

## Walter Gunn

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**From:** Brennan, Tim <TBrennan@PVPC.ORG>  
**Sent:** Monday, July 08, 2019 8:18 AM  
**To:** 'Walter Gunn'  
**Subject:** FW: Open Meeting Law Complaint  
**Attachments:** OML ComplaintToPVPC07082019.pdf; Attorney questions secret ballot-masslive.com.pdf

**Importance:** High

**From:** Michael Pill [<mailto:mpill@verizon.net>]  
**Sent:** Monday, July 08, 2019 8:02 AM  
**To:** Brennan, Tim; Mazik, Jim  
**Cc:** [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us); [newstips123@gmail.com](mailto:newstips123@gmail.com); [hello@muckrack.com](mailto:hello@muckrack.com)  
**Subject:** Open Meeting Law Complaint

To Pioneer Valley Planning Commission  
Attention: Mr. Timothy Brennan, Executive Director, Email [tbrennan@pvpc.org](mailto:tbrennan@pvpc.org)  
and Mr. James M. Mazik, AICP, Deputy Director for Operations/Community Development Section Manager,  
Email [jmmazik@pvpc.org](mailto:jmmazik@pvpc.org)

Gentlemen:

Attached hereto and incorporated herein by reference is a formal complaint under the Massachusetts Open Meeting Law, entitled "OML ComplaintToPVPC07082019.pdf"

I hereby state, certify and acknowledge that I prepared and have read said formal complaint and further certify that the information I have provided is correct to the best of my knowledge.

I further state that my printed signature below is intended to have the same legal force and effect as my handwritten manual signature on said document.

Signed: /s/ Michael Pill. Date: July 8, 2019.

Very truly yours,  
Michael Pill

Copies by email to:

Mass. Attorney General, Division of Open Government at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)  
Jim Russell, Springfield Republican reporter at [newstips123@gmail.com](mailto:newstips123@gmail.com), [hello@muckrack.com](mailto:hello@muckrack.com) – his  
masslive.com news story is attached hereto in support of the attached complaint

Michael Pill, Esq.  
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Northampton, MA 01061-0210  
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Home office phone (413) 259-1221  
[www.greenmiles.com](http://www.greenmiles.com)

**NOTE:**

Information in this email and any attachments is privileged and confidential. If the reader is not the intended recipient, dissemination or distribution of this communication is prohibited. If you received this communication in error, please notify this office immediately. Upon request, all costs will be reimbursed to you. Thank you for your assistance. No Attorney-Client relationship can be created by this email. Nothing in this email or any attachment is intended to form a contract.



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address it. At the same time, the body must send the Attorney General a copy of the response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



# OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

## Your Contact Information:

First Name: Michael Last Name: Pill

Address: Green Miles Lipton, LLP, 77 Pleasant St., P.O. Box 210

City: Northampton State: MA Zip Code: 01060

Phone Number: +1 (413) 586-8218 Ext. 3017

Email: mpill@verizon.net

Organization or Media Affiliation (if any): Partner, law firm of Green Miles Lipton, LLP

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual  Organization  Media

## Public Body that is the subject of this complaint:

City/Town  County  Regional/District  State

Name of Public Body (including city/town, county or region, if applicable): Pioneer Valley Planning Commission

Specific person(s), if any, you allege committed the violation: Entire Commission secret ballot 6/27/2019 violating G.L. c. 30A, § 22(b)

Date of alleged violation: June 27, 2019

**Description of alleged violation:**

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On June 27, 2019, the Pioneer Valley Planning Commission voted by secret ballot to select a new executive director. I believe this was intentional, because Deputy Director James Mazik has claimed reliance on an opinion of "labor counsel." I submit herewith and incorporate herein by reference a news story "Attorney questions secret ballot-masslive.com.pdf" In support of this complaint I cite the following legal authorities: Mass. General Laws, Chapter 30A, Section 22(b) states: "No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes." "§ 26.7.3 No Secret Ballots No vote taken at an open session shall be by secret ballot." G.L. c. 30A, § 22(b). Since, as set forth above, any vote taken at an executive session must be by roll call, G.L. c. 30A, § 22(b), it follows that secret ballots may never be used by a public body. Source: Massachusetts Continuing Legal Education, Inc. treatise entitled "Massachusetts Municipal Law," Chapter 26 entitled "Open Meeting Law" by Thomas A. Mullen, Esq., Lynfield, MA "Furthermore, the Open Meeting Law expressly prohibits taking votes by secret ballot. See OML 2016-121." Source: 2016 Mass. Attorney General Opinion No. 150, 2016 WL[WestLaw] 6646157, Opinion No. OML 2016-150, November 1, 2016 "We agree with the complainant that the Committee violated the Open Meeting Law by selecting the final three candidates by secret ballot during its February 26 executive session. The Open Meeting Law explicitly prohibits votes taken by secret ballot. See G.L. c. 30A, § 22(b); OML 2015-145. Furthermore, the law requires that any vote taken in executive session be recorded by roll call and entered into the minutes. Id. Accordingly, we order the Committee, or Town Council in the alternative as the Town's chief legislative body, to revise the executive session minutes to reflect the votes taken by each Committee member and to release all three rounds of ballots to the public. Although we find no violation for the Committee's improper executive session because it was not alleged, the Committee should release the February 26 executive session minutes to the public, if it has not already done so." Source: 2016 Mass. Attorney General Opinion No. 121, 2016 WL 4917024, Opinion No. OML 2016-121, September 8, 2016.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Require disclosure as required by G.L. c. 30A, § 22(b)

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

**II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

