



## 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: John Last Name: Weingold

Address: PO Box [REDACTED]

City: Monterey State: MA Zip Code: 01245

Phone Number: [REDACTED] Ext. \_\_\_\_\_

Email: [REDACTED]

Organization or Media Affiliation (if any): \_\_\_\_\_

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

(For statistical purposes only)

Individual       Organization       Media

### Public Body that is the subject of this complaint:

City/Town       County       Regional/District       State

Name of Public Body (including city/town, county or region, if applicable): Monterey Selectboard, Berkshire

Specific person(s), if any, you allege committed the violation: Steve Weisz, Chair

Date of alleged violation: 10/6/21

**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.

1) On October 6, 2021 Steve Weisz Chair, intentionally failed to post, with 48 hour notice, a new (SB) Agenda item, which he obviously anticipated & intended to put before the board during the meeting. Weisz falsely blamed an attorney letter received from an employee that had been placed on Admin. leave on October 4, 2021. The letter demanded immediate reinstatement. The Chair and the employee had packed the "public meeting" with only her supporters, with no notice to the general public. The meeting stacking was done through a closed google media group which Weisz and employee are members. Weisz made the announcement after Agenda item that he was only to address this issue why everyone was there that evening-which reflects his anticipation and knowledge. However, the general public and other selectboard members had no notice of this topic. 2) Weisz made no effort to amend the SB Agenda as required by the OML law, nor even inform his fellow SB members this would happen. 3) Weisz violated SB rules of 48 hour for any agenda item. 4) Weisz abused his discretion, ignored a citizen's call to hear the issue the following week, and intentionally ignored Town Counsel advice to move the issue to the following week with proper 48 hr notice. The new agenda item was not an emergency as the term is defined by the AG or case law. The Chair's actions clearly indict his intentional disregard of OML to provide proper notice to the entire general public vs only one segment of the voters. Yet, the Chair had time to stack the meeting with his own posse, w/o notice to the general public. His refusal to move the new matter one week indicates is disregard for transparency or following any OML mandates.

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.

Invalidate the 10/6/21 illegal vote as the Agenda item discussion violated 48 hr postings requirements; SB should properly post and revote; Removal of Weisz as Chairmen by SB; Mandate OML training for all SB members; Weisz should publicly apologize for blocking the general public notice on the topic, and to the other selectboard members for lack of proper notice.

**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: \_\_\_\_\_

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:



## TOWN OF MONTEREY

435 Main Rd. P.O. Box 308  
Monterey, MA 01245

John Weingold  
P.O. Box [REDACTED]  
Monterey, MA 01245

November 3, 2021

Re: Open Meeting Law Complaint

Dear Mr. Weingold,

The Select Board has received a copy of your undated complaint, in which you charge one member of the Select Board with alleged violations of the Open Meetings Law (OML). Pursuant to that statute, this is our response, a copy of which will be filed with the Attorney General of the Commonwealth.

Charge 1. Mr. Weingold charges that Chair, Steve Weisz intentionally failed to post a new agenda item claiming that Mr. Weisz obviously anticipated and intended to put before the Board during the October 6<sup>th</sup> meeting.

The item (a letter from Attorney Hennessey demanding immediate reinstatement of an employee) was not anticipated as it was hand delivered to the Board at 5:59pm (1 minute prior to the meeting start time). Mr. Weingold also accuses the Chair of "stacking" the meeting with the employee's supporters through a closed google group. There are no such communications by the Chair to this email group. Therefore, the Select Board believes the OML was not violated.

Charge 2. Mr. Weingold charges that the Chair made no effort to amend the agenda or inform his fellow members of the item. As stated in charge number 1, the letter advising of the unanticipated agenda item was hand delivered to all three board members 1 minute prior to the start of the meeting and thus all became aware at the same time. Therefore, the Select Board believes the OML was not violated.

Charge 3. Mr. Weingold charges that the Chair violated the 48 hour rule. The Open Meeting law clearly states, *"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."* Town Counsel was present at the meeting, asked if the topic could be discussed and did not advise it could not.

Phone: 413.528.1443 x114 Fax: 413.528.9452

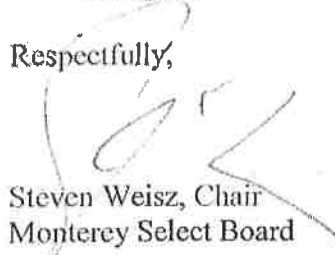
[admin@montereyma.gov](mailto:admin@montereyma.gov)

[www.montereyma.gov](http://www.montereyma.gov)

Charge 4. Mr. Weingold claims that the item was not an emergency and should've been moved to the following week. This meeting was the largest attended select board meetings in history (approximately 10% of registered voters) all expressing concern about the decision made that Monday to place a critical employee on leave and how that impacted the operations of the town (payroll, bills, etc). These concerns expressed justified the emergent nature of the item and not delaying the discussion of it.

No actions are necessary as the meeting was a properly posted meeting and any votes made at the meeting were made by a quorum, and thus were not "illegal".

Respectfully,

  
Steven Weisz, Chair  
Monterey Select Board

Justin Makuc

SB/mn



## 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: John Last Name: Weingold

Address: PO Box [REDACTED]

City: Monterey State: MA Zip Code: 01245

Phone Number: [REDACTED] Ext. \_\_\_\_\_

Email: [REDACTED]

Organization or Media Affiliation (if any): \_\_\_\_\_

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

(For statistical purposes only)

Individual       Organization       Media

### Public Body that is the subject of this complaint:

City/Town       County       Regional/District       State

Name of Public Body (including city/town, county or region, if applicable): Monterey Selectboard

Specific person(s), if any, you allege committed the violation: Steven Weisz

Date of alleged violation: 10/14/21

**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.

Selectboard email exchange of 10/14/21: 1st email regarding scheduling of the sexual harassment complaint was ok; Second email response from Chair Weisz d/n involve scheduling the matter; but Weisz answers a question posed in the first email if "or is no meeting necessary?" Weisz incorrectly answers the question, indicating the complaint is being handle outside a properly posted Selectboard (SB) executive session meeting: "everything will be handled in the next few days and the board will be updated at our next meeting." This is a deliberation between 2 SB members concerning how the complaint was/is being handled. No mention of scheduling was made by Weisz. As a Selectboard member I don't know who exactly is handling this complaint in the next few days? Also no one has authority to "handle" the complaint except the entire SB in a meeting. This is entirely outside the SB meeting posting process and without any authority by the entire board. I question the deliberation of "appropriately handling of this [complaint]" in emails, not in a properly posted executive session of the entire SB

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.

Post with the required 48 hr notice an SB executive session and notify the employee of same listed in the Complaint.  
Stop conducting SB business via email.

**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.**

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**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: \_\_\_\_\_

10/17/21

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date received by AGO:

10/17/21, 3:52 PM

Gmail - Sexual harassment allegation - scheduling



Exhibit A

John F. Weingold <johnweingold@gmail.com>

**Sexual harassment allegation - scheduling**

3 messages

Justin Makuc <justinmakuc@gmail.com>  
To: John Weingold <johnw@montereyma.gov>, Steven Weisz <stowe@montereyma.gov>  
Cc: [REDACTED]

Thu, Oct 14, 2021 at 7:21 AM

Hi Steve,

Are you going to schedule a meeting to properly deal with the sexual harassment allegation that the Board has received? Or is no meeting necessary?

Steven Weisz <stowe@montereyma.gov>  
To: Justin Makuc <justinmakuc@gmail.com>  
Cc: John Weingold <johnw@montereyma.gov>, [REDACTED]

Thu, Oct 14, 2021 at 10:04 AM

Everything will be handled in the next few days and the Board will be updated at our next meeting.

Steven

> On Oct 14, 2021, at 7:21 AM, Justin Makuc <justinmakuc@gmail.com> wrote:

>

>

> [REDACTED]

Justin Makuc <justinmakuc@gmail.com>  
To: Steven Weisz <stowe@montereyma.gov>  
Cc: [REDACTED], John Weingold <johnw@montereyma.gov>

Thu, Oct 14, 2021 at 11:18 AM

Thank you for dealing with this appropriately.

Justin

[REDACTED]



## TOWN OF MONTEREY

435 Main Rd. P.O. Box 308  
Monterey, MA 01245

John Weingold  
P.O. Box [REDACTED]  
Monterey, MA 01245

November 3, 2021

Re: Open Meeting Law Complaint

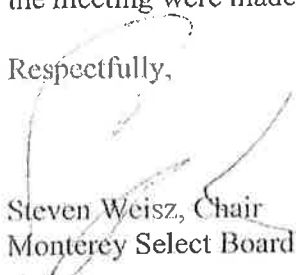
Dear Mr. Weingold,


The Select Board has received a copy of your complaint dated 10/17/21, in which you charge one member of the Select Board with alleged violations of the Open Meetings Law (OML). Pursuant to that statute, this is our response, a copy of which will be filed with the Attorney General of the Commonwealth.

Charge 1. Mr. Weingold charges that Chair, Steve Weisz deliberated via email on 10/14/21. The email referred to, responds to a question asked by another board member and only reiterates what was discussed at the properly posted meeting the night before (11/13) which Mr. Weingold abruptly left after 5 minutes. Mr. Weingold actually criticizes Mr. Weisz on the complaint for not deliberating (i.e. "Weisz incorrectly answers the question"). Had Mr. Weingold stayed through to the end of the meeting (again, he left after 5 minutes) he would've know that the Board agreed to allow all the parties involved in the existing complaints one week to address matters amongst themselves. Therefore, the Select Board believes the OML was not violated.

No actions are necessary as the meeting was a properly posted meeting and any votes made at the meeting were made by a quorum.

Respectfully,

  
Steven Weisz, Chair  
Monterey Select Board

  
Justin Makuc

SB/mn



Send to  
counsel +  
all boards  
+ comm



## Town of Monterey Memorandum

**TO:** All Departments, Boards and Committees  
**FROM:** Select Board  
**DATE:** 5/17/21 1/3/2021  
**SUBJ:** Contacting Town Counsel

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Whereas, the Town of Monterey through its Select Board directs and supervises the use of Town Counsel;

Whereas, The Select Board intends to identify appropriate use of Town Counsel's time with an appropriate protocol;

The Select Board hereby adopts the following policy:

1. Any questions to be asked of Town Counsel by any Town government body or official shall be presented to the Select Board at its weekly meeting for approval. Only department heads and Chairs of boards, committees, and commissions board chairpersons may make a request to contact Town Counsel. Regarding questions from public Town boards, a majority of the board shall approve the question to be asked of Town Counsel in an open meeting prior to contacting counsel bringing the issue to the Select Board.
2. In an emergency, a Town government body (Chair) or official (head of department) can contact Town Counsel before consulting the Select Board. The Select Board shall be notified of the contact at its next meeting.
3. To the extent that a Town government body or official requires additional follow ups with Counsel for the same essential topic, each follow up shall not require additional approval by the Select Board. It is preferable that the Town government body or official notifies the Select Board of the additional follow up if significant.
4. If there is a legal question that affects another board, then the department head or board chairperson will notify that board prior to forwarding any request for a legal opinion.
2. Employees of the town may request legal opinions, but must do so through the Select Board, who may forward a request to Town Counsel. The Board in its discretion determines that an opinion is warranted.
5. In cases where a Committee or Board Town government body or official determines after speaking with Town Counsel that outside counsel may be necessary, permission to do so must be sought from the Select Board.

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6. Confidential legal advice sought by Town government bodies or officials should be discussed by the Select Board in executive session pursuant to the Open Meeting Law.

Please feel free to contact us should you have any questions regarding this policy.

Sincerely,

Steve Weisz, Chair  
Bealer Justin Makuc  
Monterey Select Board

~~Carol Edelmann~~ John Weingold

Kenn

## Agenda setting for the Select Board policy

### Proposed Policy:

1. The responsibility for setting the agenda for the Select Board meetings shall be that of the Chair of the Select Board. The Chair shall work in coordination with the Town Administrator to prepare and post the agenda. Agendas shall be posted pursuant to the Open Meeting Law, at least ~~48~~ hours prior to the meeting excluding weekends and holidays. Relevant background documents shall be sent to the Town Administrator by ~~72~~ hour deadline before the meeting, and distributed to the Board in a timely manner pursuant to the Open Meeting Law. Edited drafts and other documents which present an opinion or deliberation on official Board business shall be presented at the meeting.
2. Any items requested by members of the Board shall be placed on the agenda provided they are accompanied by the supporting materials and/or a descriptive summary of why the item is being added. If an agenda item is received without supporting materials and/or a descriptive summary of why the item is being added it will not be placed on the agenda until such requirements have been met. Agenda items and supporting materials and/or a descriptive summary of why the item is being added must be sent to the Town Administrator at least ~~48~~ business hours prior to the meeting date/time. This will allow the Town Administrator and/or Chair to confer with counsel if applicable on whether an item can legally be added (think of some of the ones that were on last night that should not have been, you wouldn't want to add something and provide to the public if it could cause legal issues for the town) and for a packet to be put together of all the items. This packet will be provided to all Board members and posted on the website with the agenda for the public to view as well. This procedure does not limit an individual member of the Select Board from raising a concern about an issue however, no formal action shall be taken by the Board until a future meeting.
3. Board members should advise the Town Administrator prior to the meeting of issues, concerns, or complaints so that an appropriate response or update can be provided as well as any information on the subject the Board may not be aware of.

by 9am Mon

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if a board member adds an item and doesn't show up to the meeting, the items will not be dismissed, + will not be automatically readded.

Highway Planning Commission

6/30/21 Select Board Meeting

I did a little research to help with tonight's discussion about the highway planning commission bylaw and determining their scope of work.

1. I went back and reviewed the town meeting minutes from the May 1979 meeting and it turns out that the Highway Commission and the Salary Commission **are not** bylaws and should not be in the Town Bylaw "book". As you can see, Article 22 is the article we have every year which allows temporary appointments to be made at town meeting if need be. In 1979, the article read, *"To see if the town will vote to appoint any committee or officers and give them or any officer of the Town instructions, authority or indemnity thought best, or take any other action relative thereto."* A motion was then made and seconded to have the Selectmen appoint a highway planning commission and a salary commission. There was never an article that said *"To see if the town will vote to adopt the following new bylaw..."* I sent Town Counsel the article and minutes from then Clerk Sue MacIver to ask if this constituted a new bylaw for a highway planning commission and salary commission and here is his response, *"if you are asking whether the warrant article (Article 22) attached to your email created a bylaw, it did not do so, as the warrant article addressed only the scope of the published warrant, namely, "to see if the town will vote to appoint any committee or officers and give them or any officer of the Town instructions, authority or indemnity thought best . . ." A warrant article has to be clear that the action being undertaken is to create a bylaw prior to doing so, whether it's general bylaw or a zoning bylaw. Article 22 authorized appointments, and the Town voted to authorize the Select Board to appoint a salary commission. It did not create a bylaw. The minutes do not even show that it was to be a recurring yearly appointment going forward for the salary commission and the highway planning commission. Unless there was another vote to make a bylaw in that regard, it should not be in our general bylaws."* In just the short amount of research I did I strongly believe there may be several other "bylaws" that are actually not bylaws.
2. If the Board really would like to pursue appointing a highway planning commission still even though it is not required as a bylaw, I asked around to some of my colleagues and not very many in the small towns have anything like this but the general consensus is that this type of committee would be charged with working collaboratively with the Director of Operations and Town Administrator advising and assisting the Selectboard, Town Administrator, and Director of Operations on matters relating to the road-related infrastructure of the Town. This work would involve the maintenance and reconstruction of bridges, culverts, and roads, identifying the medium to long-term needs of the Town's bridges, culverts, and roads, advocating for local, State, and Federal funding for the Town's bridges, culverts, and roads, developing and maintaining a multi-year road plan that is shared with the TA and SB for budget and warrant discussion and preparation.

**Public Records on Website Discussion:**

In my survey of most of the town departments the impact of publishing all records online is not efficient. I would strongly recommend that the Board first determines what information they or the public want to see posted on the website and go from there. Right now if the general blanket policy that all documents would have to be placed on the town website the impact to employees, committees, board and volunteers would be significant. Every email communication from everyone (select board included) would need to be scanned to upload. The tax collector stated it would be very time/labor intensive as all records includes tax bills, bank statements, etc and some of this will require redaction first.

The town clerk would also be negatively impacted as most of her vital records and such would have to have information redacted.

The accountant would be time intensive (and may require a change to our contract) as info in the payroll warrants would need to be redacted as well as some info on a select few invoices (ss#'s for 1099 contractors).

The treasurer would have to redact all banking and payroll information.

The assessors have stated that they won't do it as there are express rules that they cannot give out personal information and the impact would be huge to redact all of this information.

The police department would require a new 40 hour position for the redaction that would be necessary. If something was missed there could be serious ramifications such as identity theft.

Most commented that no other towns do this and it is not a requirement and that the current system as set forth by the Massachusetts Public Records Division should be the guiding factor here and if someone wishes to get access to a public record then the normal procedures to request such records should be followed. This would be an undue burden on all departments. This list does not include the impact on the building inspector, highway department, library, community center, fire department and