

# Town of Franklin

355 East Central Street  
Franklin, Massachusetts 02038-1352



Phone: (508) 520-4949  
[www.franklinma.gov](http://www.franklinma.gov)

OFFICE OF THE TOWN ADMINISTRATOR

June 18, 2021

**To:** Town Council  
**From:** Jamie Hellen, Town Administrator  
**RE: Open Meeting Law Complaint**

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On Tuesday June 8, 2021, the Town received a formal Open Meeting Law Complaint from Patrick Higgins from the Town of Swansea. The complaint was regarding the June 9, 2021 Town Council meeting where there were minutes up for approval from the April 7th, April 14th, May 5th, and May 19th, 2021 meetings. The complaint was brought about because the minutes were not accepted within three meetings or 30 days of the meeting date (whichever is later) as required by state regulation 940 CMR 29.11.

I have attached the Town's formal response to Mr. Higgins and have copied the Division of Open Government within the Attorney General's office. It has been a common practice for the Town to forgo minutes approvals and other non-budget related agenda items during the budget hearings. As all of you know, the Town approves minutes swiftly, usually at the following meeting, posts them online and produces some of the most thorough minutes of any public body due to the incredible work of Judith Lizardi. Videos also exist of all of our meetings for archival live streams. Our standard practices are very strong and transparent.

We will revise this practice to include the approval of minutes on the budget hearing agendas in upcoming years. Furthermore, with the assistance of the Town Clerk's Office, the staff will send a memo to all town boards and committees reminding them of this important state regulation.

If you have any additional questions please feel free to ask and we look forward to the discussion next week.



# 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: Patrick Last Name: Higgins

Address: \_\_\_\_\_

City: Swansea State: MA Zip Code: 02777

Phone Number: \_\_\_\_\_ Ext. \_\_\_\_\_

Email: \_\_\_\_\_

Organization or Media Affiliation (if any): Patrick Higgins and Associates

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): Franklin Town Council

Specific person(s), if any, you allege committed the violation: All members

Date of alleged violation: 06/09/2020

## 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.

The Franklin Town Council violated the open meeting law as follows:  
1. Did not accept their minutes within 3 meetings or 30 days, whichever is later. The agenda for their June 9, 2020 meeting (attached hereto) reflect consideration of the minutes from a. April 07, 2021; b. April 14, 2021; c. May 05, 2021; c. May 19, 2021

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.

Learn and comply with the open meeting law.

## Review, sign, and submit your complaint

### **I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### **II. Consulting With a Private Attorney.**

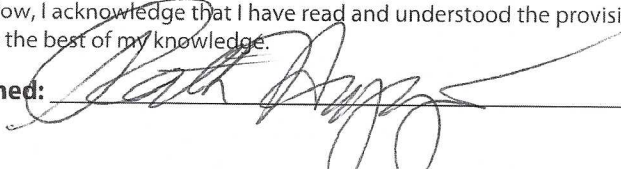
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### **III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_



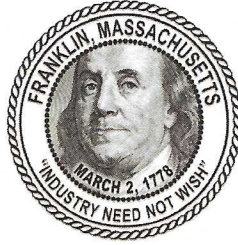
Date: 06/07/2021

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:



## FRANKLIN TOWN COUNCIL

### Agenda & Meeting Packet

June 9, 2021

Meeting will be held at the **Municipal Building**  
2nd floor, Council Chambers  
355 East Central Street  
**7:00 PM**

The public will be permitted to enter the building to participate in person.  
**Residents are encouraged to attend and participate via the “ZOOM” Platform.**

**A NOTE TO RESIDENTS:** Due to the continued concerns regarding the COVID-19 virus we encourage residents to participate via the ZOOM platform. In an effort to ensure citizen engagement and comply with open meeting law regulations, citizens will be able to dial into the meeting using the provided phone number (Cell phone or Landline Required) OR citizens can participate by clicking on the attached [link](#) (Phone, Computer, or Tablet required). The attached link and phone number will be active for the duration of the meeting for citizens to ask questions/voice concerns. If residents are just interested in watching the meeting it will also be [live-streamed by Franklin TV](#) and shown on Comcast Channel 11 and Verizon Channel 29.

- **Link to access meeting:** June 9, 2021 Town Council Meeting Link [HERE](#) -- Then click “Open Zoom”
  - Or copy and paste this URL into your browser:  
<https://zoom.us/j/99311811109?pwd=Q3NpRjlJUU5WVWVN6bnFZd3M2aUtUUT09>
  - **Call-In Phone Number:** Call 1-646-558-8656 and enter Meeting ID # **993 1181 1109** --Then press #
  - **Passcode:** 157187

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### 1. ANNOUNCEMENTS FROM THE CHAIR

- a. *This meeting is being recorded by Franklin TV and shown on Comcast channel 11 and Verizon Channel 29. This meeting may be recorded by others.*
- b. *Chair to identify Council Members participating remotely*

### 2. CITIZEN COMMENTS

- a. *Citizens are welcome to express their views for up to five minutes on a matter that is not on the agenda. The Council will not engage in a dialogue or comment on a matter raised during Citizen Comments. The Town Council will give remarks appropriate consideration and may ask the Town Administrator to review the matter.*

### 3. APPROVAL OF MINUTES

- a. April 07, 2021
- b. April 14, 2021
- c. May 05, 2021
- d. May 19, 2021

#### 4. PROCLAMATIONS/RECOGNITIONS

- a. Proclamation: Franklin High School BALTS
- b. Proclamation: Police Department, David Mellor

#### 5. APPOINTMENTS - *None Scheduled*

#### 6. HEARINGS - 7:10pm

- a. Chapter 61A, Town's Right of First Refusal to Purchase Approx. 70 Acres of Land off Maple Street approved as "Maple Hill" Definitive Residential Subdivision
  - i. Cover Memo and Purchase & Sale Agreement: Notice of intent to sell land for residential use off Maple Street
  - ii. [Open Space Presentation](#) - April 6<sup>th</sup>, 2021, Community Preservation Committee Meeting
  - iii. [2016 Town of Franklin Open Space Plan](#)

#### 7. LICENSE TRANSACTIONS

- a. La Cantina Winery, New Section 19C Farmer Brewery License & License Modification to Combine existing 19B and New 19C license to create a 19H Farmer Winery/Brewery License, 355 & 357 Union Street, Franklin, MA 02038
- b. Table and Vine, License Modification - Change of Manager and Stock Transfer, 348 East Central Street

#### 8. PRESENTATIONS/DISCUSSIONS - *None Scheduled*

#### 9. SUBCOMMITTEE REPORTS

- a. Capital Budget Subcommittee
- b. Budget Subcommittee
- c. Economic Development Subcommittee

#### 10. LEGISLATION FOR ACTION

- a. Resolution 21-23: FY21 Capital Plan Round 2 (**Motion to Approve Resolution 21-23 - Majority Vote**)
- b. Resolution 21-30: Authorization for Intermunicipal Agreement with the Town of Bellingham to Supply Water to Private Franklin Residential Property Located at 425 Prospect Street (**Motion to Approve Resolution 21-30 - Majority Vote**)
- c. Resolution 21-31: Gift Acceptance - Veterans' Services, \$985 (**Motion to Approve Resolution 21-31 - Majority Vote**)
- d. Resolution 21-32: Cable Funds in Support of PEG Service and Programming per MGL Ch. 44, §53F3/4 (**Motion to Approve Resolution 21-32 - Majority Vote**)
- e. Bylaw Amendment 21-873: Chapter 139, Sewer Use Regulation Update - Second Reading (**Motion to Adopt Bylaw Amendment 21-873 - Majority Roll Call Vote**)
- f. Zoning Bylaw Amendment 21-872: To Amend The Franklin Town Code At Chapter 185, Section 3, Definitions, Tasting Room - First Reading (**Motion to move Zoning Bylaw Amendment 21-872 to a second reading - Majority Roll Call Vote**)

#### 11. TOWN ADMINISTRATOR'S REPORT

#### 12. FUTURE AGENDA ITEMS

#### 13. COUNCIL COMMENTS

#### 14. EXECUTIVE SESSION - *None Scheduled*

#### 15. ADJOURN

*Note:*

*Two-Thirds Vote: requires 6 votes*

*Majority Vote: requires majority of members present and voting*



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20<sup>th</sup> Floor, Boston, MA 02108. Emails may be sent to: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

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OFFICE OF THE TOWN ADMINISTRATOR

June 18, 2021

Mr. Patrick Higgins  
PO Box 24  
Swansea, MA 02777

**RE: Franklin Town Council - Formal Open Meeting Law Complaint**

Dear Mr. Higgins:

The Franklin Town Council received your formal Open Meeting Law Complaint on June 8th, 2021. I am writing to fulfill the Town's obligation to respond to your complaint.

As you know, this complaint came about because the Town Council did not accept their minutes within 3 meetings or 30 days of the meeting date for the meetings stated in your complaint, regardless of the fact they were all approved at the June 9th meeting.

As you can see from the Town Council's agenda history, the Town Council is very diligent about approving meeting minutes within a month, many times at their next meeting. Our meeting minutes are detailed, comprehensive and always posted online at the Town Council archive. The Town believes it has a high level of transparency for meeting minutes. We have also expanded to include an archive of meetings in live-stream format at Franklin TV to ensure maximum access to public information.

As past practice indicates, the Town Council has avoided including any non-budgetary related action items at its annual budget hearings as much as possible. These budget hearings are typically back to back evenings the week prior to the Memorial Day holiday. Those hearings can be lengthy and we have avoided any other materials to the best of our ability - with very rare exceptions. That said, due to your complaint, the Town will use those meetings in the future to approve meeting minutes as part of our regular diligence according to state regulation 940 CMR 29.11.

Furthermore, with the assistance of the Franklin Town Clerk's Office, I will have the Town Administrator send a memorandum out to all town boards and committees reminding them of state regulation 940 CMR 29.11 and the requirement to approve meeting minutes within 3 meetings or 30 days.

I hope this satisfies your complaint. Do not hesitate to contact my office if you have any questions at 508-520-4949.

Sincerely,

Thomas D. Mercer, Chair  
Franklin Town Council

Cc: Division of Open Government, Attorney General's Office