

In light of the events of the Select Board Meeting of September 15, 2025 it is now clear by a preponderance of the evidence that Kathleen Keresey and Andrew Krouss have been violating the Executive Session exemption of the Massachusetts Open Meeting Law (OML) in an ongoing and flagrant manner. Their violations include, but are not limited to the following:

- Abuse of Executive Session (ES) designation to hide actions taken out of public view under the false guise of obtaining legal advice pertaining to non-existent litigation. This is an ongoing violation with instances on 2/26, 3/13, 4/9, 5/8, 6/9, 8/8, 8/13 and 8/26. The first seven listed the following rationale, “to discuss strategy with respect to litigation,... (with) Wiseacre Farm.”

Given that there is no litigation or threat of litigation facing the Select Board, a reasoning that may once have been believable for one or two meetings has stretched to at least seven Executive Sessions under the same fictitious rationale.

It is now clear that the real business undertaken during the majority (if not entirety) of those Executive Sessions was a negotiation between the Select Board and their outside consultant, perhaps facilitated by counsel, to expend Town funds to engage in a contract without merit or benefit. The contract is valued at \$11,700 and is between the Town and Tech Environmental. The subject of the contract is specious, the value to the Town is virtually nil, and the purpose of the contract is to facilitate an ongoing harassment of a Town resident and his business in a manner that is becoming harder and harder to ignore.

Potentially engaging their own consultant is not a violation *per se*, but the totality of the actions taken by the Select Board raise truly troubling questions. It has taken months, but now there is a sufficient evidentiary record that their stated reasoning is bogus, they knew it to be bogus, and they continued to use the cover of the Executive Session exemption to keep it from public view and discussion.

The Board engaged in either 7 or 8 Executive Sessions related to the claimed rationale listed above, despite there being no active litigation or threat of litigation – unless that litigation is to be commenced by the municipality, which is a strange action to take under the present circumstances. This time coincided with repeated contact with Town Counsel, during which she herself reiterated two key facts 1) there was no present or planned litigation between the parties and 2) the Select Board wished for my client’s assistance in the activities which are the subject of the contract generated from these poisonous Executive Sessions.

The true importance of the contract as the result of the Executive Sessions can be seen both via the numerous times the Select Board attempted to approve that contract in the final week of August and the first week of September, committing OML violations along way; coupled with the engagement of the contractor within 48 hours of the most recent attempt to approve the contract. This haste, coupled with the admissions of Town Counsel and the behavior of the Select Board towards my client makes it clear that this contract is the fruit of a poisonous tree which violated Massachusetts Open Law.

Some level of Executive Session meeting with counsel may be necessary when negotiating certain contracts, however, when 7 or 8 such sessions are intentionally mislabeled so that a nominally public governing body may operate in secret to produce a *fait accompli* that is not related to the listed public agenda, that is a violation of the law that also violates the civil rights of the governed.

The 8/26 ES dispensed with an agenda entirely, adding to the ongoing nature and escalating severity of the violations. Without a listed agenda, this meeting is a *de facto* OML violation and we must assume that it is related to the ongoing string of violations committed by the Board in 2025, accelerating post-7/31.

Given the intentional opacity and willful disregard undertaken by the Select Board there is no effective time period whereby the violation would be reasonably known to the public, thus the relevant tolling period for notification is moot as this is an ongoing abuse of OML exemptions for proper ES designation. The events of 9/15 coupled with the near-immediate commencing of work under this contract on 9/17 further indicate the true nature of the Board's efforts despite their claims to the contrary.

**Proper remedies include:**

1. Engage in adequate remedial public disclosure, in keeping with the terms and spirit of the OML, of A) the real reasons behind the improper Executive Sessions B) producing adequate public agendas for those meetings and C) the production of appropriate minutes for those sessions for public view.
2. Void all actions taken at the 9/15 Select Board meeting pertaining to the contract with Tech Environmental. This includes rescinding the contract as it is invalid, and any results obtained by it will be of minimal admissibility in any competent forum. Additionally, require remedial training for the current members of the Select Board on the appropriate and limited acceptable uses for Executive Session exemptions and mandatory training for the

as-yet-unelected third member of the Board.

If these steps, or other, more robust, remedies are not implemented, then those members of the public will continue to have their rights violated by the municipal government that has been elected to serve them. This could lead to a situation whereby judicial action may need to be taken which could result in both the invalidation of the contract voted on at the problematic 9/15/25 meeting and the awarding of costs to those who had to turn to judicial relief to ensure the preservation of their basic rights.

We look forward to hearing back from you in 14 business days or fewer. Please be advised that if an adequate response is not supplied within 14 business days, my client will have no choice but to escalate the matter to the Attorney General's Office complete with supporting documentation, including the recordings of all meetings at which aspects of these otherwise secret events were discussed.