

From: [Griesemer, Lynn](#)
To: [O'keeffe, Athena](#)
Subject: FW: Apology for bringing up avoiding Open Meeting Law violations during CSWG Public Comment 01-16-21
Date: Monday, January 25, 2021 6:03:35 PM

Please post.

From: Brewer, Alisa <brewera@amherstma.gov>
Sent: Monday, January 25, 2021 6:00 PM
To: Griesemer, Lynn <GriesemerL@amherstma.gov>; O'keeffe, Athena <okeeffea@amherstma.gov>
Cc: Bockelman, Paul <bockelmanp@amherstma.gov>
Subject: Apology for bringing up avoiding Open Meeting Law violations during CSWG Public Comment 01-16-21

This is a two-part set of emails regarding the letter published at 4:45 pm today by the Community Safety Working Group in the Town Council packet 01-25-21 labeled [6.a. CSWG Town Council Letter](#)

A separate email describes the Community Forum portion of the Community Safety Working Group Public Meeting 01-16-21, entitled "Town Councilors speaking during Community Safety Working Group (CSWG) Community Forums"

No member of the Community Safety Working Group has discussed these matters with me.

I heard Sunday from people who had watched the video of the Community Safety Working Group Public Meeting of Friday 01-25-21 that my participation in the Public Comment portion of the Community Safety Working Group Public Meeting Saturday 01-16-21 and the following Community Forum later in that 01-16-21 Public Meeting had been the topic of conversation.

I write here with my understanding of the video of that Friday 01-25-21 meeting, plus the fact that a letter was referenced in the Community Safety Working Group slides placed in our packet this morning at 11:22, and the Community Safety Working Group letter that was placed in our packet this afternoon at 4:45.

At the Saturday 01-16-21 Public Meeting of the Community Safety Working Group (CSWG), I was recognized as the third speaker during the typical Public Comment portion of the CSWG Public Meeting. That typical Public Comment period was scheduled by the CSWG for the beginning of the CSWG Public Meeting, before the Community Forum scheduled for later in the CSWG Public Meeting 01-16-21.

During that Public Comment period of the CSWG Public Meeting 01-16-21, I expressed my gratitude for the scheduling of two Community Forums within a few days of one another at different times of day, and also raised the concern that the initial portion of this CSWG Public Meeting was once again not conducted in public.

Process matters. The public should be able to have an expectation that public meetings are conducted entirely in public.

After the first time I saw this happen with a different Amherst body that met quite recently, I raised the issue with the Town Manager, but did not interpret his response as one that indicated he took the concern seriously.

I took a wait and see approach, and then saw it happen again, this time with the CSWG Public Meeting 01-13-21, and then again with the CSWG Public Meeting 01-16-21, so I brought the matter directly to the standard Public Comment portion of the CSWG Public Meeting 01-16-21, so that CSWG did not continue to inadvertently violate the law. The work of the CSWG is too important to be derailed by repeated process violations.

I would hope it was obvious that I did not believe the CSWG had any intention of violating the law, they were just doing so inadvertently by the way that Public Attendees who were kept waiting before the posted start time were still being held outside the Public Meeting until after the Public Meeting was Called to Order and was underway.

This lack of allowing in any Public Attendees when the public is already waiting on Zoom to be let into the Zoom Public Meeting before it is Called to Order is directly akin to barring the public from entering the physical meeting room until after the in-person Public Meeting is called to order and underway. Doing that is a clear violation of Open Meeting Law (OML).

Just as video records are not a legal substitute for Minutes, neither the possible availability of live broadcast via Amherst Media, nor video at a later time, of the Call to Order and beginning of the Public Meeting serves as a legal substitute for the public who are already waiting in Zoom to be let into Attendees to witness the opening of the Public Meeting in real time.

In addition, two of the Public Comments just before mine expressed confusion about when was the appropriate time for the public to talk that afternoon, now or later, and I interpreted that as further indication of the practical effect of the violation: because the Public Attendees had not been brought into the Public Meeting until well after the meeting began, and therefore were not able to hear the Chair's explanation of how the Public Meeting's agenda was going to progress; the automated transcript has no way of noting who was in or out of the Zoom call when the words were spoken.

Below please find various links to the video and excerpt of the automated transcript of my Public Comment at the CSWG 01-16-21 Public Meeting, preceding the Community Forum portion of the meeting. No member of the CSWG has reached out to me about what I said on Saturday 01-16-21 during the Public Comment portion of the CSWG Public Meeting 01-16-21, so what I have to go on is the video of the CSWG discussion at the CSWG Public Meeting 01-22-21, also pasted and linked below.

Oddly enough, I had thought writing an actual email about repeated Open Meeting Law Violations to the entire CSWG, an email which of course is also a public record, would likely be perceived as too bossy and would also have included the searchable words "Open Meeting Law Violation," and that instead a brief informal mention during regular Public Comment of including the public for the start of the Public Meeting, after expressing appreciation for scheduling two separate Community Forums, would be perceived as less aggressive. Obviously, I was wrong.

Many of you may recall that during multiple public Town Council discussions this past summer and fall of creation of a majority BIPOC body that eventually became the CSWG, I stated that I strongly believed it was worth considering creating the type of advisory group to the Town Manager that would **not** be subject to OML, under a clear exception provided in OML for groups advisory to the Town Manager, so that both the appointed members and the larger community could speak more freely at private, non-recorded meetings, and so that their meetings could be held with more flexibility than minimal 48 hours notice of legal posting, Minutes requirements, etc., with separate public Community Forums and other kinds of outreach. You will also recall that I did not gain any traction with that proposal, so the CSWG is required to meet all obligations of OML, no matter how much Zoom complicates matters during this global pandemic.

I apologize to our entire community, and to the members of the Community Safety Working Group in particular, for any effect that saying what I said during Public Comment at the CSWG 01-16-21 Public Meeting about opening the Public Meeting in the presence of the public may have caused on the later portions of the CSWG Public Meeting or Community Forum.

Sources:

CSWG Meeting Friday 01-22-21:

https://amherstma.zoom.us/rec/play/HsfuzZP-L6hB_hc-MyITkYuWTxPDKHlqngz_ufW_DlQVhIGCu81_l7nJa7Nxb8Mqzqxk7GcuT8Cpji.7zES_DPYGr-pdfUR?continueMode=true&_x_zm_rtaid=qombLSr3RUSDN1NcPhITkQ.1611502669861.ec2d4a7af356422c6ffid1e1533e1725&_x_zm_rhtaid=890

01:58:55

I also want to agree with that, I think, in regards to what works and what doesn't work.

01:59:00

I think that having the councilman start off the meeting with talking about our tardiness and, just like the way that we started the meeting started and kind of like a weird tone.

CSWG Meeting Saturday 01-16-21 (video link to entire event includes both Public Meeting and Community Forum, brief paste is of automated transcript from Public Comment during beginning of Public Meeting, prior to Community Forum):

https://amherstma.zoom.us/rec/play/x_XiFCwJlspqW8C5JmjsmLj4Zj4yVicJmSLIDuX88AwwZe3R7oWc7q-DsGMXJS-AtDmsh7gllV-Foirj.VPOW87FXvVKQw3Vq?continueMode=true&_x_zm_rtaid=qombLSr3RUSDN1NcPhITkQ.1611502669861.ec2d4a7af356422c6ffid1e1533e1725&_x_zm_rhtaid=890

00:06:09Yes, thank.

00:06:12You, yes, thank you very much, I am here as I was on Wednesday, as many counselors were to listen to your listening session later.

00:06:20But, given that this is a public meeting, I just wanted to put a plug in for two things one is Thank you so much for holding two of these in a week right, because we know, sometimes people could do a Wednesday or Saturday.

00:06:30that's really helpful to have them close together, but at different times of day.

00:06:33And the other comment I wanted to make is as we're all adjusting continue to adjust to the zoom reality, it is my firm belief that meeting should not be called to order before participants who have.

00:06:46tried to get into the zoom at the beginning of the meeting our lead into the meeting so not let him as participants obviously just as attendees.

00:06:53But the meeting she needs to be called to order in public and the meeting was not called to order in public, because many of us who'd been waiting for several minutes.

00:07:00Prior to three o'clock only were brought into the attendee list well after you'd called the meeting to order and done the role.

00:07:08So obviously people go in and out of the meeting, but just when you start your meeting people who are available should be there as well, because it's a public meeting Thank you so much.

Sincerely,
Alisa

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~Alisa V. Brewer

Amherst Town Councilor-at-Large, 2018-

Amherst Select Board, 2007-2018

MMA Fiscal Policy Committee, 2019-

Cannabis Control Commission Social Consumption Working Group, 2019

Treasurer's Alcohol Task Force Licensing Process Working Group, 2017

vice president, Hampshire County Select Boards Association (HCSBA) 2016-2018, county designee to Massachusetts Selectmen's Association (MSA)

Executive Committee 2017-2018

Amherst & Amherst-Pelham Regional School Committees, 2002-2007
Amherst Representative Town Meeting, 1999-2018

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