

Open Meeting Law Complaint Appeal

February 3, 2022

Erica (Rickie) Warren
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Massachusetts Office of the Attorney General
One Ashburton Place
Boston, MA 02108
Phone: (617)-963-2451

RE: Appeal from the response by the Town of Norwood concerning my Open Meeting Law Complaint of December 7, 2021.

Dear Mrs. Warren,

Below is a synopsis of my appeal regarding my Open Meeting Law complaint of December 8, 2021.

A copy of the full complaint and exhibits can be found

here: https://drive.google.com/drive/folders/1zk_GZrxUEf_4mtN6l_SNdoDN7qTZQFPx?usp=sharing

I am appealing the response by the Town of Norwood regarding my Open Meeting Law Complaint of December 7, 2021. Based on the repeated nature of this situation The Norwood Airport Commission intentionally acted to circumvent the Open Meeting Law (OML) and conceal deliberations of significant public interest.

The NAC and their attorneys have knowingly violated the OML before, with some of the same individuals, then lied in response to a prior OML complaint about the exact same subject, runway extensions at the Norwood Airport. They also lied in response to a Public Records Request (PRR) about the same subject, concealing public records. I cannot imagine a subject more worthy of transparency than discussion about a runway extension at the Town airport.

The Secretary of the Commonwealth's Public Records Division provides oversight and enforcement of the Public Records Law (PRL). However, this does not preclude the Attorney General's office from examining the PRL practices and violations by the Town of Norwood as they relate to the OML. Historical facts relating to the OML and PRL are relevant to the current complaint.

In 2018 Norwood Airport Commission (NAC) members Michael Sheehan and Mark Ryan^[1] testified about secret meetings with Flight Level Norwood, LLC. (FLN) and Attorney Nicholas Burlingham of FLN, conducted at the DPW offices of NAC Chairman Mark Ryan. These meetings were about runway extensions as were the November 8, 2021, secret meetings. Burlingham testified about "PowerPoint" presentations at 2018 meetings, he conveniently could not recall any more details of the meetings.

In 2018 I made a PRR for copies of the "PowerPoint" presentations and any other documents from these meetings. Months of games ensued.^[2] With no response to my PRR I filed an OML complaint. These facts can be found here: <https://drive.google.com/file/d/1-lyHkltW39tZRn7Rh-v6R-xV80DNc5Me/view?usp=sharing>

NAC attorney Karis North replied to my PRR and OML on June 5, 2018. She said there were no documents, (PowerPoint Presentations). She knew this was a lie.

Regarding the OML meetings North said they never happened, "no such meetings were held", "The complaint does not specify when or where any such violations (Meetings) occurred, who was present, or a quorum of the Commission was present" without specifics about violations it is impossible for the "Attorney General" to investigate, the complaint lacks any specifics beyond "vague allegations", the OML complaint should be dismissed otherwise it would allow an "anonymous" complaint to be filed and sustained.

North not only lied to me, but she also lied to the Office of the Attorney General, Division of Open Government and the Commonwealth's Public Records Division.

North had emailed FLN attorney Nicholas Burlingham on January 11, 2018 "Nick-Looking for a copy of the PowerPoint from your meeting with my client earlier this week" North knew of the secret meetings, when they had been held and she had a copy of the "powerPoint" presentations from the secret meetings. All which she denied. This is professional misconduct.^[3]

Through discovery on July 16, 2021, FLN provided 2 copies of PowerPoint presentations **"PREPARED FOR THE NORWOOD AIRPORT COMMISSION"**, titled **"NORWOOD MEMORIAL AIRPORT RUNWAY EXTENSION ANALYSIS"** One Power Point presentation was dated "January 2018" the other "February 2018"

The concealed PowerPoint presentations show detailed analysis by the Norwood Airport Commission and deliberation by the NAC with FLN, all done intentionally away from the public meetings, exactly what took place on November 8, 2021, to conceal these meetings. All known to attorney North while she assisted others in violating the law.

The PowerPoint presentation was prepared for the Norwood Airport Commission!

Please consider the following facts and history as they relate to the current complaint.

Attorney North acknowledges NAC Chairman Mark Ryan attended the "event" of November 8, 2021. This was no event according to the email communication prior. Ryan is also the Town Engineer and DPW Superintendent. This meeting was during working hours at the offices of the Commission and airport Manager. Was Ryan released from his Town duties on leave to function as the NAC Chairman? No public notice was given of the "event."

A. On December 7, 2021, I filed the current Open Meeting Law Complaint in accordance with MGL Chapter 30. Due to the size of the exhibits I included a link which included the Attorney General's OML complaint form as required. I made it clear in my email: "A synopsis of the complaint is below. Please note this is NOT the full complaint and exhibits which can be found in the link above."

Included in the written complaint attached was a link which included the OML form required. The link: <https://drive.google.com/file/d/1fSKJr9oT6Um3e7uxhuWafsarZ1CW0Zb9/view?usp=sharing>

B. On December 17, 2021, the NAC met in Executive Session, Purpose 1, "To discuss receipt of an Open Meeting Law Complaint against the Norwood Airport Commission from Christopher Donovan Sr"

The Town then claimed in their response to my OML on December 20, 2021, the complaint did not meet the procedural requirements as it was not filed on the required form. Why then did the NAC meet in Executive Session to discuss an Open Meeting Law complaint? From December 7 until December 17, the Town never claimed there was not a complaint, or it was procedurally incorrect? My complaint contained the required form as I made clear to the Town Attorney Karis North on December 21, 2021. The form was included in the complaint links.

C. North characterizes extensive detail of illegal actions as "scurrilous and unsupported assertions about the Commission, its members, its employees, and its counsel, which are outside the scope of the review of the Division of Open Government ("Division")."

On the contrary, my extensive details and exhibits are well within the scope of the Division of Open Government. These historical facts show the Commission and North lied in response to my OML and PRR in 2018, intentionally meeting in secret and concealing public records. (See my facts outlined in this appeal) Violations of [SJC Rule 3:07](#), Rules of Professional Conduct for Lawyers are also within the scope of the Division with regard to MGL Chapter 30. The Town and their Attorneys know the law and their responsibilities. North claims "there was an event on November 8, 2021", there were no deliberations. She offers no evidence to show there were no deliberations or quorum. Concurrent with my OML I filed a PRR regarding the November 8, 2021, NAC meeting. From the limited response we know the following facts.

1. FLN owner Alan Radlo who was present at the December 8, 2021, meeting, told NAC Chairman Ryan prior he wanted to meet in secret so his conversations regarding the runway extension were not "shared". Radlo constantly mentions having discussions in secret which would avoid the OML and transparency. The OML complaint was regarding the secret meeting to discuss the runway extension. The Town redacted names from this Radlo email which may have shown another NAC member was involved in deliberations about the runway extension? Deliberations North now denies?

The Division of Open Government (Division) should review the redacted email of January 22, 2021, which may show other NAC members involved in deliberations regarding the runway extension. I asked the Town under what exemption of the Public Records Law they had redacted information. They refused to answer. This may also show the quorum North claims does not exist.

2. Prior to the November 21021 NAC meeting there were extensive communications regarding the runway extension between FLN and the NAC. Were these communications forwarded to other NAC members which would show a quorum and deliberations?

3. FLN owner Alan Radlo wanted to have a "private meeting to discuss the cost of a personal investment to keep the runway project as close to the proposed date as possible" Clearly the November secret meeting was in response to his offer to pay for whatever he needed. Was this a pay to play situation? Offers to pay for results which then seems to produce results are well within the Attorney General's oversight.

4. Radlo discusses prior off-site meetings with "members of the NAC as well as Selectmen" to discuss the Airport. On September 15, 2021, he asked for a meeting with "local and state and or federal legislators" to assist Norwood in extending the runway. Radlo again offers to personally pay for this public project, although this was never made public. His offer to pay for results again produced results. Were political donations made to get the meeting with the NAC and elected officers? Has Radlo paid for public projects?

The limited communication provided by the Town shows a pre-planned meeting with no public notice attended by Mark Ryan of the Norwood Airport Commission, also the Norwood Town Engineer and Superintendent of the Norwood Public works department. Francis Maguire, the Norwood Airport Manager and Town employee. Guy Rouelle and/or Jeff Adler of Dubois and King, Alan Radlo the owner of Flight Level Aviation. I observed the meeting end when Congressman Stephen Lynch, Senator Mike Rush, Representative John Rogers, FLN owner Peter Eichleay and other unknown individuals exited. We have no idea who attended virtually and what other deliberations were conducted by email, telephone, and other methods. Clearly a runway extension at the Town Airport is something the public should know. Private payment offers and the secretive nature of the communication and meetings bring more questions.

A Facebook posted by State Senator Mike Rush shows FLN Owner Peter Eichleay, Mark Ryan, John Rogers, Rush, Stephen Lynch and another unknown person appearing to watch another presentation. A presentation which once again does not exist.

Concurrent with my OML I filed a Public Records Request for public documents regarding the complaint. The Town responded with a partial response and redacted information contrary to the law. I appealed this response. The Town notified the Supervisor of Public Records that the Town would provide a "supplemental response" to my original PRR and appeal. They never did. This tactic has been used in the past by the Town to halt a valid appeal and a finding of violation, intimating further production of public records is forthcoming, only to ignore their promises.

I am requesting an investigation by the Division of Open Government regarding my Open Meeting Law Complaint, the Town's actions and response, and the prior conduct of the Town Attorney(s). I believe the Attorney General's office should also investigate the actions of the NAC and Town attorneys. Payment offers by FLN Alan Radlo should concern everyone. Public employees who hold appointed positions have legal and ethical responsibilities which seem to have been violated.

The aforementioned July 15, 2021, discovery also produced other evidence of illegal actions by Town employees Mark Ryan and Francis Maguire regarding Public Records. According to FLN Attorney Neil Hartzell in his letters to North, Ryan and Maguire assisted in concealing public records from me to assist FLN. These records were subject to PRR's. According to attorney Hartzell:

"Flight Level wanted as little of its engineering work product as possible to be subject to Public Records requests by its litigation adversary (BEH). This too was discussed with Mark Ryan and Russ Maguire at the time, who agreed"

"Flight Level had an engineered "fueling Plan", "which has been repeatedly shown to and reviewed by Russ Maguire and Mark Ryan, and which has been withheld from the public record, with the understanding of airport administration, due to the pendency of the litigation commenced by BEH against Flight Level"

"Drawings memorializing a number of trucks fueling routes were shown at the time to Russ Maguire and Mark Ryan in person but were withheld from the public record" "Flight Level wanted as little of its engineering work product as possible to be the subject of Public Records Requests by its litigation adversary" (BEH).

Any attorney who knew about these claims had a duty to report this intentional illegal conduct.

The public has a right to know what their elected and appointed officers are doing. The OML is in place to ensure transparency and open government. The Town of Norwood has an extensive history of violating the OML and Public Records Law with impunity. They have done it again.

Respectfully,

Christopher Donovan

209 Access Road.
Norwood, Mass. 02062

Copies of the public records request and current OML can be found here:

https://drive.google.com/drive/folders/1zk_GZrxUEF_4mtN6l_SNdoDN7qTZQFPx?usp=sharing

<https://drive.google.com/file/d/1-MCz7V-LG4iB9BH7GyEiCi8Sbg4BDeHc/view?usp=sharing>

EXHIBITS REFERENCED IN THIS APPEAL

On April 24, 2018, I made a similar PRR for records from secret NAC meetings which included “power Point” presentations. I followed this PRR up with an Open Meeting Law complaint. Town Attorney Karis North stated there were no records from these secret meetings which was a lie. She had intentionally withheld Public Records, including Power Point presentations from these meetings as I outline in my September 17, 2021, letter to Town Attorneys regarding fraud, lies and deceit in concealing secret meetings and public records. <https://drive.google.com/file/d/1-lyHkltW39tZRn7Rh-v6R-xV80DNc5Me/view?usp=sharing>

North has a history of intentionally concealing communication and records in violation of the law. Details regarding the illegal actions of Town attorneys and others, including fraud, lies, perjury and deceit as outlined on November 19, 2021 which can be found here: <https://drive.google.com/drive/folders/1VqDPkB4iEJCmhreqBLoaOjuEEPnJPkJP?usp=sharing>

The Office of Congressman Lynch was suspected of interfering on behalf of the Norwood Airport Commission with an FAA investigation regarding illegal actions by the Norwood Airport Manager Maguire and the NAC. This activity is outlined in a letter on October 15, 2018 which can be found here: <https://drive.google.com/file/d/1mGBazvcS7A37iOlyJn-LhjK6224TkH8y/view?usp=sharing>

March 6, May 14, November 27, 2018, orders from the SOC regarding Attorney Client claims.

Letter to the Norwood Airport Commission regarding the secret November 8, 2021, NAC meeting.

<https://docs.google.com/document/d/1Gx15uFpTzas5jZxxOnivVtZwtieL8Bg6/edit?usp=sharing&oid=106018398444810046595&rtpof=true&sd=true>

The following links will show some of the illegal actions by Town attorneys, including the recent discovery which exposes in detail the fraud by Town attorneys. September 9, 2021, letter to Norwood Town Attorneys regarding fraud.

https://drive.google.com/file/d/1xn1DkM_Z3SYCqih6OZOuyFMjxgtJlgc/view?usp=sharing

September 8, 2021, letter to Town Attorneys regarding violations of the Public Records

law. <https://docs.google.com/document/d/1-Nc8cWTNF3ansazVVztMzE3MXefc8-e1/edit?usp=sharing&oid=106018398444810046595&rtpof=true&sd=true>

According to Representative John Rogers and State Senator Mike Rush they met with “airport facility to discuss safety improvements” on November 8, 2021. This is not true. Flight Level Norwood, LLC (FLN) owners Alan Radlo and Peter Eichleay along with Dubois and King Engineer Guy Rouelle are not “airport facility”. According to FLN owner Alan Radlo the meeting was to discuss runway extension to increase the capacity of the Norwood Airport and allow larger aircraft use of the Airport. This has all been discussed in secret meetings in 2018 and now. Pictures of these secret meetings and postings by Rogers and Rush can be found here:

<https://drive.google.com/drive/folders/1dGDjK-fC3CBkSjBkEnu9DekyY1c1WLK9?usp=sharing>

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This link contains the following

documents: <https://drive.google.com/drive/folders/1rx6XKCawJOv8VOBzo3F83XF0YqScgQyy?usp=sharing>

· November 8, 2021, Public Records Request and the November 19, 2021, response to my Public Records

May 8, 2014, and May 1, 2019, PRR clarifications by Maguire and NAC Commissioner Michael Sheehan.

· Pictures of Congressman Stephen Lynch, State Senator Mike Rush, and Representative

John Rogers at the November 8, 2021, secret meeting with FLN owners Alan Radlo and Peter Eichleay.

· December 23, 2018, February 7, 2019, and August 2, 2019, letters from FLN to NAC attorney North, outlining the illegal actions by Maguire and Ryan in withholding Public Records for FLN.

· Numerous letters, Public Records Requests and other communication showing fraud and illegal actions.

The following documents are provided in this link:

<https://drive.google.com/file/d/1fSKJr9oT6Um3e7uxhuWafsarZ1CW0Zb9/view?usp=sharing>

Pictures and Facebook posts regarding the November 8, 2021, secret meeting of the NAC.

November 8, 2021, Public Records Request

November 19, 2021, response to my November 8, 2021, PRR.

December 6, 2021, appeal regarding the November 8, 2021, PRR.

September 8, 2021, letter to Town attorneys and Selectmen regarding fraud,

September 9, 2021, letter to Town attorneys and Selectmen regarding fraud and lies.

September 16, 2021, letter to Town attorneys and Selectmen regarding fraud and illegal conduct.

September 17, 2021, letter to Town attorneys and Selectmen regarding lies and fraud of the secret meetings in January and February 2018,

July 15, 2020, Ethics complaint regarding NAC Chairman Mark Ryan which includes the secret meetings held by Ryan with FLN at the DPW garage and his offices.

October 15, 2018, letter to the FAA regarding possible interference by Congressman Stephen Lynch's office in influencing the pending FAA federal Law investigation.

June 5, 2018, response by North regarding the Open Meeting Law complaint of May 14, 2018.

12..5.2017 letter Burlingham to NAC attorney Deluca. 12.13.2017 letter NAC attorney Deluca to Burlingham. 12.18.2017 letter Deluca to Burlingham.

12.22.2017 letter Burlingham to North and others, thank you for the 12.21.2017 secret meeting.

1.11.2018 letter North to Burlingham asking for the power point presentation from the secret meeting which she says never existed.

6.11.2018 letter to Maguire and North from Burlingham including 4 engineering plans they then concealed and lied about.

12.23.2018 letter Hartzell to North which includes 14 engineering plans dated 2.14.2017, all concealed from the public and BEH.

8.2.2019 letter to North from Hartzell concealed in violation of the July 30, 2019, settlement.

8.20.2020 letter Hartzell to Elder (NAC attorney) concealed in violation of the July 30, 2019, settlement.

^[1] NAC Chairman Mark Ryan is also the Norwood Town Engineer and DPW Superintendent. He led the November 8, 2021, secret meeting and the 2018 secret meeting at his offices in the DPW building.

^[2] The Town of Norwood, Norwood Airport Commission, has been found in violation of the Public Records Law over twelve times over the last several years. Ordered to comply with the Public Records Law by the Public Records Division they have ignored these orders. Unfortunately, the PRL gives the Public Records Division very limited authority to hold violators accountable. A review of the Town of Norwood's compliance with the Public Records Law will show they routinely ignore the law and orders from the Commonwealth.

^[3] "Knowingly" "known" or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

"Fraud" or "fraudulent" denotes conduct that is fraudulent under substantive or procedural law and has a purpose to deceive.

When used in these Rules, the terms "fraud" or "fraudulent" refer to conduct that is characterized as such under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive. For purposes of these Rules, it is not necessary that anyone has suffered damages or relied on the misrepresentation or failure to inform.

Deceive: of a person) cause (someone) to believe something that is not true, typically in order to gain some personal advantage.

^[3] Attorneys in Massachusetts are bound by Supreme Judicial Court Rule 3:07 Rules of Professional Conduct which in part state:

1. It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

Substantive law may require a lawyer to disclose certain information to avoid being deemed as having assisted the client's crime or fraud.

2. In the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person or fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client.

3. A lawyer is required to be truthful when dealing with others on a client's behalf. A misrepresentation can occur if the lawyer incorporates or affirms a statement of another person that the lawyer knows is false. Misrepresentations can also occur by partially true but misleading statements or omissions that are the equivalent of affirmative false statements.

4. A lawyer is prohibited from counseling or assisting a client in conduct that the lawyer knows is criminal or fraudulent.

5. A lawyer may reveal confidential information to prevent a criminal or fraudulent act.
6. A lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.
7. Legal argument based on a knowingly false representation of law constitutes dishonesty toward the tribunal.
8. Offering evidence requires that the lawyer refuse to offer evidence that the lawyer knows to be false, regardless of the client's wishes.
9. A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects, shall inform the Bar Counsel's office of the Board of Bar Overseers.