



TOWN OF OAK BLUFFS

Post Office Box 1327 • Oak Bluffs, MA 02557
Telephone 508-693-3554 • Fax 508-696-7736

Select Board

Brian C. Packish, *Chair*
Jason M. Balboni
Gail M. Barmakian
Emma Green-Beach
Ryan P. Ruley

Deborah Potter, C.G.A.
Town Administrator/Accountant

February 25, 2022

Rich Saltzberg
Martha's Vineyard Times
PO Box 518
Vineyard Haven, MA 02568.

Dear Rich:

Via e mail: rich@mvtimes.com

In response to your Open Meeting Law Complaint Form dated February 11, 2022, the Oak Bluffs Select Board has reviewed the minutes of the several meetings you indicated contained insufficient detail. After such review, the Board has not found any deficiency in the Minutes and declines your suggestions that the minutes be redrafted.

As you know, MGL c. 30A, §22, part of this state's Open Meeting Law, addresses the requirement to maintain, as well as the contents of, executive session minutes. Specifically, subsection (a) provides:

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.

Without recounting each set of minutes in this letter, suffice it to say that a thorough review of the minutes made it clear that all the necessary components were present.

As page 18 of the Guide from the Massachusetts Attorney General's Office notes, a "transcript is not required." Minutes need "not cover every remark and opinion presented at the meeting." OML 2011-55, at 2. The Board recognizes its responsibility to maintain records in a manner that allows, "a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred." OML 2011-55, at 2. I have assembled the parts of each session's minutes, and, as the Board believes, these present an accurate and complete picture of what took place.

1. November 24, 2021
 - a. The date, location (remote), time and persons present at the meeting are all included in the minutes.
 - b. A proper motion and roll call vote was taken and recorded.



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- c. The Board was informed that a firearm was missing from the Police Department.
- d. A Police Sergeant was put on Administrative Leave.
- e. That Sergeant waived his right to be present at the meeting.
- f. A discussion was held regarding the facts of the incident including the fact that there is no specific punishment for an Officer losing a firearm.
- g. The discussion also included establishing a possible punishment.

2. December 3, 2021

- a. The date, location (remote), time and persons present at the meeting are all included in the minutes.
- b. A proper motion and roll call vote was taken and recorded.
- c. Attorney Collins reported that neither Sergeant Marchand nor his Attorney wish to be present at this meeting.
- d. The Select Board discussed possible punishments relative to the offense. The consensus was to consider a "modified probation".
- e. By consensus, the Select Board agreed to continue the Executive Session and adjourn at 6:08 p.m.

3. December 14, 2021

- a. The date, location (remote), time and persons present at the meeting are all included in the minutes.
- b. A proper motion was made and roll call vote was taken and recorded.
- c. Attorney Collins reported that two previous meetings went well. The negotiations with Attorney Becker were productive.
- d. There will be a mutual release, no litigation. He will use his earned leave by February 2, 2022, and provide a letter of resignation, with a non-disparagement clause. Since he is beyond the age of 40, he has seven days to change his mind.
- e. Attorney Becker addressed the difficulty of the process for Sergeant Marchand. He also thanked the Select Board for being forthright and open.
- f. Select Person Balboni motioned to accept the Mutual Separation Agreement and requested that Chair Packish sign it on behalf of the Select Board, seconded by Select Person Green- Beach. Vote was:
Chair Packish Aye
Select Person Balboni Aye Select Person
Barmakian Aye Select Person Green-Beach
Aye
Select Person Ruley Aye
- g. The meeting properly adjourned at 8:25 p.m.



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4. December 28, 2021

- a. The date, location (remote), time and persons present at the meeting are all included in the minutes.
- b. A proper motion and roll call vote was taken and recorded.
- c. Attorney Burke said that Sergeant Marchand is a "whistleblower" who is now being punished and should be back to work by now. He is owed "emotional distress" pay.
- d. Attorney Becker reported that the Investigator has been re-engaged. It is likely that the weapon in question was given to a new officer to use at the Academy.
- e. The Select Board discussed the suggestion that the Sergeant was a "whistleblower" and other questions surrounding the missing weapon.
- f. It was decided that it is necessary to hold a Hearing.
- g. By consensus, the Select Board agreed to hold a Hearing including all of the original findings plus the addition of the charge of lying.
Chair Packish - Aye
Select Board Member Balboni - Aye
Select Board Member Barmakian - Aye
Select Board Member Green-Beach - Aye
Select Board Member Ruley - Aye
- h. The previous Agreement will be honored.
- i. The Hearing Date will be a date certain in mid-January.

5. January 25, 2022

- a. The date, location (remote), time and persons present at the meeting are all included in the minutes.
- b. A proper motion and roll call vote was taken and recorded.
- c. Review and possible vote on Executive Session Minutes of January 11, 2022
- d. Review, discuss and approve to release for public records executive sessions minutes of January 11, 2022.
- e. Chief Blake notified the Select Board his intention to resign as Police Chief in Oak Bluffs effective June 30, 2022.
- f. The Board discussed the process of advertising the vacancy; the timeline involved with internal and external candidates as the Town approaches the busy time of year.
- g. The next course of action will be Chief Blake and Deborah Potter will craft a joint press release.
- h. Chief Blake will provide an updated job description to Human Resources for review.



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- i. Deborah Potter will review the Police Department's financial position to ascertain the viability of potential promotions.
- j. A proper motion to adjourn was made and passed by roll call vote

In summary, the Board learned a firearm was missing and received reports periodically and gave direction to Special Labor Counsel on either reaching a mutually agreeable settlement with the involved Sergeant's lawyer or scheduling a disciplinary hearing. All such negotiations took place between lawyers. The agreement was released to the press and public immediately upon being approved and signed by the Chair.

Sincerely,

Ryan P. Ruley, Vice Chair
Oak Bluffs Select Board

CC: Deborah Potter, Town Administrator