

From: [Bristol Clerk](#)
To: [Bristol Town Administrator](#)
Cc: [Kris Perlee](#); [Treasurer](#)
Subject: FW: S.55-questions
Date: Tuesday, June 11, 2024 11:19:17 AM

Response from VLCT on new Open Meeting law.

Thanks.

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NOTE: Our office hours are Monday – Thursday - 8 am to 4:30 pm. The office is CLOSED on Fridays. Appointments are still required for research in the Land Records.

Please note that this email message, along with any response or reply, is considered a public record, and thus, subject to disclosure under the Vermont Public Records Law ([1 V.S.A. §§ 315-320](#)).

From: Vermont Municipal Clerks Treasurers Association <VMCTA@list.uvm.edu> **On Behalf Of** Town Clerk
Sent: Tuesday, June 11, 2024 10:46 AM
To: VMCTA@LIST.UVM.EDU
Subject: Re: S.55-questions

Hello, Below is the latest from Garrett Baxter at VLCT to our Town Administrator. We are not required to offer hybrid meetings, only the state is.

And he gives examples of non-advisory public bodies. Hopefully this clarifies some questions you have.

Good morning Sandi,

Thank you for your message. I've copied your questions below. My responses immediately follow:

I would like to better understand the Town's obligation related to the new Open Meeting Law requirements.

We are still digesting the law ourselves and communicating with the Secretary of State's office to ensure we are on the same page as they will be tasked with developing the required training. Note though that none of the law's new provisions go into effect until July 1st of this year, while others, such as the training requirement don't go into effect until January 1, 2025.

We will be developing and updating resources which will have a place of prominence on our website when ready (well before July 1), as well as a notification by email so that you can review them as soon as possible.

Wallingford only has in-person meetings with no capability/equipment to offer hybrid/zoom etc. Will we be required to offer hybrid meetings? If so, when does this start?

There's no such requirement to offer hybrid meetings. That's a requirement for the State, not municipalities. A quorum or more of a local advisory body (a public body that does not have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters) may hold a meeting by electronic means without being physically present at or staffing a designated meeting location (i.e. remotely), but they're not required to do so. Again, the law does go into effect until July 1st.

Does this apply to all municipal committees/commissions - Selectboard, Recreation, Conservation, Energy etc?

Again, there is no requirement for any municipal public body to hold a hybrid meeting. That requirement only applies to the State. A resident of the municipality served by the public body, member of the public body itself, or member of the press may request that any local public body designate a physical meeting location, if it's meeting remotely, or that a public body provide electronic/telephonic access to a meeting it is holding in person. The request must be made in writing no less than two business days before the meeting. Such requests only apply to the public body's next regularly scheduled meeting and not to a series of regular meetings, special meetings, emergency meetings, or field visits.

- The public body must grant the request unless:
 - there is an all-hazards event or a state of emergency;
 - there is a local incident; or
 - compliance would impose an "undue hardship" on the municipality. 1 V.S.A.

§ 312(j).

Is the Town now required to record meetings and post on the website for 30 days? If so, when does this start?

Nonadvisory bodies must post a copy of their meeting recording in a designated electronic location for a minimum of 30 days following the approval and posting of the official minutes of the meeting which was recorded. A municipality's nonadvisory bodies do not have to record their meetings if doing so would impose an "undue hardship" on the municipality as that term is defined. The law defines an "undue hardship" as "an action required to achieve compliance would require significant difficulty or expense in light of factors including the overall size of the entity, sufficient personnel and staffing availability, the entity's budget, and the costs associated with compliance." 1 V.S.A. § 310(9). Since a municipality claiming this exemption has the burden of proving that compliance would impose an undue hardship, it would be well advised that any municipality claiming such an exemption have its legislative body document such a finding after hearing relevant supporting evidence to that fact during the course of an open, public meeting and record it in the minutes to that meeting. Given the factors that make up this definition, it's unlikely that, in most circumstances, this exception would apply to any but the smallest of municipalities. The effective date is July 1, 2024.

Does this apply to all municipal committees/commissions - Selectboard, Recreation, Conservation, Energy etc?

No, only nonadvisory public bodies. The Act 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). An advisory body, by its very name, advises, which means that it lacks final statutory decision-making authority. Considering that an advisory body is defined by its function (whether it has final say over legislative, quasi-judicial, tax, or budgetary matters), a public body may at times be advisory and at other times nonadvisory. This will likely necessitate a fact-based determination. For example, a planning commission would likely be considered advisory when holding public hearings on adopting/amending/repealing the town plan or zoning bylaws, as final decision-making authority rests with either the legislative body or voters, but at other times it may be considered nonadvisory, such as when it is hearing applications for development review. Whether a public body is advisory or not therefore, we believe, will largely be determined by context.

Though not explicitly defined by the Act, a "non-advisory body", would necessarily have to be any public body that does not satisfy the definition of an "advisory body." Some examples of non-advisory public bodies include the legislative body (selectboard, city

council, village trustees, prudential committee, and alderman), cemetery commission, library trustees, board of listers, board of civil authority, board of abatement, water and sewer commission, and local board of health.

When do the training requirements start? And does this apply to Selectboard, Rec, Conservation, Energy etc?

Local legislative body (e.g. selectboard, city council, board of trustees, etc.) chairs, municipal managers, and mayors must participate in annual, professional Open Meeting Law training starting January 1, 2025. 1 V.S.A. § 312(k).

I hope this helps. All the best.

Sincerely, Garrett A. Baxter
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