

Linda

From: "legalinquiries" <legal_inquiries@nhlgc.org>
Date: Tuesday, October 09, 2012 9:09 AM
To: <mtview@roadrunner.com>
Subject: Town of Carroll - 10/8/12 CF
 Dear Ms. Dowling:

The answer really depends on what, exactly, the members of the subcommittee are doing.

Initially, it is useful to note that a subcommittee of the Planning Board is, on its own, a public body subject to the statute. A "meeting" is defined as "the convening of the quorum of the membership of a public body...whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously...for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power." RSA 91-A:2, I. A subcommittee of a public body is explicitly defined as its own public body. RSA 91-A:1-a, VI(d).

Thus, if two or three of the subcommittee members are "convening" to "discuss or act upon" the information-gathering task they have been assigned, then it is probably a meeting that requires notice, minutes, and openness to the public. On the other hand, if the individual members are passing along information in one direction and not discussing the information, then it is probably not a meeting. For example, if member A sends members B and C an email with information saying "here is what I found," there is nothing wrong with that. That is a distribution of information and presents no problem. However, if B writes back and says "this is interesting, maybe we need to get more information about some other things," and then C writes back and says "no, I don't think we need to do that," what is really happening is a discussion. Under RSA 91-A:2, I, "discussion" of the matter within their advisory power is something that is supposed to occur only at meetings which are properly held.

I note, additionally, that any records relating to the subcommittee's official function (i.e., gathering information) which are circulated to a quorum (here, at least 2 members) becomes a "governmental record" under RSA 91-A:1-a, II. That does not mean that the records must be kept for any specific length of time, but as long as they exist, they are governmental records which must be made available to the public upon request under RSA 91-A:4 unless an exemption applies.

I hope this information is helpful.

Regards,
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10/9/2012