



## 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*

September 14, 2022

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

Dear Rich:

Via e mail: [rich@mvtimes.com](mailto:rich@mvtimes.com)

The Town of Oak Bluffs received an Open Meeting Law complaint dated August 4, 2022, from you regarding the executive session minutes of the Board for September 22, 2020, where you indicated said minutes contained insufficient detail and were defective. On August 5, 2022, the complaint was disseminated to the Board as well as being noted again on their August 9<sup>th</sup> meeting.

The Board did consider the recent AGO ruling OML 2022-141 and in conjunction with appropriate counsel, elected to amend, to the best of their ability, the executive session minutes to be more in compliance with the OML requirements. The approval of the amended minutes was discussed on August 23, 2022; however, the vote of the Board at 2,1,1 with 4 present prevented a majority vote to accept the amended minutes as presented; consequently, the Board requested and received, in accordance with 940 CMR 29.05 (5)(b), additional time to resolve the complaint (September 16<sup>th</sup>).

At the Board meeting of September 13, 2022, the Board voted to approve the amended meeting minutes of September 22 that added:

- a. Additional attendees at the meeting
- b. Additional summary/detail of the discussion that occurred
- c. Added documents list

The addition of a start time for the minutes was not added, as one was not available; however, we do not consider this to be a defect in consideration of the AGO ruling which notes:

*A public body must "create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place" of the meeting. G.L. c. 30A, § 22(a). Here, where the Board met in an open meeting before moving into executive session, the minutes indicate when the open session began but do not further specify when the Board entered executive session. We have*



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*not construed the Open Meeting Law as requiring meeting minutes to separately list the start time of an executive session. Therefore, the Board did not violate the Open Meeting Law by omitting this information from the minutes.*

With such review and amendment being completed, the Board feels that an appropriate and satisfactory response to your complaint has been effected and that no further action from the Board is required.

Sincerely,

Ryan P. Ruley, Vice Chair  
Oak Bluffs Select Board

CC: Deborah Potter, Town Administrator



**TOWN OF OAK BLUFFS  
OAK BLUFFS SELECT BOARD  
Executive Session  
Remote Participation Only  
September 22, 2020**

Original approved minutes in regular and *italic* text

**Amendments approved 2022.09.14 for clarity and OML compliance are in bold**

Present: Chairman Jason Balboni, Selectmen Gail Barmakian, Gregory Coogan, Brian Packish, Ryan Ruley.

Also present: Town Administrator Robert Whritenour, Executive Assistant Alice Ryan Butler, **Chief Erik Blake**, and **Attorney David Apfel (Goodwin Proctor LLP)**

**Executive Session**

*Selectman Barmakian motioned to enter into Executive Session to conduct contract negotiations with nonunion personnel and to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the government's litigating position, not returning to open session, seconded by Selectman Coogan. Vote was:*

*Chairman Balboni Aye  
Selectman Barmakian Aye  
Selectman Coogan Aye  
Selectman Packish Aye  
Selectman Ruley Aye*

**(specific executive session meeting start time unavailable)**

Town Administrator Whritenour and Police Chief Blake **advised the Board they have revised and extended the Chiefs contract. There will be payment for his additional services as the Public Safety Director overseeing both the Police Department and the Fire/EMS Department.**

Attorney David Apfel **joined the meeting and provided a status report on the government's ongoing investigation into alleged overbilling of Medicare/Medicaid by the Fire Department of ambulance mileage charges. Attorney Apfel reported that the end is in sight and cautiously predicted that the Government would "walk away" without criminal charges being brought against anyone. He further indicated that the Town might be responsible to reimburse Medicare and Medicaid for overbilling for mileage on certain trips. But he explained that the amount of the overbillings was very small.**

**Attorney Apfel also reported that he had spoken with former Chief Rose's Attorney and that the former Chief's attorney had mentioned having spoken to a well-placed source who did not seem to think that the case would proceed against anyone. Apfel indicated that but for Covid19, the government's investigation and decision making would likely happen before the end of the year, but because of Covid it might stretch into the new year.**



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OAK BLUFFS SELECT BOARD**

**Executive Session  
Remote Participation Only  
September 22, 2020**

**Mr. Apfel reported that although he has not seen evidence to support the allegation, the Government seems to believe that John Rose committed intentional fraud. He further reported that although there is no evidence that Matt Bradley did anything wrong, the government seems to think he is lying to protect John Rose. The government has suggested Bradley lied about a phone call having been made, but there is an email that corroborates the fact of the phone call. Apfel has provided that email to the government. Ultimately, the government's interest in Bradley appears to be nothing more than an effort to get at Rose.**

**Apfel reported that the government liked Matt when they interviewed him and recognize that he is a war hero and good man. But they believe he is protecting John Rose. Apfel noted that he is in regular touch with Matt's counsel, and that Matt is in good hands. Apfel also indicated that based on separate discussions he has had with Julie Brewer's counsel and reading between the lines of his conversations with the government, that the government has lost interest in Julie. Apfel also noted that John Rose's attorney has talked to the Government, but John has not been in to speak with the prosecutors or the FBI directly.**

**Apfel indicated that he was cautiously optimistic that it would wrap up in the early part of 2021.**

Attorney Apfel left the Meeting

The Selectmen returned to the Police Chiefs contract for his service as Public Safety Director.

**Mr. Whritenour noted that the Chief will continue to serve as Police Chief while he oversees the Fire Department for a period of six months while they search for a new Fire Chief. His title will be Public Safety Director. He will have additional duties and salary. He will continue to serve as Police Chief if his contract is not renewed for the position of Public Safety Director. His current salary as Police Chief is \$139,749 plus 20% additional for the Quinn Bill. He will be given an additional 15% for his additional duties. The line in the contract regarding renegotiating will be struck.**

*Selectman Ruley motioned to accept the contract with Chief Erik Blake concerning his new position as Public Safety Director and acknowledging the stricken line regarding negotiations, seconded by Selectman Coogan. Vote was:*

*Chairman Balboni Aye  
Selectman Barmakian Aye  
Selectman Coogan Aye*



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*Selectman Packish Aye  
Selectman Ruley Aye*

The Selectmen briefly discussed interim Fire Chief Schilling's contract and that it should be finalized by the end of the week. **Mr. Whritenour noted that** the Fire Department is pleased with the combination of Chief Schilling and Public Safety Director Blake.

***Selectman Coogan motioned to adjourn at 7:06 p.m. 1 seconded by Selectman Packish. Vote was:***

*Chairman Balboni Aye  
Selectman Barmakian Aye  
Selectman Coogan Aye  
Selectman Packish Aye  
Selectman Ruley Aye*

Respectfully submitted,

Alice Ryan Butler  
Executive  
Assistant

**Documents on file:**

**Blake Employment Agreement Addendum 1 (file C-139)  
Shilling Civilian Technical Advisor Draft Agreement**