

This is a short review of the Right-to-Know law and how to meet the statutory requirements in order to ensure that your committee's meetings are legal and meet the Open Meeting requirement. This overview is for every committee old and new. Recently some new committees were started in the Town of Greenfield. Once the appointing body votes to approve the request for a committee it's up to the members to convene and begin the process of tackling the important job that was assigned with the committee's appointment or that comes with its charter or mission. Depending on the committee's focus, the important work that the committee handles may provide information to the Selectboard or to Town Meeting so that the governing body or the legislative body can make informed decisions. Along the way to fulfilling the mission, it's important to know that the committee will have responsibilities to uphold. In New Hampshire the Right-to-Know law is in place to ensure that meetings are legally posted, open, and that a record is kept for people who may be interested in the work of the committee but who may not have time to attend the meetings in person. The Town of Greenfield provides a website where minutes from departments are kept and updated as new records are received. Minutes of every committee are also kept in a binder or in a file in the Town Office. This allows people the ability to follow along with the essential business of the Town, as it's convenient to their schedule, without having to attend multiple meetings or worry that information essential to them is not being communicated.

In order to ensure that a practical application of the law is available for every advisory committee, board, or commission, we can look at the Attorney General's (AG) Memorandum on the Right-to-Know law from 2009. The memorandum can be found at the following address online:

<http://doj.nh.gov/civil/documents/right-to-know.pdf>

In 2009 the NH Attorney General's office updated its Memorandum on the Right-to-Know law, RSA Chapter 91-A. In the memorandum the attorney general's office outlines the duties of public bodies under the RSA and provided newly updated information that covers electronic information, email, and electronic communications. The memorandum provides several pages of definitions on public bodies, which serves to define practically every type of committee, commission, or advisory board, as well as municipal bodies, as a **public body** required to follow RSA 91-A. Here are the definitions that pertain to municipalities and attendant committees:

“Advisory committee” means any committee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority. RSA 91- A:1-a (I).”

And,

... (d) Any legislative body, governing body, board, commission, committee, agency, or authority, of any county, town, municipal corporation, school district, school administrative unit, charter school, or other political subdivision, or any committee, subcommittee, or subordinate body thereof, or advisory committee thereto.

This is summarized in the text of the memorandum as:

“The Right-to-Know law establishes a person’s right of access to meetings of public bodies and to the records of public bodies and public agencies. The Right-to-Know law applies to all boards, commissions, agencies, authorities, committees, subcommittees, subordinate bodies or advisory committees of all political subdivisions of the State, including, but not limited to, counties, towns, municipal corporations, village districts, school districts, school administrative units, and charter schools.”

The memorandum continues, citing municipal agencies that come under RSA 91-A:

“The police, fire, highway, welfare, water, sewer, recreation, zoning enforcement, and planning departments, the office of the town clerk, tax collector, treasurer, and town/city manager of a town, city, or village district and any other agency, authority, department or office of a town, city, or village district.”

It’s clear that the AG has taken pains to ensure that the definition is clear; municipalities and their boards, committees, commissions, and agencies are subject to the law. So what is the law and how can a newly formed committee meet the requirements?

In Greenfield, once the committee members are sworn in by the Town Clerk, or by the Moderator, the newly formed committee can meet, elect officers if they choose, and commence working on their mission. In order to get started there are three basic tenants that must be followed. The first is to notify the Town Office of the date and time of the meeting, and where it will be held and have your meeting posted.

“A public body holds a meeting when:

- a. A quorum of the membership of the public body is convened in person so that all members may communicate contemporaneously; and
- b. The purpose of convening a quorum or a majority of the membership is to discuss or act upon a matter or matters over which the public body has supervision, control, jurisdiction or advisory power.”

In Greenfield meetings can be held at the Library (please sign out a room with the librarians), at the Town Office (both upstairs and downstairs are available depending on the meeting time and day of week – Please let the Town Administrator or the Office Manager know and check the calendar in the kitchen), and at the Meeting House (please sign up with the Office Manager) or at your committee’s department. Certain meetings may be held outside of these locations (site walks). According to the RSA, meetings must be posted (noticed) **24 hours** (or more) in advance.

Generally, a public meeting is noticed in Greenfield by following these steps:

“Notice of the time and place of any meeting (including non-public sessions) shall be posted in two appropriate places, 24 hours prior to the meeting, excluding Sundays and legal holidays. RSA 91-A:2, II. Notices should be posted where people are likely to see them, such as on the public body’s website, the location where the checklist or town warrant is posted, the agency’s office lobby or front door, and the State House or Town Hall bulletin board...”

Notice can also be given by posting in a newspaper of general circulation. Since this can be very expensive, depending on the number of words and the size of the ad, in Greenfield we post in three places; at the Town Office, on the website, and at the Post Office. The Town Administrator or the Office Manager are happy to help you post your meetings, with advance notice.

Once your meeting is posted, it's important to have a quorum, take minutes of the meeting, and ensure that your minutes capture the essential discussion and any decisions made by the body. The minutes will eventually be posted to the website so that residents can follow along with the progress of the committee and understand some of the reasons why certain decisions were made, where information about a specific topic was found, and how a decision was arrived at during the committee's deliberations. Here are some essentials from the AG's memorandum:

- Meetings of public bodies subject to the Right-to-Know law are open to the public unless the body is authorized to hold a non-public session. RSA 91-A:2. Any person may attend an open meeting. The public's right to attend a meeting established by the Right-to-Know law does not convey a right to speak or participate.
- Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice. RSA 91-A:2, III(b)
- No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern the meeting discussion contemporaneously at the meeting location specified in the meeting notice. RSA 91-A:2, III(c).
- Meeting minutes must be kept and must include:
 - (1) The names of the members present;
 - (2) The names of people appearing before the body;
 - (3) A brief description of each subject discussed; and
 - (4) A description of all final decisions made, including all decisions to meet in non-public session. "Final decisions" include actions on all motions made, even if the motion fails. A clear description of the motion, the person making the motion, and the person seconding the motion should also be included.
- Minutes are a permanent part of the body's records and must be written and open to public inspection not more than five business days after the meeting. RSA 91-A:2, II. There are no exceptions to this requirement for the minutes of open meetings. Draft minutes can be used to satisfy this requirement, until the final minutes are completed and accepted, but they must be clearly marked "Draft."

It is also important to understand the role of technology in meetings and ensure that the intent of the meeting be upheld. The jurisdiction of the Attorney General's office extends to the spirit of the intent of the law. This means that it's important to meet not only the requirements of the law but also the spirit of the law; it's not ok to circumvent the law even if it might seem expeditious or in the best interest of the town to do so.

“When members of a public body constituting a quorum find themselves together either coincidentally or when gathering for a purpose other than discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction or advisory power, communications between the members shall not be used to circumvent the spirit and purpose of the Right-to-Know law. RSA 91-A:2-a, II. The convening of a quorum of a public body that does not have a purpose to discuss or act on business, could easily constitute a meeting. Therefore, it is very important to limit any conversation or other communication about the business of the public body. It is explicitly improper to deliberate or act on any business of the public body. RSA 91-A:2-a, II.”

Since email is usually kept at home it's better not to involve your personal email in town business. If possible set-up a new email account for your committee work. Otherwise keep email to a minimum so that discussions don't arise that could later be requested by a court of law.

“E-mail use should be carefully limited to avoid an inadvertent meeting, albeit one where there is a failure to have a physical quorum at a noticed meeting place. Simultaneous e-mails sent to a quorum of a public body by a member discussing, proposing action on, or announcing how one will vote on a matter within the jurisdiction of the body would constitute an improper meeting. Sequential e-mail communications among members of a public body similarly should not be used to circumvent the public meeting requirement. For example, e-mail among a quorum of members of a public body in a manner that does not constitute contemporaneous discussion or deliberation and does not involve matters over which the body has supervision, control, jurisdiction, or advisory power does not technically constitute a meeting under the Right-to-Know law. E-mail discussions of a quorum concerning matters over which the public body has supervision, control, jurisdiction, or advisory power would run counter to its spirit and purpose.”

Lastly, the minutes need to be turned in to the Town Office to ensure there is a record available for the public to inspect subject to the 5 day period that the law allows.

“Every citizen during the regular or business hours of all public bodies or public agencies has the right to inspect all non-exempt governmental records, including minutes of meetings of the bodies. This right of inspection is **at the regular business premises of the public body** or agency. Citizens have the right to make memoranda, abstracts, and photographic or photostatic copies of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5. RSA 91-A:4, I.” (bold added)

That covers the basics. A meeting of a public body must be noticed with 24 hours notice, minutes must be kept as outlined, and the minutes must be provided to the Town Office within the time frame allowed for public inspection. You can feel free to refer to the memorandum online for an in-depth look at RSA 91-A, but if you follow a few simple rules you can be sure your adherence to the law will be successful and your committee's vital work will be preserved.