

NEW ENGLAND FIRST AMENDMENT INSTITUTE

By
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OPEN MEETINGS ACT

Notice Issue

I. Statutory language:

§ 42-46-6. Notice

(b) Public bodies shall give supplemental written public notice of any meeting within a minimum of forty-eight (48) hours, excluding weekends and state holidays in the count of hours, before the date. This notice shall include the date the notice was posted; the date, time, and place of the meeting; and a statement specifying the nature of the business to be discussed.

II. Judicial interpretation:

A. Anolik v. Zoning Bd. of Review of City of Newport, 64 A.3d 1171 (2013)

Language of notice in agenda:

Request for Extension from Turner Scott received 11/30/08
Re: Petition of Congregation Jeshuat Israel”

"The General Assembly enacted the Open Meetings Act for the stated purpose of guaranteeing that “public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy.”

“a statement specifying the nature of the business to be discussed”

“intended to establish a flexible standard aimed at providing fair notice to the public under the circumstances * * *.” *Tanner*, 880 A.2d at 796.

The Court found the agenda language to be “vague and indefinite.”

"The agenda item was completely silent as to which specific property was at issue; the agenda item provided *no* information as to a street address, a parcel or lot number, or even an identifying petition or case number."

"Agenda item under the rubric of “Communications” does not even remotely indicate that any action will be taken with respect to the agenda item."

"Agenda item could quite rationally cause a member of the public to infer simply that the zoning board was informing the citizenry that it had “received” a request from Turner Scott."

"No indication in the agenda item that any action would be taken on Turner Scott's request; certainly the word “Communications” conveys no such message."

"In no way does the agenda item give notice that the request for extension was to extend the temporal parameters then in effect for the purpose of completing or substantially completing the improvements."

B. *Pontarelli v. Rhode Island Board Council on Elementary and...*, 151 A.3d 301 (2016)

Compensation Review Committee (CRC), which was to convene to review requested and proposed salary adjustments for RIDE employees.

CRC as an “informal, ad hoc working group with a strictly advisory role” and with no legal status or authority.

Language of agenda:

- “Action Items” subheading of the agenda notice,
- “Approval of RIDE's Executive Pay Plan and Organizational Chart.”

"Although the notice placed on the Secretary of State's website undeniably informed the public that “[a]pproval of RIDE's Executive Pay Plan” was on the agenda for the council meeting, there was no indication that more than one pay plan would be considered. Moreover, there was also no indication that the additional pay plans (ultimately considered and decided by the council at the meeting) would relate to retrospective fiscal years dating back to 2012."

It is our opinion that based on the *totality of the circumstances* of this case—including that the term “plan” was in the singular ..."

[CRC acted as an informal, strictly advisory committee; is not a “public body” and, consequently, is not subject to (nor was it in violation of) the OMA.]