to the COVID-19 pandemic. He said that he would suggest that the Council take up only the question of postponement and consider re-scheduling to dates specific at a later meeting, following a vote to postpone. He added that the Preliminary election and the final Election are 4 weeks apart and new election dates must be held on or before June 30, 2020 for those already scheduled on or before May 30, 2020.

The City Clerk, as the designated local election official, informed the Council that the City Clerk's Office is prepared for any election dates that the Council chooses. He noted the following:

- Early voting by mail, the first time offered for a municipal election, as well as absentee voting.
- The April 7, 2020 Ballots used for absentee voting will be used and are valid for any re-scheduled date for the Preliminary election.
- Notices will be mailed to all registered voters along with an Early Ballot Application form, to be completed and returned to the Clerk's Office.

Council President James Walsh suggested postponement, citing the stay-at-home advisory by the Governor and the rise of COVID cases, so conducting an election in a week is out of the question. He suggested the Council vote tonight to postpone and then vote to set new dates as early as the next Council meeting. If the Council chooses May 5<sup>th</sup> for the Preliminary, it may



**REGULAR MEETING OF APRIL 6, 2020**

Regular Meeting of the City Council was held remotely on Monday evening, April 6, 2020.

**CALL TO ORDER**

As a result of the Council President vacancy, City Clerk Alan Agnelli called the meeting to order at 7:30 o'clock p.m. and announced that Councillors would participate remotely via Zoom Video Conferencing due to the Governor's State of Emergency Order and that all votes taken would be by roll call.

**CALL OF THE ROLL**

City Clerk Alan Agnelli called the Roll of Members. Eleven (11) Councillors were present including Councillors James Boone, Nathan Boudreau, Craig Cormier, Ronald Cormier, Aleksander Dernalowicz, Scott Joseph Graves, Karen Hardern, Elizabeth Kazinskas, Judy Mack, George Tyros, and James Walsh.

**ELECTION OF THE COUNCIL PRESIDENT**

The City Clerk announced that nominations were in order for the election of the Council President (Councillor James M. Walsh submitted his resignation, effective at 7:30 p.m.)

Reading from a prepared Statement, Councillor Karen Hardern nominated Councillor Scott Joseph Graves, noting his strength, maturity, experience, and someone with a great mind to be Council President and Acting Mayor. Councillor James Boone seconded the nomination.

Councillor Judy Mack nominated Councillor Elizabeth J. Kazinskas, reading aloud the following Statement (submitted):

"It is with pleasure that I nominate Ward 2 Councillor Elizabeth Kazinskas for Council President. Councillor Kazinskas has served the city and her constituents well during her tenure on the council.

Experience comes in a number of different ways. Many of the city's former mayors have had less experience and served the city admirably. Councillor Kazinskas has worked previously in the Mayor's office and is familiar with the daily running of city government. She has worked closely with the department heads and continues to do so on behalf of her constituents as she serves on the finance and public safety committees.

Councillor Kazinskas is committed to the city, I think it's fair to say she is at more community events than any other member of the council. Her passions for the city with her business knowledge, levelheadedness and professional demeanor, as well as her availability to commit the time needed to both positions as council president and for the remaining brief tenure of acting mayor is why I without hesitation make this nomination."

Councillor Nathan Boudreau seconded the nomination.

## Titi Siriphan

---

**From:** James Boone  
**Sent:** Thursday, February 10, 2022 2:58 PM  
**To:** Titi Siriphan  
**Subject:** Re: Joint Convention of City Council and School Committee - February 22, 2022

Ti, is Vance term expiring? (wish mine was) 🤔

---

**From:** James Boone <jboone@gardner-ma.gov>  
**Sent:** Monday, February 7, 2022 7:07 PM  
**To:** Titi Siriphan <tsiriphan@gardner-ma.gov>  
**Subject:** Re: Joint Convention of City Council and School Committee - February 22, 2022

Am I up for Vance?

---

**From:** Titi Siriphan <tsiriphan@gardner-ma.gov>  
**Sent:** Monday, February 7, 2022 10:20 AM  
**To:** Alek Dernalowicz <adernalowicz@gardner-ma.gov>; Craig Cormier <ccormier@gardner-ma.gov>; Dana Heath <dheath@gardner-ma.gov>; Elizabeth Kazinskas <ekazinskas@gardner-ma.gov>; George Tyros <gtyros@gardner-ma.gov>; James M. Walsh <jwalsh@gardner-ma.gov>; James Boone <jboone@gardner-ma.gov>; Judy Mack <jmack@gardner-ma.gov>; Councillor Karen G. Hardern <karenhardern@hotmail.com>; Karen G. Hardern <khardern@gardner-ma.gov>; Nathan R. Boudreau <nboudreau@gardner-ma.gov>; Councillor Ronald F. Cormier <railron@aol.com>; Ronald F Cormier <roncormier@gardner-ma.gov>  
**Subject:** Joint Convention of City Council and School Committee - February 22, 2022

President Kazinskas and Councillors:

Please see attached Joint Convention of City Council and School Committee notice.

Meeting notice is also posted on the City's website. Link to agenda: <http://www.gardner-ma.gov/AgendaCenter/ViewFile/Agenda/02222022-3274>

Regards,

Ti

Titi Siriphan  
City Clerk  
95 Pleasant Street, Room 121  
Gardner, MA 01440  
Tel 978-630-4058  
Fax 978-630-2589

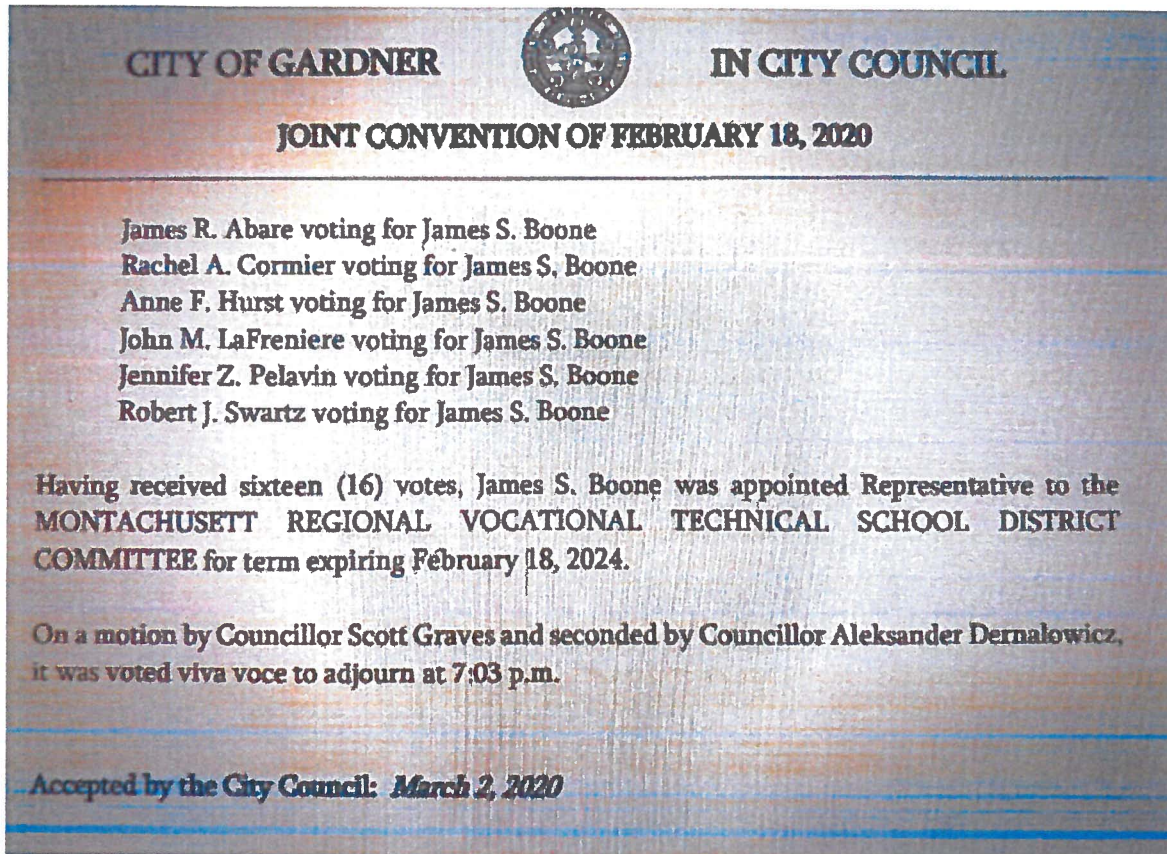
*When writing or responding, please remember that the MA Secretary of State's Office has determined that email is a public record and therefore subject to public access under the Mass Public Records Law. M.G.L.c.66§10.*

From Mr. James Boone

February 22, 2022

Dear Mayor, Councilors and School Committee,

You may have noticed I did not submit a letter of interest to be re-appointed to the Monty Tech School Committee representing Gardner. The reason is I am not up for appointment. I was elected to serve as Gardner's (alternating term) rep February 18, 2020. Excerpt below:



Some excerpts of the District Agreement as it pertains to Gardner and appointments for your information:

**RECEIVED**  
2022 FEB 22 PM 12:29  
CITY CLERK'S OFFICE  
GARDNER, MA



## AGREEMENT

### MONTACHUSETT REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT

This agreement is entered into pursuant to Chapter 568 of the Acts of 1964 as amended by Chapter 543 of the Acts of 1965 by and among the Cities of Fitchburg and Gardner, and the Towns of Ashby, Barre, Harvard, Holden, Hubbardston, Lunenburg, Royalston, Sterling, and Winchendon, Massachusetts (or by and among the cities of Fitchburg and Gardner and any two or more of said towns as shall accept said Chapter 568 as amended by said Chapter 543). In consideration of the mutual promises herein contained, it is hereby agreed as follows: \* and \*\*\*

#### SECTION I THE REGIONAL DISTRICT SCHOOL COMMITTEE

##### (A) Composition -- Reference to non-accepting towns

The powers and duties of the regional school district shall be vested in and exercised by a regional district school committee herein after sometimes referred to as the Committee. The Committee shall consist of two members from each of the cities of Fitchburg and Gardner and one member from each of the member towns. Except as provided in sub section 1 (B), members shall be elected at the regular city elections or at the annual town elections. All members shall serve until their respective successors are elected and qualified. Any references in this agreement to any town which does not accept the provisions of Chapter 568 of the Acts of 1964 as amended by Chapter 543 of the Acts of 1965 shall be deemed to be stricken from this agreement. \*\*

(B) Within ten days after the establishment of the regional school district, the mayor of each of the cities of Fitchburg and Gardner shall appoint one member to serve on the regional district school committee until January 1, 1968, and the local school committee of each of the said cities shall appoint one member (who need not be from its own membership) to serve on the regional district school committee until January 1, 1970, and the moderator of each member town shall appoint one member to serve on the regional district school committee until April 1, 1968; and each of the members so appointed shall have been a member of the regional school district planning board which submitted this agreement, if such a person is available and willing to serve.

(C) At the regular city elections in 1967 and at the regular city elections in every odd-numbered year thereafter, the cities of Fitchburg and Gardner shall each elect one member to serve on the Committee for a term of four years. At the annual town elections in 1968 and at the annual town elections in every fourth year thereafter, the towns of Ashby, Barre, Harvard, Hubbardston and Lunenburg shall each elect one member to serve on the Committee for a term of four years. At the annual town elections in 1968, the towns of Royalston, Sterling and Winchendon shall each elect one member to serve on the Committee for a term of two years and at the annual town elections in 1970 and at the annual town elections in every fourth year thereafter, the said towns shall each elect one member to serve on the Committee for a term of four years. \* \*\*

\* Refer to 2nd Amendment 1969 Expansion Method, page 12

\*\* Refer to 3rd Amendment 1969 Appointive Method, page 13

\*\*\*Refer to 4th Amendment 1969 Expansion Method, page 12



### **3rd AMENDMENT 1989**

#### **Appointive Method**

This Amendment amends the agreement among the cities of Fitchburg and Gardner and the Towns of Ashburnham, Ashby, Athol, Barre, Harvard, Hubbardston, Lunenburg, Petersham, Phillipston, Princeton, Royalston, Sterling, Templeton, Westminster and Winchendon with respect to the establishment of the Montachusett Regional Vocational Technical School District pursuant to Chapter 568 of the Acts of 1964, as amended by Chapter 543 of the Acts of 1965 (the "Agreement") as follows:

- A. Section I(A) - "Composition" shall be amended by Striking out said paragraph and inserting in lieu thereof the following: "The Committee shall consist of four members from the city of Fitchburg, two members from the city of Gardner, and one member from each of the member towns. Except as provided in subsection I(B), members shall be appointed (i) from the Cities of Fitchburg and Gardner by majority vote of the members of the Cities Council, Mayor, and School Committee, and (ii) from each town by majority vote of the members of the Board of Selectmen, Town Moderator, and local School Committee members. All members shall be residents of the municipalities they represent and they shall serve until their respective successors are appointed and qualified.
- B. Section I(C) of the Agreement is stricken and the following language inserted in lieu thereof: "Within thirty days after the annual town meeting in each town and within thirty days after January 1st in each city, members of the Regional District School Committee shall be appointed for a term of four years as set forth in Section I(A)."

In closing I have been an outspoken representative for the city of Gardner and its citizens, to ensure while supporting the school, that Finances are spent wisely, and Monty Tech admission is equitable to all students wanting to obtain a Vocational education and will continue to do so. BTW, even as a City Councilor, I haven't been able to get a clear answer as to why we are voting for 2 representatives except someone from Monty Tech told the city both appointments are up. We have always had alternating 4 year terms similar to Gardner School Committee.

Respectfully,

Councilor James Boone

Gardner Rep to Monty Tech SC