

Extra Info  
9/22/08 #8

## John Murray

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**From:** Stephen D. Anderson [SAnderson@AndersonKreiger.com]  
**Sent:** Sunday, September 21, 2008 12:12 PM  
**To:** John Murray  
**Cc:** Steve Ledoux  
**Subject:** Acton/GenSel - Application of Open Meeting Law to the Acton Leadership Group  
**Attachments:** openmtgguide.pdf; 2007-oml-guidelines.pdf

Hi John:

You have asked a question about the Open Meeting Law as it applies to the Acton Leadership Group (ALG), a budgetary planning group consisting of two representatives each from the Board of Selectmen, School Committee, Finance Committee, School Administration and Town Administration. The ALG's meetings are posted and conducted in accordance with the Open Meeting Law. What happens if a 3<sup>rd</sup> member of the Board of Selectmen attends the ALG meetings for his or her edification? There would be three Selectmen in attendance, a number sufficient to constitute a quorum of the Board of Selectmen. Must the meeting also be posted and conducted as a meeting of the Board of Selectmen?

Strictly speaking, the answer is yes, as set forth in the following excerpts from the attached Attorney General's 2008 OML Guidance and the attached Middlesex District Attorney's 2007 OML Guidance:

- The Open Meeting Law applies to every meeting of a quorum of a governmental body if any public business over which the governmental body has jurisdiction is discussed or considered. (AG at 7, DA at 8.)
- A governmental body engages in "deliberation" under the Law, and must comply with the Law's requirements, whenever a quorum engages in a "verbal exchange." (AG at 7, DA at 8.)
- When quorums of two governmental bodies meet jointly it is a meeting of each governmental body. If only one of the governmental bodies has a quorum present, it is a meeting only of that governmental body. (AG at 8, DA at 9.)

The fact that the third selectman sits in the audience and does not contribute to the discussion is immaterial: That member has heard the verbal exchange of information and may be influenced as to an upcoming meeting, deliberation or vote of the Board of Selectmen based on that ALG discussion.

So if a 3<sup>rd</sup> member of the Board of Selectmen will attend an ALG meeting or meetings, the procedural requirements of G.L. c. 39, s. 23B, must be met by the BOS as well as the ALG:

- (1) a "notice of every meeting of any governmental body shall be filed with the clerk of the city or town in which the body acts,"
- (2) a copy of the notice "shall ... be publicly posted in the office of such clerk or on the principal official bulletin board of such city or town,"
- (3) the governmental body "shall maintain accurate records of its meetings, setting forth the date, time, place, members present or absent and action taken at each meeting ...," and
- (4) the records of each meeting "shall become a public record and be available to the public."

Steve

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9/22/2008

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