

City of Westfield, Massachusetts
Office of the City Solicitor
59 Court Street
Westfield, Massachusetts 01085

Tel: (413) 572-6260
Fax: (413) 568-6745

Brian Sullivan, President
Westfield City Council
59 Court Street
Westfield, MA 01085

August 23, 2013

Dear President Sullivan,

Please know that this office has been in contact with Attorney Jonathan Sclarsic of the Attorney General's Office with regard to the Open Meeting Law complaint filed against the City Council, and Councilor Flaherty specifically on June 18, 2013 by Mr. Stephen Dondley. A copy of said complaint is attached hereto for reference.

The Attorney General's office is conducting an investigation and has concluded that there was in fact a violation of the Open Meeting Law as the document distributed by Councilor Flaherty and the corresponding email is considered a deliberation within the meaning of the statute. The Attorney General's Office does recognize the effort of the Council and Councilor Flaherty as to making the document public as soon as the possible violation was brought to their attention, but does request that the Council acknowledge that all such communications are considered deliberations and in the future will take care to not discuss such communications outside of a properly posted, open meeting.

As always, please contact me directly should you have any questions.

Very truly yours,

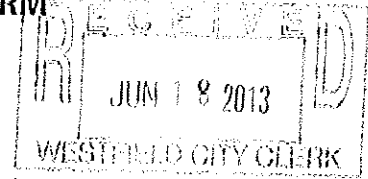
Shanna R. Reed
Assistant City Solicitor

C: Westfield City Council
Karen Fanion, City Clerk



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: Stephen Last Name: Dondley

Address: 10 Kane Brothers Circle

City: Westfield State: MA Zip Code: 01085

Phone Number: 4135623113 Ext. _____

Email: s@dondley.com

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:

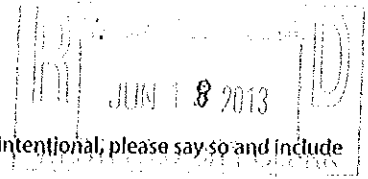
City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Westfield City Council
Westfield, MA

Specific person(s), if any, you allege committed the violation: David Flaherty

Date of alleged violation: June 17, 2013

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.

Councilor Flaherty sent a deliberative email with a subject of "Re: Finance Committee Recommended Budget Cuts" to nine Westfield city councilors' private email addresses and one city councilor's public email. In the email councilor, Flaherty expressed his opinion on the mayor's proposed budget and the city council's proposed budget, a clear violation of Massachusetts open meeting laws. The other councilors to which the email was sent were:

- Agma Sweeney <agma_sweeney@yahoo.com>
- Ann Callahan <acalla2590@comcast.net>
- Brent Bean <brentbean72@hotmail.com>
- Brian Sullivan <bsullivan@altonpatrick.net>
- Brian Winters <b.winters@cityofwestfield.org>
- Christopher Keefe <ckeefe73@aol.com>, <chris@peterpanbus.com>
- James Adams <info@firtionadams.com>
- Mary O'Connell <mocmary@aol.com>
- Richard Onofrey, Jr. <reonofreyj@comcast.net>
- John Beltrandi <johnbelco@comcast.net>

I believe this was an intentional violation of the law. With the exception of Brian Winters, who is new to the body, it appears that Councilor Flaherty was careful to send this email using private email addresses instead of the councilor's public email addresses.

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.

Councilor Flaherty should be publicly reprimanded at the next council meeting and the contents of his email published on the city's website. I would also like to see a policy implemented that requires all emails regarding city business between two or more public officials be sent through the city's official email addresses so they are obtainable via a FOIA request. Emails of a strictly political or personal nature would be exempted from this requirement.

Review, sign, and submit your complaint

Read this important notice and sign your complaint.

Under most circumstances your complaint will be considered a public record and be available to any member of the public upon request.

I understand that when I submit this complaint the Attorney General's Office cannot give me legal advice and cannot act as my personal lawyer.

I certify that the information contained on this form is true to the best of my knowledge.

Signed: Steph C Dondley

Date: 6-18-13

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO:

Karen Fanion

From: ckeefe73@aol.com
Sent: Wednesday, August 28, 2013 10:53 PM
To: k.fanion@cityofwestfield.org; agma_sweeney@yahoo.com; Acalla2590@comcast.net; brentbean72@hotmail.com; bsullivan@altonpatrick.net; b.winters@cityofwestfield.org; chris@peterpanbus.com; flaherty.westfield@Gmail.com; info@firtionadams.com; johnbelco@comcast.net; mocmary@AOL.com; REOnofreyJ@comcast.net; d.roy@cityofwestfield.org; mayor@cityofwestfield.org; j.daley@cityofwestfield.org; j.vinskey@cityofwestfield.org; j.camerota@cityofwestfield.org; m.mccabe@cityofwestfield.org
Subject: Re: Request for Reappropriation

Karen:

Could you post the following agenda for a meeting of the Legislative & Ordinance Committee at 6:45 PM on Wednesday September 4th? And add the following under Reports of Committees for L&O:

Notice submitted by Mr. John Pitoniak of his intent to sell a 13.2 parcel of 61A land located on Northwest Road, Map 22R Parcel 4.

Requesting approval of a Resolution of the City Council of the City of Westfield to authorize a funding agreement with the Westfield Redevelopment Authority for the purpose of continuing the predevelopment work necessary for the Airport Industrial Park

AGENDA:

Public Participation on Items which were not discussed in a Public Hearing
Resolution pertaining to the adoption of section 6A of Chapter 40 of the Massachusetts General Laws
5/16/13

That a "definition of family" be developed to be added to the Westfield Code of Ordinances and that this matter be REFERRED TO LEGISLATIVE AND ORDINANCE COMMITTEE.

6/6/13

A. Requesting Council acceptance and adoption of the Statewide Public Safety Mutual Aid Law.

7/8/13

Notice submitted by Mr. John Pitoniak of his intent to sell a 13.2 parcel of 61A land located on Northwest Road, Map 22R Parcel 4.

8/15/13

Positive recommendation from the Planning Board submitted by Principal Planner Jay Vinskey that the City exercise its option to purchase Chapter 61A property at Northwest Road (Map 22R Parcel 4) be REFERRED TO LEGISLATIVE AND ORDINANCE COMMITTEE.

Positive recommendation from the Conservation Commission that the City exercise its option to purchase Chapter 61A property at Northwest Road (Map 22R Parcel 4) be REFERRED TO LEGISLATIVE AND ORDINANCE COMMITTEE.

Positive recommendation submitted by Water Superintendent that the City exercise its option to purchase Chapter 61A property at Northwest Road (Map 22R Parcel 4) be REFERRED TO LEGISLATIVE AND ORDINANCE COMMITTEE.

Requesting approval of a Resolution of the City Council of the City of Westfield to authorize a funding agreement with the Westfield Redevelopment Authority for the purpose of continuing the predevelopment work necessary for the Airport Industrial Park.

Ordinance amending Chapter 4, Section 4-24 relative to dog license fees