

[Print](#) | [Close Window](#)

Subject: RE: Town of Monterey MA / Employee Handbook
From: justin@montereyma.gov
Date: Mon, Mar 28, 2022 7:36 am
To: "Michael Harrington" <MHarrington@fordharrison.com>
Attach: Town of Monterey Employee Manual_7.21.21.pdf

Yes, I have attached the current handbook as a pdf.

I really appreciate your quick response. I should add, just to be clear, that I alone cannot hire you, as I will need to seek approval from the Board as a whole.

Regards,

Justin

----- Original Message -----

Subject: RE: Town of Monterey MA / Employee Handbook
From: Michael Harrington <MHarrington@fordharrison.com>
Date: Mon, March 28, 2022 7:18 am
To: "justin@montereyma.gov" <justin@montereyma.gov>

Good Morning Justin - I would be glad to help and can commit to meeting your needs within your budget. Does the current handbook exist electronically? Mike

Stay Informed.
Stay Updated.

SUBSCRIBE TODAY



Michael Harrington - Attorney at Law

FordHarrison LLP - Ius Laboris USA | Global HR Lawyers

CityPlace II, 185 Asylum Street, Suite 610 | Hartford, CT 06103
MHarrington@fordharrison.com | P: 860-740-1366

FHPromise | [Subscribe](#)

From: justin@montereyma.gov [<mailto:justin@montereyma.gov>]

Sent: Monday, March 28, 2022 7:09 AM

To: Michael Harrington <MHarrington@fordharrison.com>

Subject: Town of Monterey MA / Employee Handbook

Dear Attorney Harrington,

My name is Justin Makuc and I am on the Select Board in Monterey, MA. We are looking for someone who is willing to produce an updated Employee Handbook for our Town. Ideally the final product would be legally updated, coherent and consistent, and also reflect the particular needs of our Town (likely accomplished through meetings/consultations with the Select Board and Town Administrator). Is this something that you would be interested in doing?

Our budget for this project is fairly rigid at \$6,500, as we operate with a Town Meeting government and additional funds would take significant time to acquire. Please let me know if this is something you would be able to do.

Most sincere thanks for your consideration,

Justin Makuc
Monterey Select Board, member

413-429-5854

ATTORNEY WORK PRODUCT - PRIVILEGED & CONFIDENTIAL



Ius Laboris USA Global HR Lawyers

FordHarrison

The information contained in this message from Ford & Harrison LLP and any attachments are privileged and confidential and intended only for the named recipient(s). If you have received this message in error, you are prohibited from reviewing, copying, distributing or using the information. Please contact the sender immediately by return email and delete the original message and attachments. In the absence of an executed engagement letter or fee contract, no attorney client relationship is established by this communication.

Copyright © 2003-2022. All rights reserved.



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: Donald Last Name: Coburn

Address: [REDACTED] Box 352

City: Monterey State: MA Zip Code: 01245

Phone Number: [REDACTED] Ext. _____

Email: [REDACTED]

Organization or Media Affiliation (if any): None.

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): Town of Monterey Select Board

Specific person(s), if any, you allege committed the violation: John Weingold

Date of alleged violation: 03/04/2022

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.

In his Open Meeting Law complaint of 03/04/2022, Monterey Selectman John Weingold attacks the adequacy of the minutes of a Select Board executive session of 02/02/2022. The minutes, which concerned an ongoing investigation, were not then published. Nevertheless, in his complaint, he described some of the content of the minutes in these words: "topics are missing or falsely recorded and stated incorrectly (i.e., Coburn contacting investigator via emails, Mr. Weisz trying to manipulate the investigator, questioning investigators judgment, improper questions from Mr. Weisz, and investigator's telling Mr. Weisz he could take over the investigation, the reasons behind the Sexual harassment no further investigation is not accurate etc.)". Weingold also filed the full recording of the executive session with the town clerk (one of the subjects of the investigation) and with the Attorney General's Open Meeting Law section.

Mr. Weingold is in his second year on the Select Board during which time he has filed many Open Meeting Law complaints. He has also been a Massachusetts lawyer for many years. He's participated in a number of Select Board executive sessions and knows they are private until the minutes are approved for publication. He knew these minutes were approved without authorization for publication. Clearly, he intentionally violated the Open Meeting Law. Therefore, a substantial fine should be imposed.

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.

There is no action the Select Board can take in these circumstances. Therefore, it is left to the Attorney General to impose a sufficient financial penalty to deter Selectman Weingold from committing violations of this nature.

Please note that the computer program did not permit me to mark "individual" and "city/town"

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Donald S. Coburn

Date: 03/19/2022

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

Monterey Town Administrator

From: Peter Murkett <[redacted]>
Sent: Thursday, March 24, 2022 1:25 PM
To: Monterey Town Administrator
Subject: Re: Oops

What legal considerations might be specific to asking private landowners of likely large-scale PV sites (proximity to existing 3-phase power lines; open, south facing slope; location readily screened from casual view) whether they are interested in pursuing the possibilities? We feel that initial contact, to asses interest without going into project details, should be discreet, private, and personal to avoid any pubic pressure one way or another.

What are the proper steps leading to a contract for a PV array? Estimates, RFPs, bid specs, procurement, etc.

What legal considerations would be specific to the Monterey Fire Company, a non-profit entity, undertaking a solar installation specific to its buildings (firehouse, pavilion)?

We would like the conversation to include as many members of our Group as we can muster.

Let me know if you need more details.

Thanks,

Peter

> On Mar 23, 2022, at 11:05 AM, Monterey Town Administrator <admin@montereyma.gov> wrote:

>

> Sure. Can you please send me the list of questions so they know

> exactly what it is you are seeking advice about?

>

> Melissa

>

> -----Original Message-----

> From: Peter Murkett [mailto:[redacted]]

> Sent: Tuesday, March 22, 2022 4:48 PM

> To: Monterey Town Administrator <admin@montereyma.gov>

> Subject: Re: Oops

>

> Okay, but before then, can you can ask the SB to authorize a

> conversation between us and town counsel on PV legalities? Justin

> attended our meeting last night, and he thought that such a

> conversation would be covered without additional expense.

>

> Peter

>

>

>

Monterey Town Administrator

From: Brian Riley <BRiley@k-plaw.com>
Sent: Monday, March 21, 2022 3:39 PM
To: 'Monterey Town Administrator'
Subject: RE: Policy Request

Hi, Melissa. One reason for my delay was not finding written policies that directly address your issues, but I'll offer what I can. I did finally find a few from other client towns that perhaps you can at least use parts of:

https://www.plymouth-ma.gov/sites/g/files/vyhlif3691/f/uploads/cell_phone_policy_2016.pdf

https://www.plymouth-ma.gov/sites/g/files/vyhlif3691/f/uploads/internet_email_policy.pdf

<https://www.sandwichmass.org/DocumentCenter/View/4711/Information-Technology-Resource-Policy---Policy-6>

1. When personal cell phones or email accounts are used to conduct Town business, any such texts/emails are considered to be subject to a public records request; they may be withheld if an exemption applies, but the fact that the texts or emails are on a "personal" device does not in itself provide protection. I keep waiting for the Supervisor of Public Records' office to come out with regulations or advisories as to the preferred method of preserving such records, but they haven't yet. Emails could be forwarded to a Town email address (...@montereyma.gov) if that can work – that way, the official does not need to preserve the ones on their own computer or phone any longer. I don't know of any way to preserve a text message other than screen shot and then emailing it.
2. This is more a question of policy and cost. I would say that the most common practice is to provide department heads (staff, versus board members) with town-issued cell phones, but this varies by size of the community and budget.
3. Based on my answer to #1, the more employees and officials that have a Town email address the better, so everyone can handle all "Town business" on their town email address and they are all on one server. But this is another cost issue.
4. All you can do is make the request – if someone has responsive records on their computer/phone and refuses to turn them over, the response to the requester occasionally has to make that statement. I have attached a sample statement below to such an official that we have used, explain to them that Commonwealth law requires them to comply.

I hope this helps.

Brian

Dear Members of the Zoning Board of Appeals and Conservation Commission:

The Town is in receipt of two public records requests from _____ seeking certain Town public records that may be in your possession, custody or control. The request to the following items is outstanding:

- 1) *Any communications between any member(s) of the Zoning Board of Appeals and any member(s) of the Conservation Commission concerning the proposed project at 751-761 Boston Post Road.*
- 2) *Any communications sent or received by any member of the Zoning Board of Appeals or member of the Conservation Commission concerning the proposed projects at 751-761 Boston Post Road or 133 Boston Post Road.*

We understand that you may have used personal e-mail accounts, rather than Town accounts, to communicate. Please be advised that the Supervisor of Records has determined that the "use of personal email addresses by government officials, employees and/or board and commission members while conducting any day-to-day business of a government entity renders the emails and email addresses public records." See SFR.17/i651. Thus, consistent with G.L. c.66, §13, the Town requests that you search your private e-mail

accounts and provide copies of any e-mails or other communications sent from personal electronic devices such as cell phones, personal computers, tablets, or other personal electronic modes of communication related to the above-referenced topic.

Please provide copies of responsive records, if any, no later than December 10, 2020, to this office. While it would be preferable for you to simply send responsive e-mails electronically, we would, of course, be satisfied with the provision of hard copies of the responsive documents. If you do not have any such records, please advise this office of same.

Brian W. Riley, Esq.
KP | LAW
101 Arch Street, 12th Floor
Boston, MA 02110
O: (617) 654 1722
F: (617) 654 1735
C: (617) 909 9084
briley@k-plaw.com
www.k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and its attachments, if any, and destroy any hard copies you may have created and notify me immediately.

From: Monterey Town Administrator <admin@montereyma.gov>
Sent: Monday, March 21, 2022 12:30 PM
To: Brian Riley <BRiley@k-plaw.com>
Subject: RE: Policy Request

Hi Brian,

Will you be able to have something for me on this for our meeting this Wed?

Melissa

From: Monterey Town Administrator [<mailto:admin@montereyma.gov>]
Sent: Thursday, March 10, 2022 11:14 AM
To: Brian Riley <BRiley@k-plaw.com>
Subject: RE: Policy Request

Hi Brian,

Just following up on this.

Melissa

From: Monterey Town Administrator [<mailto:admin@montereyma.gov>]
Sent: Thursday, March 3, 2022 10:29 AM
To: Brian Riley <BRiley@k-plaw.com>
Subject: Policy Request

Good Morning Brian,

The Board has asked me to contact you for any templates of policies & advice you might have with regard to the following:

1. Using private cell phones/email for business and how you transfer data from them to the RAO
2. Town issued cell phones (who do you issue them to, etc)
3. Town email addresses, do you provide one for every employee and board/committee member or do you just assign a generic one to each committee (parks@xxxx)
4. What do you do when an official refuses to provide you with the records from private emails and phones they use for town business?

Thank you so much in advance. I will also willingly accept any info you have on software or what not that can help us to manage all this.

Respectfully,

Melissa Noe

Town Administrator
Town of Monterey
413-528-1443 x111

Let your smile change the world but don't let the world change your smile! ☺