



KOPELMAN AND PAIGE, P.C.

The Leader in Municipal Law

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101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

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Brian W. Riley
briley@k-plaw.com

BOARD OF SELECTMEN

MEMORANDUM TO MUNICIPAL CLIENTS

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: New Developments in the Open Meeting Law

The new Open Meeting Law (“the Law”), G.L. c.30A, §§18 through 25, took effect on July 1, 2010 and made significant changes to the statutory definitions, requirements for posting notice, minute taking, and many other procedures. In addition, the Attorney General’s Division of Open Government assumed authority over implementing and enforcing the Law and issued emergency regulations on a variety of issues. On October 1, 2010 the Attorney General issued a final version of these regulations, 940 CMR 29.00, *et seq.* (which may be viewed at the Attorney General’s website, www.mass.gov/ago), which differ from the emergency version in several significant ways. There is also news regarding two issues not addressed in the regulations but that are of interest to municipal boards, which will be summarized below.

Posting Meeting Notices

As you may recall, there was much debate over the statutory requirement that all meeting notices must be posted “in a manner conspicuously visible to the public at all hours” in or on the City or Town Hall. In the emergency regulations, the Attorney General addressed this issue by providing a series of alternative posting methods for those communities where 24-hour access to posted notices would be problematic, including the use of another municipal building with 24-hour access, newspaper notices, or a computer monitor visible from outside the building. The emergency regulations did not authorize a municipality to use posting on its website as the only form of notice, and required public bodies to take the additional step of posting at another accessible building. In contrast to the emergency regulations, the final version, 940 CMR 29.03(2)(b), does authorize a municipal public body to comply with the alternative posting requirements by simply posting its meeting notices on the municipality’s official website. No additional form of posting is required other than the traditional filing with the municipal Clerk’s office. Any municipality that uses a website, or any of the other approved alternative posting methods to meet the 24-hour access requirement, must prepare a written description of how notices may be accessed during the hours when City or Town Hall is closed, and have such description visible to the public on or adjacent to the main and handicapped accessible entrances to City or Town Hall. Of course, regardless of which posting method is used, notices meeting all the statutory requirements must be posted at least 48 hours before the meeting, excluding Saturdays, Sundays and legal holidays.