



OFFICE OF THE MAYOR

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 876-6800

Thomas W. Danehy

Mayor

October 12, 1978

Dear Councillor:

For your convenience and information I am providing you with a compilation of the recently amended Massachusetts statutes governing public access to state, county and municipal records.

This compilation contains the following items:

1. Definition of public records
2. Categories of records which are exempt from disclosure
3. Description of the conditions under which access to public records must be provided,
4. Description of the administrative remedy offered by the Supervisor of Public Records for disputes concerning access to public records.

Individuals who are denied access to public records may ask the Supervisor of Public Records to determine whether the records in dispute are public records and subject to disclosure. The Supervisor of Public Records may order the release of records which he determines to be public records. Advisory opinions are issued upon request to public officials who seek guidance in the application of the public records law.

For further information concerning the public records law, or for a copy of the Supervisor of Public Records' Freedom of Information Regulations, write or call: Division of Public Records, Room 1703, One Ashburton Place, Boston, MA 02108, Telephone: 727-2832, also I forward to you a copy of the Open Meeting Law as most recently amended by Chapter 372 of the Acts of 1978.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Thomas W. Danehy".

Thomas W. Danehy
Mayor

TWD;lc
enc.

line about seventeen (17) feet to the point of beginning. Said parcel contains about six thousand seven hundred sixty (6,760) square feet.

Parcel 2-D-8-T, Town of Sterling (Easement)

A certain parcel of land under the care, custody and control of the Metropolitan Water & Sewerage Board, more fully described:

Beginning at a point on the southerly street line of John Dee Road on the easterly location line of I-190 and extends southeasterly along said street line about two hundred seventy-nine (279) feet to a point; thence southwesterly about twenty-eight (28) feet to a point; thence northwesterly about two hundred sixty (260) feet to a point on said location line; thence northerly along said location line about thirty-five (35) feet to a point of beginning. Said drainage easement contains about seven thousand five hundred sixty (7,560) square feet.

Said department of public works may construct as deemed necessary slopes of excavation or embankment appurtenant to said construction.

Parcel 3-DS-12-T, Town of West Boylston

A certain parcel of land under the care, custody and control of the Metropolitan Water and Sewerage Board, more fully described as follows:

Beginning at a point on the easterly location line of Interstate Route 190 and extending thence northeasterly about two hundred thirty-five (235) feet, about fifty-three (53) feet, about three hundred fifty-one (351) feet, about sixty (60) feet, and about four hundred thirty-two (432) feet; thence northwesterly about seventy-one (71) feet; thence southwesterly along the southerly street line of River Street about one thousand forty-two (1,042) feet; thence along said easterly location line of Interstate Route 190 about one hundred five (105) feet to the point of beginning. Said parcel contains about one and sixty-five hundredths (1.65) acres of land.

Approved July 10, 1978

Chap. 371. AN ACT DIRECTING THE DIVISION OF CIVIL SERVICE TO PERMIT VITO A. PISCITELLI TO TAKE A CERTAIN EXAMINATION FOR THE POSITION OF CAPITOL POLICE OFFICER.

Be it enacted, etc., as follows:

Notwithstanding any law, rule or regulation to the contrary, regulating the maximum age of applicants for appointment as police officer, Vito A. Piscitelli shall be eligible to take the next open competitive examination for capitol police officer, and provided he meets all other requirements shall be eligible for certification and appointment as said police officer.

Approved July 10, 1978

Chap. 372. AN ACT MAKING CHANGES IN THE LAWS REGULATING MEETINGS OF GOVERNMENTAL BODIES.

Be it enacted, etc., as follows:

SECTION 1. Section 11A of chapter 30A of the General Laws, as most

The Commonwealth of Massachusetts

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1978

Acts and Resolves

Paul Guzzi

Chap. 372.

Secretary of the Commonwealth

recently amended by section 1 of chapter 397 of the acts of 1976, is hereby further amended by adding the following definition:-

"Made public", when the records of an executive session have been approved by the members of the respective governmental body attending such session for release to the public and notice of such approval has been entered in the records of such body.

SECTION 2. The fourth paragraph of section 11A¹/₂ of said chapter 30A, as appearing in section 2 of chapter 829 of the acts of 1977, is hereby amended by striking out the first five clauses and inserting in place thereof the following five clauses:-

(1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual, provided that the individual to be discussed in such executive session has been notified in writing by the governmental body, at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties.

A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations which involve that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) to speak in his own behalf.

(2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations which involve that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) to speak in his own behalf.

(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, and to conduct collective bargaining sessions.

(4) To discuss the deployment of security personnel or devices.

(5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

SECTION 3. Said section 11A $\frac{1}{2}$ of said chapter 30A, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

A 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, including executive sessions. The records of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer. All votes taken in executive sessions shall be recorded roll call votes and shall become a part of the record of said executive sessions.

SECTION 4. Said section 11A $\frac{1}{2}$ of said chapter 30A, as so appearing, is hereby further amended by striking out the eleventh, twelfth and thirteenth paragraphs and inserting in place thereof the following four paragraphs:-

Upon proof of failure by any governmental body or by any member or officer thereof to carry out any of the provisions of this section, any justice of the supreme judicial court or any justice of the superior court sitting in the county in which the governmental body customarily meets or in the absence of such sitting of court then any justice of the superior court sitting in Suffolk county shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out such provision at future meetings. Any such order may be sought by complaint of three or more registered voters, by the attorney general, or by the district attorney for the district in which the governmental body is located. The order of notice on the complaint shall be heard no later than ten days after the filing thereof or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of this section. In the hearing of such complaint the burden shall be on the respondent to show by a preponderance of the evidence that the actions complained of in such complaint were in accordance with and authorized by this section, by section nine G of chapter thirty-four or by section

The Commonwealth of Massachusetts

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1978

Acts and Resolves

Paul Guzzi

Chap. 372.

Secretary of the Commonwealth

twenty-three B of chapter thirty-nine. All processes may be issued from the clerk's office in the county in which the action is brought and, except as aforesaid, shall be returnable as the court orders.

Such order may invalidate any action taken at any meeting at which any provision of this section has been violated, provided that such complaint is filed within twenty-one days of the date when such action is made public.

Any such order may also, when appropriate, require the records of any such meeting to be made public, unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized. The remedy created hereby is not exclusive, but shall be in addition to every other available remedy.

The rights of an individual set forth in this section relative to his appearance before a meeting in an executive or open session, are in addition to the rights that an individual may have from any other source, including, but not limited to rights under any laws or collective bargaining agreements, and the exercise or nonexercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

SECTION 5. Section 9F of chapter 34 of the General Laws, as most recently amended by section 2 of chapter 303 of the acts of 1975, is hereby further amended by adding the following definition:-

"Made public", when the records of an executive session have been approved by the members of the respective governmental body attending such session for release to the public and notice of such approval has been entered in the records of such body.

SECTION 6. The fourth paragraph of section 9G of said chapter 34, as appearing in said section 2 of said chapter 303, is hereby amended by striking out the first five clauses and inserting in place thereof the following five clauses:-

(1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations which involve that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) to speak in his own behalf.

(2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations which involve that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.

(c) to speak in his own behalf.

(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, and to conduct collective bargaining sessions.

(4) To discuss the deployment of security personnel or devices.

(5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

SECTION 7. Said section 9G of said chapter 34, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

A 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, including executive sessions. The records of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer. All votes taken in executive sessions shall be recorded roll call votes and shall become a part of the record of said executive sessions.

SECTION 8. Said section 9G of said chapter 34 is hereby further amended by striking out the twelfth and thirteenth paragraphs, as appearing in section 4 of chapter 397 of the acts of 1976, and inserting in place thereof the following three paragraphs:-

Such order may invalidate any action taken at any meeting at which any provision of this section has been violated, provided that such complaint is filed within twenty-one days of the date when such action is made public.

The Commonwealth of Massachusetts

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1978

Acts and Resolves

Paul Guzzi

Chap. 372.

Secretary of the Commonwealth

Any such order may also, when appropriate, require the records of any such meeting to be made public, unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized. The remedy created hereby is not exclusive, but shall be in addition to every other available remedy.

The rights of an individual set forth in this section, relative to his appearance before a meeting in an executive or open session are in addition to the rights that an individual may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements, and the exercise or nonexercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

SECTION 9. Section 23A of chapter 39 of the General Laws, as appearing in section 3 of chapter 303 of the acts of 1975, is hereby amended by adding the following definition:-

"Made public", when the records of an executive session have been approved by the members of the respective governmental body attending such session for release to the public and notice of such approval has been entered in the records of such body.

SECTION 10. The fourth paragraph of section 23B of said chapter 39, as appearing in section 6 of chapter 397 of the acts of 1976, is hereby amended by striking out the first five clauses and inserting in place thereof the following five clauses:-

(1) To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) to be present at such executive session during discussions or considerations which involve that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) to speak in his own behalf.

(2) To consider the discipline or dismissal of, or to hear complaints or

charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

- (a) to be present at such executive session during discussions or considerations which involve that individual.
- (b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.
- (c) to speak in his own behalf.
- (3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, and to conduct collective bargaining sessions.
- (4) To discuss the deployment of security personnel or devices.
- (5) To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

SECTION 11. Said section 23B of said chapter 39, as most recently amended by said section 6 of said chapter 397, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:-

A 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, including executive sessions. The records of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret as long as publication may defeat the lawful purposes of the executive session, but no longer. All votes taken in executive sessions shall be recorded roll call votes and shall become a part of the record of said executive sessions.

SECTION 12. Said section 23B of said chapter 39, as most recently amended by said section 6 of said chapter 397, is hereby further amended by striking out the twelfth and thirteenth paragraphs and inserting in place thereof the following three paragraphs:-

Such order may invalidate any action taken at any meeting at which any provision of this section has been violated, provided that such complaint is filed within twenty-one days of the date when such action is made public.

Any such order may also, when appropriate, require the records of any such meeting to be made public, unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is

Communication from Thomas W. Danehy,
Mayor, transmitting a compilation of
the recently amended Massachusetts
statutes governing public access to
state, county and municipal records
and also a copy of the Open Meeting
Law as most recently amended by
Chapter 372 of the Acts of 1978.

In City Council,

October 16, 1978

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Placed on file