

Needham, MA - Reason 1 Calling Executive Session

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In following the Open Meeting Law —This is information and guidance from the Chair to a working committee of the COA - I am asking for a response to be sure we follow the requirement to plan a Executive Session.

The following is for your reference/review. It gives the details for moving into executive session.

Here is my feeling:

We have two members who are uncomfortable with the person being discussed and one member of the membership committee who supports the person. A Director who is concerned.

There is no reason that the Membership Committee with two members voting “no” that this person will not be considered, as others have in the past. And we move on. You did reject one person during the process which was your right. I know how difficult this one is.

Consider the following... I move the group into Executive Session by following the outline presented in Reason #1. We follow all steps and the COA approval may or may not vote “yes”. ..”The individual has the right to be or not to be present”.

Now the person goes to the Ass’t Town Manager and then the BOS who will question why did the COA feel it necessary to have two interviews and then an Executive Session, to approve this person. Reasonable question could then be “why”.

The reason is a public record of the COA questioning the “character or reputation” of an individual.

The person needs to be notified 48 hours in advance of their involvement/discussion in the executive Session proceedings. Please discuss your desire and get back to me so I can proceed with the process.

<http://www.needhamma.gov/index.aspx?nid=4435>

Reason 1 for Calling Executive Session

To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the

parties.

This purpose is designed to protect the rights and reputation of individuals. Nevertheless, where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against the individual. An executive session called for this purpose triggers certain rights for the individual who is the subject of the discussion. The individual has the right to be present, though he or she may choose not to attend. The individual who is the subject of the discussion may also choose to have the discussion in an open meeting, and that choice takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this purpose, this purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.