

BILLERICA FINANCE COMMITTEE MINUTES
February 04, 2020

A meeting of the Billerica Finance Committee was held on Tuesday February 04, 2020 at 7:00 p.m. in Room 210 in the Town Hall.

Present: David Gagliardi, Chairman, Doug Meagher, Vice Chairman, Mary McBride, Secretary, John Kleschinsky, 1st Associate, Donald Damon, Member, Patrick Logue, Member, Rino Moriconi, Member, Cheri Gargalianos, Member, Philip Newfell, Member, Town Accountant Paul Watson, Ex-Officio and Joyce MacMillan, Recording Clerk

Excused: Douglas Forgerty, Member, John Mulloy, Member, John Piscatelli, 2nd Associate, and Anthony Ventresca, Member

CALL TO ORDER:

Chairman David Gagliardi called the meeting to order at 7:00 p.m. and stated the meeting is being audio recorded by Joyce MacMillan.

PUBLIC COMMENT:

N/A

Chairman Gagliardi stated that he was at Massachusetts Municipal Associations Annual Meeting last weekend and they had handouts available, he made copies for the committee members. They are just informational handouts that were available and good information to have.

DISCUSSION POINTS MEMBERS HAVE SUGGESTED:

Joining the discussion tonight is our main speaker Town Counsel, Attorney Mark Reich, along with Town Manager, John Curran, and Town Management Analyst, Clancy Main

This session is a work/educational information session, not an actual meeting. Town Counsel is here to answer questions and talk about legal aspects of committee meetings. There will be some discussions, questions and concerns. The points of topic are topics the members of the committee asked to be discussed.

Mary McBride joined the meeting at 7:17 pm

Social Media with regards to members of Boards and Commissions

Town Counsel, Attorney Mark Reich stated with Social Media taking over, the biggest concern is that whatever is put out there (right or wrong) is out there forever. There is a potential for board members to end up in discussions which could end up breaking OML (Open Meeting Law). It is recommended that board members avoid having these discussions. If it is something that needs to be discussed with your board, you should bring it back to the board, put it on the agenda. When you make a comment or add to a discussion you could be biasing a decision or acting or commenting on something outside of a meeting and supporting a particular individual. Your discussions belong at the committee meetings, not out in a public format like social media pages, group texts or emails etc. Invite the public to the meetings with a properly posted agenda.

Any communication you make as a member of a Board or Committee is a public record, a record of your actions and are all subject to OML – speaking, texting, email etc.

Texts and emails can be recovered even if deleted. The laws are just catching up to electronic media. On group emails – the “Reply to All” button is a bad button. Try to avoid the “Reply to All” at all costs. No matter which email (work or home) you use, if you use it for town business it is no longer private.

Town Manager, John Curran stated that one of the things the town does is they put information out, they do not engage with anyone directly. They put the factual information out on the website or Facebook page etc. and let the public take it from there to interject into their discussions.

Both men stated you do not give up your opinions or your first amendment rights, everyone has that right.

Chairman Gagliardi opened the floor for the committee members to ask questions.

What are the fines or jail time for break OML? It would be up to the Attorney General and the facts of the incident.

Are the committee members considered Town Employees, just not compensated? Yes to a degree and the committee is a public body of the town.

Can we speak to the press? There are codes of conduct to consider. No individual member can speak for the board or committee. The committee can vote to issue a statement.

If a member of a committee sees something on social media or any media that is factually incorrect, the committee or board member can go through their Chairman and ask him/her to put out a factual statement.

Open Meeting Law (OML) Rules

Town Counsel, Attorney Mark Reich stated the OML requires a very specific agenda. It has to list all the topics that the Chairman reasonably anticipates to be discussed and it must be posted 48 hours in advance. If something comes up that the chair did not anticipate and it's a non-controversial matter it can come up. If it is a controversial matter it's recommended that it be put on a later agenda so it can be addressed with proper public notice. If the chair is made aware of a change say 24 hours in advance it makes sense to post an amended agenda to reflect that item to give as much notice as possible. An amended agenda must be obvious that it has been amended with a new date and time that it was posted and clearly states that it is an amended agenda. Old agenda should stay posted with the new one on the bulletin board. Any discussion made that is not on the agenda could be problematic. However if it something of major significance that can be put off till the next meeting, then put it off so it can be properly posted. There are times when things were accidentally omitted from the agenda and it's too important and can't wait till the next meeting. There are ways to address that, you can discuss it at this meeting but put it on the agenda for the next meeting and reconsider it, even if it was voted on. Ratifying, validating and confirming, the prior voter actions. If you fully discuss/debate the item and revote it as if it had just come up the first time, it would be seen as corrective action of the violation of the OML. It should not be done as a regular practice.

Can items be re-voted at a public hearing that was discussed and voted on at a prior regular meeting if new information was brought forward? You have to be cautious; it's a double edged sword. Public hearings once closed should not be reopened.

Can we revote in the same night? Yes, and if it has to be put off to the next meeting it should be put on the next agenda.

Passing over an item on the agenda is not a violation of OML but it may be looked upon as an inconvenience, more of a common courtesy issue.

Public Records Rules

Town Counsel, Attorney Mark Reich stated that any record of the town is public record. Any document or material that is received by, created by or generated by the town is public record. The new public records law states that if a requestor requesting documents does not receive a response within 10 business days and 15 days after that to provide the actual documents. If they do not receive a response in that time period they can go directly to the Supervisor of Public Records or to court. There is the possibility that they could obtain attorney fees and be allowed to avoid having to pay records fee. Of course there is a list of records that are exempt.

Drafts (works in progress), policies being developed, individual informal notes/notebooks (not used for the purpose of the board minutes), are not public record. However the notes/drafts for the minutes are considered public record until the actual minutes are approved. Once the minutes are approved, the drafts and/or recordings can be destroyed.

Minutes should be voted on within 30 days or 3 meetings whichever is greater.

Rules about Ethics Disclosure

Town Counsel, Attorney Mark Reich spoke in regards to Ethics. If you think it's a bad idea, don't do it. You should not be doing anything that gives you or your immediate family members a benefit that is not available to the general public that arises from your position.

Disclosers' are available to address appearance of conflict of interests. Chapter 268 A is the Conflict of Interest law and section 23 (B) (3) is part of the Code of Conduct. It allows an individual to submit a disclosure that indicates that there may be an appearance that you're involved with the matter but you are going to exercise your duties in an appropriate manner in the best interest of the town. Needs to be done in advance, this proactive not retroactive. The disclosures are found on the Massachusetts Ethics Commissions website.

REVIEW OF MINUTES OF October 1, 2019:

Cheri Gargalianos stated that there is a typo on page 2.

Doug Meagher, seconded by Cheri Gargalianos made the motion to approve the minutes of October 1, 2019 as amended.

It was voted:

9 – In favor
0 – Opposed

ADJOURNMENT:

Doug Meagher, seconded by Patrick Logue made motion to adjourn.

It was voted:

9 – In favor

0 – Opposed

Chairman David Gagliardi adjourned the meeting at 9:05 pm.

Joyce MacMillan, Recording Clerk