Right-to-Know Law, RSA Chapter 91-A: Public Meetings

Stephen Buckley, Legal Services Counsel
Margaret Byrnes, Staff Attorney
February 8, 2017
How to Participate Today

- Open and close your Panel
- Submit text questions
- Q&A addressed during today’s session
- Two Pop Quizzes today
LOCAL RULES OF PROCEDURE WILL GOVERN

RSA 91-A:2 II:

If the rules of procedure of any public body require a broader public access to official meetings or records then those provisions will govern.
PUBLIC AGENCY

91-A:1-a, V

v.

PUBLIC BODY

91-A:1-a, VI
91-A:2, I:  
“Meeting” = quorum + public body + communicate contemporaneously + “official” matters
What is not a “Meeting”? (“Non-Meeting”)
Not the same as Non-Public Session! RSA 91-A:2, I

-Social or other encounter, no decisions;

-Collective bargaining;

-Consultation with legal counsel;

-Political Caucuses; - Circulation of draft documents
• Counsel must be present

• *Ettinger v. Town of Madison Planning Board*

• Non-public session to discuss written or oral legal advice
Public Meeting Notice

24 hours minimum

Two public places

More restrictive law?

Emergency Notice

91-A:2
EMERGENCY NOTICE

• Immediate undelayed action is deemed to be imperative by the chair

• Post notice as soon as is practicable

• State emergency in minutes
Captain John Smith named New Hampshire after a county of what country?

1. Australia
2. Germany
3. Russia
4. England
5. Denmark
“Open to the public”
91-A:2, II
Electronic Participation, 91-A:2, III

- Not required
- Attendance not reasonably practical—state in minutes
- Quorum physically present (unless emergency)
- Must be able to hear and be heard contemporaneously
- Identify persons present at remote location
- All votes by roll call
**Recording Meetings**

- Not required
- Public may always record RSA 91-A:2, II
- Use and discard
- Recordings are governmental records
COMMUNICATING OUTSIDE A MEETING

• Can’t discuss/deliberate by email

• Don’t use “reply all”

• Can’t “circumvent spirit and purpose” of 91-A

• Public must have contemporaneous access to meeting
Public Meetings Minutes (RSA 91-A:2, II)

• Kept and made available upon request within 5 business days
• Include (1) members present, (2) people participating, (3) summary of subject matter and decisions reached or action taken
91-A:3, I: How to enter nonpublic

- Begin in proper public meeting
- Motion stating specific basis for nonpublic
- Second
- Roll call vote to go into nonpublic
- Conduct session
91-A:3, II: When to enter nonpublic

- Public employee (a specific employee)
  - Right to a meeting?
- Hiring
- Reputation
  - Can request the meeting be public
- Real or Personal Property . . . If discussion would likely benefit a party whose interests are adverse to those of the general community.
- Lawsuits: Against or by the public body
- Emergency preparation
- Legal Advice received orally or written (New!)
What did Levi Hutchins of Concord, New Hampshire invent in 1787?

1. Watch
2. Lamp
3. Fan
4. Alarm Clock
5. Toaster
Who Should Be Present in the Non-Public Session?
Minutes of Nonpublic Sessions

91-A:3, III: make available within 72 hours . . .

. . . or “seal.”

Minutes must also include (1) members present, (2) people participating, (3) summary of subject matter and decisions reached or action taken.
Remedies for Violations

- 91-A:7 & 91-A:8
- No agency enforces: Court action required
- Fees & Costs
- Invalidate, Enjoin, Training
- Bad faith = penalties
ONLINE RESOURCES

• NHMA website RTK page: http://www.nhmunicipal.org/service/right-to-know


• Text of the statute: http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-VI-91-A.htm
March 8
LEAN Process Improvement: Learn the Tools That Add Value in Public Service
www.nhmunicipal.org
April 12
Here Comes the Parade: Are Your Volunteers and Recreational Staff Ready

www.nhmunicipal.org
The Intersection of Land Use and Road Law: A New Hard Road to Travel Workshop!

Strip malls, condominium developments and single-family homes have one thing in common: they can’t exist without road access. Join NHMA Legal Services Attorneys Stephen Buckley and Margaret Byrnes for this new Hard Road to Travel Workshop, which will focus on road-related issues that surround development and construction, including subdivisions, driveways, and building on Class VI and private roads under RSA 674:41. There will also be a discussion about complete streets and how the program may benefit your municipality. Ample time will be allowed for questions and answers.

This workshop will benefit not only road agents and public works, but also governing bodies, land use boards, and administrators who want to better understand the different roles and responsibilities of various municipal officials in these situations.

Friday, March 31, 2017
9:00 a.m. – 1:00 p.m.
Registration and Breakfast at 8:30 a.m.
Lunch provided!
NHMA Offices
25 Triangle Park Drive, Concord NH

Cost: $100 (workshop registration, including 2015 edition of Hard Road to Travel)
Or
$55 (workshop registration, no publication)

Register online at www.nhmunicipal.org under Calendar of Events

Online pre-registration required one week prior. Space is limited.
Questions? Call 800.852.3358, ext. 3350,
or email NHMAregistrations@nhmunicipal.org
2017 Local Officials Workshops

Workshops for seasoned and new municipal officials and employees of New Hampshire Municipal Association member municipalities.

FULL DAY WORKSHOPS OFFERED ON VARIOUS DATES IN VARIOUS LOCATIONS
9:00 a.m.—4:00 p.m.
Registration begins at 8:30 a.m.
Breakfast and lunch will be provided.

Presented by NHMA’s Legal Services attorneys, the workshops provide municipal officials with tools and information to effectively serve their communities. Topics will include the Right-to-Know Law, ethics and conflicts, town governance, public employment, liability and more. Ample time allowed for questions, answers, and discussion.

Attendees will receive a complimentary copy of NHMA’s 2017 edition of publication, Knowing the Territory.

Dates and Locations

Thursday, April 13—Peterborough Recreation Center, Gymnasium
Wednesday, April 19—Grafton Town Hall
Thursday, May 4—TBD—Littleton Area*
Wednesday, May—TBD—Jackson Area*
Tuesday, May 23—Stratham Municipal Center, Room A
Saturday, June 3—NHMA Offices, Concord

*These workshop dates and locations subject to change. Please check our website regularly.

Register Today! No Registration Fee.
To register online, please visit www.nhmunicipal.org and click on the Calendar of Events. Cancellation must be received 48 hours in advance. If cancellation is not received 48 hours in advance, NHMA will charge you $20 to cover workshop costs, including meals.

Questions? Please call 800.852.3350, ext. 3350 or email NHMArecoveries@nhmunicipal.org
for attending our webinar today!

Mission Statement

The New Hampshire Municipal Association is a non-profit, non-partisan association working to strengthen New Hampshire cities and towns and their ability to serve the public as a member-funded, member-governed and member-driven association since 1941. We serve as a resource for information, education and legal services. NHMA is a strong, clear voice advocating for New Hampshire municipal interests.

25 Triangle Park Drive
Concord, NH  03301
www.nhmunicipal.org  or
legalinquiries@nhmunicipal.org
603.224.7447
NH Toll Free:  800.852.3358