

**Seaman, Katherine**

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**From:** Tucker, Jonathan  
**Sent:** Wednesday, April 01, 2009 11:55 AM  
**To:** 'Stephanie O'Keeffe'  
**Cc:** Seaman, Katherine; Shaffer, Larry  
**Subject:** Mullin Rule  
**Attachments:** MullinRuleadoption.doc; MGLCh.39Sec.23D.doc

Dear Ms. O'Keeffe:

At this coming Monday evening's discussion of Planning Board zoning amendments, I wonder if we could add discussion of the Planning Board's proposal to have Town Meeting adopt MGL Ch. 39, Sec. 23D, also known as the Mullin Rule (after the lawsuit which spurred the legislation). The Mullin Rule would allow members of a local adjudicatory board (of which the Select Board is one) to miss one session of a public hearing and still vote on the application, as long as the members in question have reviewed a transcript, listened to an audiotape, or viewed a videotape of the missed session and certified that they had done so. The warrant language and a copy of the statute itself are attached.

The Planning Board is interested in having access to this option for its own members, but in the motion to have Town Meeting adopt this home rule act, the Planning Board included most of the eligible Town boards/committees, with the intention of making a motion that only includes those boards/committees that wish to have access to the Rule. At this point, for instance, the Board of Health has indicated that it is not interested, the Conservation Commission has indicated that it is, and we have yet to hear from the ZBA (which will meet tomorrow evening to discuss the issue) and the Historical Commission.

Please don't hesitate to contact me with any questions.

***Jonathan Tucker***

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***DRAFT***

**ARTICLE                    MULLIN RULE**

To see if the Town will vote to accept, for the following boards, committees or commissions holding adjudicatory hearings in the Town, the provisions of M.G.L. c.39, §23D, which provide that a member of a board, committee, or commission holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to the member's absence from one session of such hearing, provided that certain conditions as established by said statute are met.

Boards & Committees Affected:

- Planning Board
- Conservation Commission
- Historical Commission
- Select Board

**PART I. ADMINISTRATION OF THE GOVERNMENT**

**TITLE VII. CITIES, TOWNS AND DISTRICTS**

**CHAPTER 39. MUNICIPAL GOVERNMENT**

**TOWN MEETINGS**

**Chapter 39: Section 23D. Adjudicatory hearings; attendance by municipal board, committee and commission members; voting disqualification**

Section 23D. (a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.