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Kevin Blais
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VIA U.S. MAIL AND EMAIL

kevblais@aol.com

Re: Response to 2/13/2026 Open Meeting Law Complaints

February 23, 2026

Dear Mr. Blais,

I'm writing on behalf of my client, the Town of Burke, in response to the two Open Meeting Law ("OML") complaints you submitted to the Town Clerk on February 13, 2026. The first complaint alleges multiple violations regarding the Board of Civil Authority ("BCA") special meeting held on January 30, 2026. The second complaint alleges violations regarding the Planning Commission special meeting held on February 4, 2026.

The Town has carefully reviewed your allegations based on the meeting records and the requirements of 1 V.S.A. Chapter 5 Subchapter 2, Vermont's Open Meeting Law (OML). Following this review, the Town has determined that the violations of the OML that you alleged did not occur. This letter serves as the Town's formal public response pursuant to 1 V.S.A. § 314(b)(2).

I. ALLEGATIONS REGARDING THE JANUARY 30, 2026, BCA SPECIAL MEETING

A. Allegation

You allege that the January 30, 2026, BCA special meeting violated the OML because it: (1) "precluded the public from attending remotely and was not accessible by telephone connection"; (2) failed to give required notice "by advertising in a local newspaper or radio station for each of the items discussed"; and (3) "precluded participation" and that the BCA "threatened to forcibly remove anyone who dared to participate by the use of law enforcement" after the chair stated the public's "only right is to observe."

B. Applicable Law

Under 1 V.S.A. §312(a)(2), *members of a public body* may attend meetings by electronic or other means, provided the requirements of the subchapter are met. While 1 V.S.A. § 312(a)(5) requires that an electronic platform used for such meetings must allow for "direct access, attendance, and participation *of the public*, including access by telephone," this applies only to state public bodies and state and local advisory bodies. The OML does not require that local (municipal) public bodies also make their meetings available through an electronic platform or by telephone. The OML defines an "advisory

body” as “a public body that does not have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters.” 1 V.S.A. §310 (1).

Regarding notice, 1 V.S.A. §312(c)(2) mandates that the “time, place, and purpose of a special meeting... shall be publicly announced at least 24 hours before the meeting.” For municipal bodies, notice must be posted in or near the municipal clerk’s office and in at least two other designated public places in the municipality at least 24 hours prior to the meeting. “Publicly announced” is defined as giving notice to an editor, publisher, or news director of a newspaper or radio station serving the area. 1 V.S.A. §310 (7).

Finally, OML provides that at an open meeting, the public “shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting, as long as order is maintained.” This right to comment is explicitly “subject to reasonable rules established by the chairperson.” 1 V.S.A. §312(h).

C. Analysis

As a preliminary matter, the BCA is a local public body but is not an advisory body because it does have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters. Therefore, it is not *required* to provide remote access to its meetings.

The record reflects that the January 30, 2026, BCA held its meeting as a hybrid meeting with a designated physical location at the Town Clerk's Office, though it was not required to do so. You have provided no evidence, nor do the minutes support your assertion that the public was precluded from remote or telephonic access. The official "Notice of Special Meeting" and "Agenda" clearly included a Zoom link, a Meeting ID (852 7213 1468), and a Passcode (12345). Critically, the agenda also provided two "One tap mobile" telephone numbers (+16469313860 and +19292056099) specifically for telephonic access. It also indicates that one member of the public, Paul Hayes, did in fact attend remotely via the Zoom platform.

With respect to notice, your allegation that the Town failed to advertise “each of the items discussed” in a newspaper or radio station misinterprets the statutory requirements for a special meeting. The law requires the purpose of the meeting to be announced at least 24 hours in advance. The Town’s agenda for January 30 listed seven items, including "Address Open Meeting Law Complaint" and "Public Comment." The Town followed the specific posting requirements of § 312(c)(2) by utilizing the clerk's office and other designated public locations. Further, the Town complied with the requirement that it “publicly announce” the meeting by sending it to Paul Hayes of the Caledonia Record on January 25, 2026, more than 24 hours in advance. Evidence of compliance is further bolstered by the fact that the minutes show that Paul Hayes attended the meeting. There is no requirement to “publish” notice of a special meeting. Incidentally, you also received personal notice of the meeting via email sent by the Town of Burke (via burke@burkevermont.org) on January 25, 2026. This was sent as a courtesy, because the meeting was called in response to an OML complaint that you submitted less than ten days prior to the meeting.

Regarding participation, the meeting minutes reflects that the BCA's meeting procedure was designed to ensure an orderly meeting while preserving the right to public comment. The directive to the public read by the Chair at the start of the meeting specifically noted that the agenda "includes an opportunity for public comment at the end of the meeting on any matter that is on today's agenda." While the Chair correctly noted that the role of the public *during* the business portion of the meeting is to observe, the meeting contained a specific "Public Comment" period as item six on the agenda. The mention of the use of law enforcement properly explained how the meeting would be kept orderly. It is a "reasonable rule" established to "maintain order and decorum" and because, as it stated, it would only invoked if an individual "disturbs this meeting or is ruled out of order."

D. Determination

The BCA hereby denies that any violation occurred. Telephonic and remote access were provided on the face of the agenda. Notice was provided according to the statutory requirements for special meetings. The public was provided with an opportunity for comment subject to reasonable rules of decorum as permitted by §312(h).

Since no violation occurred, no cure is necessary.

II. ALLEGATIONS REGARDING THE FEBRUARY 4, 2026, PLANNING COMMISSION SPECIAL MEETING

A. Allegation

You allege that the February 4, 2026, Planning Commission special meeting violated the OML because the Commission: (1) "failed to properly notice this public meeting and any changes in the agenda by failing to give notice in a local newspaper or radio station allowing for the required participation" and (2) "precluded public participation, and threatened removal by law enforcement" and stated "that the only right of the public is to observe them."

B. Applicable Law

As cited above, 1 V.S.A. §312(c)(2) governs the notice of special meetings, requiring physical posting and public announcement 24 hours in advance. 1 V.S.A. §312(d)(4)(A) requires that any addition to or deletion from the agenda "shall be made as the first act of business at the meeting," and 1 V.S.A. §312(h) mandates the opportunity for public comment subject to the chair's reasonable rules for maintaining order.

C. Analysis

The record reflects that the Planning Commission held its special meeting on February 4, 2026, at 5:00 PM at the Burke Community Building. The agenda for this meeting included a Zoom link and telephonic access numbers identical in format to the BCA agenda. It listed seven items, including "Address Open Meeting Law Complaint" and "Public Comment." The Town followed the specific posting requirements of §312(c)(2) by utilizing the clerk's office and other designated public locations. The Town further complied with the requirement that it "publicly announce" the meeting by sending it to Paul Hayes of the Caledonia Record on February 3, 2026, more than 24 hours in advance.

Regarding your notice allegation, the draft minutes indicate that the chair, Zoe Gascon, “Asked for any additions or changes to the Agenda. There were none.” This confirms compliance with the procedural requirement for agenda adjustments under §312(d)(4)(A).

Regarding the allegation of precluded participation, there is no evidence to support this claim. In fact, the record reflects that you were personally in attendance as a guest on Zoom. Furthermore, the minutes explicitly record that during the "Public Comment" section of the meeting, "Kevin Blais asked to make a comment." The minutes reflect that you chose to ask questions rather than making comments on the complaints, despite being informed by public statement of the Chair at the start of the meeting that “[p]ublic comment is a time for the Commission to receive comment and will not be used as time for debate or dialogue. The Commission is not obliged to respond to any comment received.” The minutes also indicate that you "used up [your] allotted two minutes." The fact remains that you were recognized and permitted to speak. The Chair’s announcement regarding the rules and expectation of decorum, including the circumstances under which law enforcement would be used is a recognized method of maintaining the "orderly, efficient, and respectful" conduct of public business required by the Chair and is permitted by law under 1 V.S.A. §312(h).

D. Determination

The Commission hereby denies that any of the alleged violations occurred. The record confirms the meeting was properly noticed and publicly announced as a special meeting, no agenda changes were made, and that you personally participated in the public comment period.

Since no violation occurred, no cure is necessary.

III. ADMONISHMENT REGARDING REPETITIVE FILINGS

A concerning and highly repetitive number of OML complaints have been filed by you against the Town in recent weeks. In addition to the two February 13, 2026 complaints addressed herein, you filed complaints on January 20, 2026, January 26, 2026, January 28, 2026, February 3, 2026, and another on February 13, 2026. On some days, more than one complaint was filed. The February 13, 2026 complaint regarding the BCA meeting held on January 30, 2026, addressed in this letter, involved the BCA meeting held on January 29, 2025 – nearly a full year prior – which was held because of another OML complaint you submitted about a BCA meeting held nearly a year before that, in 2024.

The Town has dutifully investigated each of these numerous filings, often involving detailed legal and administrative review of electronic and website logs and historical meeting recordings. In every instance, the public bodies have found your allegations to be without merit. While the Town respects the right of citizens to ensure transparency, the continued filing of complaints that are contradicted by the face of the public record—such as claiming a lack of telephonic access when the numbers are printed on the agenda, or claiming a lack of participation when the minutes record you speaking—imposes a significant and unnecessary burden on Town resources.

IV. CONCLUSION

The Town of Burke remains committed to the principles of the Open Meeting Law. However, for the reasons stated above, the Town respectfully disagrees with your assertions and denies your requests for corrective action. The Town further requests that any future OML complaints filed by you show evidence of how you are personally aggrieved and are based on a good faith belief that a real violation occurred.

Sincerely,



Sarah E. Buxton, Esq.
Attorney for the Town of Burke

Cc: Kathleen Feeley, Chair, Burke Board of Civil Authority
Zoe Gascon, Former Chair, Burke Planning Commission
Jim Sullivan, Secretary, Burke Planning Commission
Mark Daigle, Chair, Burke Selectboard
Paul Hayes, Caledonia Record