

174 Fernwood Circle
Newport, VT 05855
September 8, 2023

City of Newport
Newport City Council
222 Main Street
Newport, VT 05855

Dear City Council Members:

Pursuant to 1 VSA §314(b)(1), the purpose of this letter is to put the Newport City Council on notice that the City of Newport, Vermont, by and through its City Council, violated 1 VSA §312 and 1 VSA §313.

A Guide to Open Meetings published by the Vermont Secretary of State defines the purpose of 1 VSA §312 as “to promote transparency, accountability, and better decision-making in government.” A Guide to Open Meetings, <https://outside.vermont.gov/dept/sos/Municipal%20Division/a-guide-to-open-meetings-january-2019.pdf> Vermont Secretary of State, January 2019, page 3, ¶ 1. Pursuant to 1 VSA §312(d)(1), the City must post the agenda of a city council meeting on the City’s website at least 48 hours prior to a regular meeting and at least 24 hours prior to a special meeting. See 1 VSA §312 (d)(1) and (d)(1)(A). “The open meeting law does not define “agenda” [...]. In keeping with the law’s intent, an agenda should allow interested members of the public to be *reasonably informed* about what *specific topics* will be discussed, and what actions may be taken, at the meeting.” *Id.* A Guide to Open Meetings, at page 6, ¶15 (emphasis supplied). Further, 1VSA §312(h) grants the public a reasonable opportunity to express its opinion on matters considered by the public body during the meeting. See 1 VSA §312(h). Pursuant to 1 VSA §312(a)(1), all meetings of a public body are declared to be open to the public at all times, except during an executive session as provided in section 313 of Title 1. See 1 VSA §312(a)(1). A motion to go into executive session shall indicate the nature of the business of the executive session, *and no other matter may be considered in the executive session.* (emphasis added) See 1VSA §313(a). “Abusing the law of executive session is offensive to the purpose of open meetings. Boards should close their meetings rarely, and then only for legitimate purposes.” *Id.* A Guide to Open Meetings, at page 9, ¶4. Pursuant to 1 VSA §313(b), attendance in executive sessions is generally limited to the members of the Council. See 1 VSA§313(b). The Council has the discretion to include its staff, clerical assistants, legal counsel, and persons who are subjects of the discussion or whose information is needed. See 1 VSA§313(b). The Council exercises this discretion by including additional attendees in its motion to move into executive session. Historically, the Newport City Council has always exercised its discretion in this manner. The discretion is that of the Council in its entirety, not of any individual member. Hence, a vote by the Council is required to exercise its discretion.

The September 6, 2023 Newport City Special Council Meeting Agenda warned of a likely executive session for “Evaluation of City Personnel, 1VSA(3)(a)(3)”. Based upon information and belief, the Council solicited various public works employees to the executive session to deliver oral grievances against their supervisor. In so doing, the Council violated Article 12, Section 1 of the Agreement Between City of Newport, Vermont and American Federation of State, County and Municipal Employees, Council 93, Local 2413, AFL-CIO. The Vermont Office of AFSCMEA has been notified. The solicitation and receipt of the employees’ oral grievances concurrently violated 1 VSA §313(a), 1 VSA §313(a)(1) and 1 VSA§313(b).

While the outcome of oral grievances may play a role in the evaluation of a supervisor, the receipt of grievances is a separate, distinct act. As such, the Council’s receipt of oral grievances from public works employees needed to be warned in the Agenda. It was not. Hence, members of the public were not reasonably informed about what specific topics were to be discussed and what action might have been taken. The Council’s failure to properly warn the oral grievances precluded the public from exercising its right pursuant to 1 VSA §312(h) to express its opinion on the matters considered by the Council during the meeting. See 1 VSA §312(h).

Moreover, pursuant to 1 VSA§313(a), a motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. See 1 VSA§313(a). Additionally, for the Council to receive grievances, there must be a threshold finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage. See 1 VSA §313(a)(1). The Council neither moved to find that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage, nor moved to enter executive session for the purpose of receiving oral grievances from public works employees. See 1 VSA §313(a)(1) and 1 VSA §313(a)(1)(D). Therefore, the Council's receipt of grievances from public works employees was not allowed and violated 1 VSA§313(a).

Pursuant to 1 VSA §314(b)(1), I hereby request that the City of Newport, by and through the City Council, cure its violations of 1 VSA §312 as follows:

1. Publicly declare the Council's receipt of oral grievances from public works employees during executive session which were not warned in the Council Meeting Agenda, were not included in any motion to move to executive session, which lacked the Council's threshold finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage, and which lack a proper exercise of the Council's discretion to include additional attendees in the executive session to be a violation of 1 VSA §313(a), 1 VSA §313(a)(1), 1 VSA§313(a)(1)(D) and 1 VSA §313(b).
2. The oral grievances received from public works employees shall be deemed void, and as such may not be used as supporting evidence in any evaluation of any employee.
3. Should the Council wish to receive future oral grievances from public works employees, the Council shall act in compliance with Article 12, Section 1 of the Agreement Between City of Newport, Vermont and American Federation of State, County and Municipal Employees, Council 93, Local 2413, AFL-CIO. The Council shall further act in accordance with 1 VSA §313(a), 1 VSA §313(a)(1), 1 VSA §313(a)(1)(D) and 1 VSA§313(b).

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Bjurling', with a long horizontal flourish extending to the right.

Jennifer L. Bjurling

174 Fernwood Circle
Newport, VT 05855
September 9, 2023

City of Newport
Newport City Council
222 Main Street
Newport, VT 05855

Dear City Council Members:

Pursuant to 1 VSA §314(b)(1), the purpose of this letter is to put the Newport City Council on notice that the City of Newport, Vermont, by and through its City Council, violated 1 VSA §312(a)(1).

A Guide to Open Meetings published by the Vermont Secretary of State defines the purpose of 1 VSA §312 as “to promote transparency, accountability, and better decision-making in government.” [A Guide to Open Meetings, https://outside.vermont.gov/dept/sos/Municipal%20Division/a-guide-to-open-meetings-january-2019.pdf](https://outside.vermont.gov/dept/sos/Municipal%20Division/a-guide-to-open-meetings-january-2019.pdf) Vermont Secretary of State, January 2019, page 3, ¶ 1. Pursuant to 1 VSA §312(a)(1), all meetings of a public body are declared to be open to the public at all times, except during an executive session as provided in section 313 of Title 1. See 1 VSA §312(a)(1). Pursuant to 1 VSA §313(b), attendance in executive sessions is generally limited to the members of the Council. See 1 VSA§313(b). The Council has the discretion to include its staff, clerical assistants, legal counsel, and persons who are subjects of the discussion or whose information is needed. See 1 VSA§313(b). The Council exercises this discretion by including additional attendees in its motion to move into executive session. Historically, the Newport City Council has always exercised its discretion in this manner. The discretion is that of the Council in its entirety, not of any individual member. Hence, a vote by the Council is required to exercise its discretion.

During the September 6, 2023 Newport City Special Council Meeting, the Council never voted to include additional attendees. Yet, during the executive session, the Council admitted a select group of members of the public. All other members of the public were excluded from the executive session.

At the point in time when this select group of the general public was admitted to the executive session, the executive session terminated. The meeting, pursuant to 1 VSA §312(a)(1) was once again open to the public. I twice knocked on the door to exercise my right to attend the meeting but was denied. All others waiting in the foyer were also denied access to the meeting.

Pursuant to 1 VSA §314(b)(1), I hereby request that the City of Newport, by and through the City Council, cure its violations of 1 VSA §312(a)(1) as follows:

1. Publicly declare that the Council’s exclusion of the general public save for the select group admitted was a violation of 1 VSA §312(a)(1).
2. Inform the general public in a detailed manner of the substance of the meeting after the select group of the general public was admitted.

Sincerely,

/Jennifer L. Bjurling/

Jennifer L. Bjurling

174 Fernwood Circle
Newport, VT 05855
September 9, 2023

City of Newport
Newport City Council
222 Main Street
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Dear City Council Members:

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2. Inform the general public in a detailed manner of the substance of the meeting after the select group of the general public was admitted.

Sincerely,

/Jennifer L. Bjurling/

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Newport, VT 05855
September 11, 2023

City of Newport
Newport City Council
222 Main Street
Newport, VT 05855

Dear City Council Members:

Pursuant to 1 VSA §314(b)(1), the purpose of this letter is to put the Newport City Council on notice that the City of Newport, Vermont, by and through its City Council, has been and continues to be in violation of 1 VSA §312.

A Guide to Open Meetings published by the Vermont Secretary of State defines the purpose of 1 VSA §312 as “to promote transparency, accountability, and better decision-making in government.” [A Guide to Open Meetings](https://outside.vermont.gov/dept/sos/Municipal%20Division/a-guide-to-open-meetings-january-2019.pdf), <https://outside.vermont.gov/dept/sos/Municipal%20Division/a-guide-to-open-meetings-january-2019.pdf> Vermont Secretary of State, January 2019, page 3, ¶ 1. Pursuant to 1 VSA §312(d)(1), the City must post the agenda of a city council meeting on the City’s website at least 48 hours prior to a regular meeting and at least 24 hours prior to a special meeting. See 1 VSA §312 (d)(1) and (d)(1)(A). “The open meeting law does not define “agenda” [...]. In keeping with the law’s intent, an agenda should allow interested members of the public to be *reasonably informed* about what *specific topics* will be discussed, and what actions may be taken, at the meeting.” Id. [A Guide to Open Meetings](#), at page 6, ¶5 (emphasis supplied). Further, 1VSA §312(h) grants the public a reasonable opportunity to express its opinion on matters considered by the public body during the meeting. See 1 VSA §312(h).

On September 8, 2023 an agenda for a Newport City Council Meeting of September 11, 2023 was posted. The agenda read as follows:

1. Call to Order
2. Additions, Changes, and Deletions to the Agenda
3. Comments by Members of the Public
4. Receive advice from legal counsel concerning the Notice of Open Meeting Law Violation received on 9/06/2023 (Anticipated executive session pursuant to 1 VSA §313(a)(1)(F)
5. Response to Notice of Open Meeting Law Violation received on 9/06/2023
6. Approve Minutes of August 7, August 15 and September 6, 2023.
7. Consider extending the deadline for the submission of applications for the position of City Manager, Anticipated VOTE.
8. Discussion regarding retirement of employee Executive Session 1 VSA §313(a)(3) Anticipated VOTE
9. Interview and discussion regarding Interim employee 1 VSA §313(a)(3) Anticipated VOTE
10. Request for authorization to purchase Public Works Equipment: Dump Truck Cab & Chassis Anticipated VOTE
11. Request for authorization to purchase Public Works Equipment: Sidewalk tractors and attachments Anticipated VOTE
12. Consider ratifying Public Works contract-Executive Session Anticipated 1 VSA §313(a)(1)(B) Anticipated VOTE

13. Interview and discussion regarding potential candidates for City Manager position Executive Session 1 VSA §313(a)(3) Anticipated VOTE
14. Old Business
15. New Business
16. Set next meeting: Regularly Scheduled Council Meeting: September 18, 2023 @ 6:30pm
17. Adjourn

The Agenda of the September 11, 2023 Newport Cit Council Meeting does not adequately warn the public of the *specific* topics to be discussed at the meeting. The warning fails to allow members of the public to be reasonably informed so as to exercise their right pursuant to 1 VSA §312(h) to express its opinion on matters considered by the Council during the meeting.

Agenda item #4 concerns an Open Meeting Law violation, but the Notice of Open Meeting Law Violation has not been included with the supporting documents. The public has the right to know of the allegations made against the City.

Agenda item #7 and the anticipated vote entertain the extension of the application deadline for the city manager search. Curiously, this has already occurred. The Newport City website states that “applications are being accepted until the position is filled,” while the Municipal Resources Inc. website lists a September 29, 2023 deadline. If the Mayor and/or Council have already extended the deadline, then why is it necessary to discuss it and vote on it?

Agenda item #8 does not identify the position affected by the retirement. Is it the Fire Chief? Is it another position of which there has been no public announcement? Why would an executive session be warranted to accept an employee’s resignation? (This is particularly pertinent should the resignation under discussion be that of the Fire Chief given that his resignation has already been reported in the newspaper.) What is there to discuss? Is the Council going to refuse to accept an employee's resignation and try to force the employee to report to work? Given the Council’s conduct on Wednesday, September 6, 2023 I suppose a reasonable person could not rule out this latter scenario.

Agenda item #9 does not identify the interim employee. Is it our current Interim City Manager? Is it another potential interim employee? Did the Council terminate Tom Bernier in violation of Open Meeting Law and now is interviewing for an interim public works director? Given the three-ring circus that has pulled into the Newport City Council, one cannot rule anything out.

The recent city council meetings have demonstrated the following:

1. The Mayor has no intention of drafting agendas which reasonably inform the public of the specific topics to be discussed, thus affording the public its right pursuant to 1 VSA §312(h) to comment on matters to be discussed.
2. The Mayor has stated that additions and deletions are “very common” even during Special Meetings. (At the September 6, 2023 Special Council Meeting she attempted to add two controversial issues to the agenda. One had been outstanding since before her arrival as Mayor, and the second had been outstanding since August 7, 2023. Neither was an emergency. Further, a regular council meeting was scheduled to occur five days thereafter on September 11, 2023. Thankfully, one of the ethical members of the Council moved to table the issues until the next council meeting.) Clearly, the Mayor intends to weaponize the use of additions and deletions to withhold proper warning and silence the public voice.

3. The Mayor is abusing the use of executive session as a means of keeping information from the public so as to silence the public voice.
4. The Mayor has no intent to provide the public with clear rules for public discussion.
5. The Mayor intends to create confusion and chaos to act as a smoke screen to conceal the Council's violations of Open Meeting Laws, its violations of city policies, its violations of collective bargaining agreements and its violations of other Vermont Statutes.

The Agenda of the September 11, 2023 Regular Council Meeting does not allow interested members of the public to be *reasonably informed* about what *specific topics* will be discussed. When one must possess a private detective's license or an Ouija board to determine what topics will be discussed, the intent of the Open Meeting Law is violated.

Pursuant to 1 VSA §314(b)(1), I hereby request that the City of Newport, by and through the City Council, cure its violations of 1 VSA §312 as follows:

1. Declare the September 11, 2023 Special Council Meeting to be inadequately warned.
2. Delete Agenda Items #4, #5, #8 and #9 from the Agenda.
3. Reschedule and properly warn Items #4, #5, #8 and #9 in a future council meeting.
4. Omit Agenda Item #7 from the Agenda. The extension has already occurred and the issue is moot.

Sincerely,

/Jennifer L. Bjurling/

Jennifer L. Bjurling

174 Fernwood Circle
Newport, VT 05855
September 9, 2023

City of Newport
Newport City Council
222 Main Street
Newport, VT 05855

Dear City Council Members:

Pursuant to 1 VSA §314(b)(1), the purpose of this letter is to put the Newport City Council on notice that the City of Newport, Vermont, by and through its City Council, violated 1 VSA §312(h).

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Historically, whenever there is a motion made at a council meeting followed by a second, discussion is opened to the Council and then discussion is opened to the public. After all discussion is complete, the Council votes.

Recently, the Mayor has arbitrarily and capriciously followed the above practice. In some cases, the public has not been afforded the opportunity to comment, and at the September 6, 2023 Special Council Meeting, *members of the Council*, as well as the public, were denied discussion after a second and before the vote.

During the meeting, Newport Resident Jennifer Hopkins asked for clarification as to the rules for public comment prior to the Council’s vote. The Mayor offered a convoluted, circular response that provided no clarification. Ms. Hopkins asked a second time for clarification. The Mayor again offered a convoluted response and concluded with, “There are rules, but they are on a case by case basis.” The Mayor never provided any rules. The Mayor never provided the criteria for the “case by case” analysis.

An objective person is forced to conclude that the “mystery rules” will be subjectively enacted in a manner that advances the Mayor’s personal agenda.

The Mayor’s “mystery rules” on a case by case basis is nothing short of arbitrary and capricious. As such, they do not meet the statutory mandate of *reasonable rules*.

Pursuant to 1 VSA §314(b)(1), I hereby request that the City of Newport, by and through the City Council, cure its violations of 1 VSA §312(h) as follows:

1. Publicly declare the Mayor's statement, "There are rules, but they are on a case by case basis," with no statement of the rules and no statement of the case by case analysis to be a violation of 1 VSA §312(h).
2. Return to the historical practice wherein whenever there is a motion made at a council meeting followed by a second, discussion is opened to the Council and then discussion is opened to the public. After all discussion is complete, the Council votes.

Sincerely,

/Jennifer L. Bjurling/

Jennifer L. Bjurling

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Newport, VT 05855
September 9, 2023

City of Newport
Newport City Council
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Newport, VT 05855

Dear City Council Members:

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Historically, whenever there is a motion made at a council meeting followed by a second, discussion is opened to the Council and then discussion is opened to the public. After all discussion is complete, the Council votes.

Recently, the Mayor has arbitrarily and capriciously followed the above practice. In some cases, the public has not been afforded the opportunity to comment, and at the September 6, 2023 Special Council Meeting, *members of the Council*, as well as the public, were denied discussion after a second and before the vote.

During the meeting, Newport Resident Jennifer Hopkins asked for clarification as to the rules for public comment prior to the Council’s vote. The Mayor offered a convoluted, circular response that provided no clarification. Ms. Hopkins asked a second time for clarification. The Mayor again offered a convoluted response and concluded with, “There are rules, but they are on a case by case basis.” The Mayor never provided any rules. The Mayor never provided the criteria for the “case by case” analysis.

An objective person is forced to conclude that the “mystery rules” will be subjectively enacted in a manner that advances the Mayor’s personal agenda.

The Mayor’s “mystery rules” on a case by case basis is nothing short of arbitrary and capricious. As such, they do not meet the statutory mandate of *reasonable rules*.

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2. Return to the historical practice wherein whenever there is a motion made at a council meeting followed by a second, discussion is opened to the Council and then discussion is opened to the public. After all discussion is complete, the Council votes.

Sincerely,

/Jennifer L. Bjurling/

Jennifer L. Bjurling

174 Fernwood Circle
Newport, VT 05855
September 12, 2023

City of Newport
Newport City Council
222 Main Street
Newport, VT 05855

Dear City Council Members:

Pursuant to 1 VSA §314(b)(1), the purpose of this letter is to put the Newport City Council on notice that the City of Newport, Vermont, by and through its City Council, violated 1 VSA §313(a)(3).

The purpose of Vermont's open meeting law is "to promote transparency, accountability, and better decision-making in government." A Guide to Open Meetings, Vermont Secretary of State, January 2019, page 3, ¶ 1, <https://outside.vermont.gov/dept/sos/Municipal%20Division/a-guide-to-open-meetings-january-2019.pdf>.

Pursuant to 1 VSA §312(a)(1), all meetings of a public body are declared to be open to the public at all times, except during an executive session as provided in section 313 of Title 1. See 1 VSA §312(a)(1). A motion to go into executive session shall indicate the nature of the business of the executive session, *and no other matter may be considered in the executive session*. See 1 VSA §313(a) (emphasis added). "Abusing the law of executive session is offensive to the purpose of open meetings. Boards should close their meetings rarely, and then only for *legitimate purposes*." Id. A Guide to Open Meetings, at page 9, ¶4 (emphasis added). Pursuant to 1 VSA §313(a)(3), the Council may enter executive session for the appointment, employment or evaluation of a public officer or employee. See 1 VSA §313(a)(3). However, should the Council hire or appoint a candidate, the Council *shall* make the final decision to hire or appoint a public officer or employee in an open meeting and *shall* explain the reasons for its final decision during the open meeting. See 1 VSA §313(a)(3).

At the September 11, 2023 Newport City Council Meeting, the Mayor took up agenda item #7, "Consider extending the deadline for the submission of applications for the position of City Manager, Anticipated VOTE." The Mayor solicited a motion to extend the application deadline for the position of City Manager. The council members remained silent. The issue died for lack of a motion. Hence, the application deadline remained as June 26, 2023.

Later in the meeting, the Council took up agenda item # 13, "Interview and discussion regarding potential candidates for City Manager position Executive Session 1 VSA §313(a)(3)." The Mayor entertained a motion to move to executive session pursuant to 1 VSA §313(a)(3) and the Council moved into executive session. At least two candidates were interviewed, the current Interim City Manager and a young lady who recently moved from Indiana.

As mentioned in a previous notice of public meeting law violation, on or about August 30, 2023, the Mayor had unilaterally acted outside of her authority and extended the application deadline to September 29, 2023 with Municipal Resources, Inc. Further, the Mayor unilaterally changed the application deadline on the Newport City website to "until the position is filled." Resultant of the Mayor's actions, potential applicants had the impression the city manager search remained open. On or about September 1, 2023, the young woman who had recently moved from Indiana to Newport applied for the position. Applicants submitted their applications to Municipal Resources, Inc. who in turn screened the applicants. Upon completion of the screening process, the applications were sent to the Mayor. Based upon information and belief, the Mayor withheld the fact that the young woman's application was outside the application deadline from some or all of the council members. Given the application deadline of June 26, 2023, and given the applicant's submission date of on or about September 1, 2023, the Council lacked legal authority to consider the young lady's candidacy. Hence, the Council's interview of the young lady during the September 11, 2023 Council Meeting executive session was not legitimate. Her inclusion in the

executive session violated 1 VSA §313(a)(3) because the Council had no legal power to appoint, employ or evaluate the young lady for the public office of City Manager.

The Council further violated 1 VSA §313(a)(3) on two occasions during the September 11, 2023 Council Meeting. The Council took up agenda item #9, "Interview and discussion regarding Interim employee Executive Session 1 VSA §313(a)(3) Anticipated VOTE." Upon conclusion of this executive session, the Council returned to the open meeting and appointed an Interim Fire Chief. The Mayor immediately began to move to the next agenda item. I asked for the Council's reasons for their decision to appoint Kevin LaCrosse as the Interim Fire Chief. The Mayor ignored me and continued to move on to the next agenda item. I stated that the Council had a statutory mandate to report their reasons for the appointment. The Mayor again ignored me and continued with the next agenda item. I then stated, "Madame Mayor, this is mandated by statute." The Mayor continued to ignore me and moved forward with the agenda. The Council never supplied the reasons for its final decision during the open meeting as mandated by 1 VSA §313(a)(3).

The Council violated 1 VSA §313(a)(3) a second time when it failed to explain in the open meeting the reasons for its final decision to appoint Karen Geraghty as City Manager.

Pursuant to 1 VSA §314(b)(1), I hereby request that the City of Newport, by and through the City Council, cure its violations of 1 VSA §313(a)(3) as follows:

1. Publicly declare that the Council lacked the legal authority to appoint, employ or evaluate the applicant recently relocated from Indiana due to the submission of her application on or about September 1, 2023 when the deadline was June 26, 2023. Hence, her inclusion in the executive session for the interview of potential candidates for City Manager was a violation of 1 VSA §313(a)(3).
2. Publicly declare that the City Council violated 1 VSA §313(a)(3) when it refused to explain the reasons for its final decision to appoint Kevin LaCrosse as Interim Fire Chief.
3. Publicly declare that the City Council violated 1 VSA §313(a)(3) when it refused to explain the reasons for its final decision to appoint Karen Geraghty as City Manager.
4. State on the record at the next open council meeting the Council's reasons for appointing #2 and #3.
5. The Council shall attend trainings with the City's Attorney and/or the Vermont League of Cities and Towns to educate themselves as to their responsibilities and obligations under Vermont Open Meeting Law.

Sincerely,

/Jennifer L. Bjurling/

Jennifer L. Bjurling

174 Fernwood Circle
Newport, VT 05855
September 12, 2023

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Newport City Council
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Pursuant to 1 VSA §314(b)(1), the purpose of this letter is to put the Newport City Council on notice that the City of Newport, Vermont, by and through its City Council, violated 1 VSA §313(a)(3).

The purpose of Vermont's open meeting law is "to promote transparency, accountability, and better decision-making in government." A Guide to Open Meetings, Vermont Secretary of State, January 2019, page 3, ¶ 1, <https://outside.vermont.gov/dept/sos/Municipal%20Division/a-guide-to-open-meetings-january-2019.pdf>.

Pursuant to 1 VSA §312(a)(1), all meetings of a public body are declared to be open to the public at all times, except during an executive session as provided in section 313 of Title 1. See 1 VSA §312(a)(1). A motion to go into executive session shall indicate the nature of the business of the executive session, *and no other matter may be considered in the executive session*. See 1 VSA §313(a) (emphasis added). "Abusing the law of executive session is offensive to the purpose of open meetings. Boards should close their meetings rarely, and then only for *legitimate purposes*." Id. A Guide to Open Meetings, at page 9, ¶4 (emphasis added). Pursuant to 1 VSA §313(a)(3), the Council may enter executive session for the appointment, employment or evaluation of a public officer or employee. See 1 VSA §313(a)(3). However, should the Council hire or appoint a candidate, the Council *shall* make the final decision to hire or appoint a public officer or employee in an open meeting and *shall* explain the reasons for its final decision during the open meeting. See 1 VSA §313(a)(3).

At the September 11, 2023 Newport City Council Meeting, the Mayor took up agenda item #7, "Consider extending the deadline for the submission of applications for the position of City Manager, Anticipated VOTE." The Mayor solicited a motion to extend the application deadline for the position of City Manager. The council members remained silent. The issue died for lack of a motion. Hence, the application deadline remained as June 26, 2023.

Later in the meeting, the Council took up agenda item # 13, "Interview and discussion regarding potential candidates for City Manager position Executive Session 1 VSA §313(a)(3)." The Mayor entertained a motion to move to executive session pursuant to 1 VSA §313(a)(3) and the Council moved into executive session. At least two candidates were interviewed, the current Interim City Manager and a young lady who recently moved from Indiana.

As mentioned in a previous notice of public meeting law violation, on or about August 30, 2023, the Mayor had unilaterally acted outside of her authority and extended the application deadline to September 29, 2023 with Municipal Resources, Inc. Further, the Mayor unilaterally changed the application deadline on the Newport City website to "until the position is filled." Resultant of the Mayor's actions, potential applicants had the impression the city manager search remained open. On or about September 1, 2023, the young woman who had recently moved from Indiana to Newport applied for the position. Applicants submitted their applications to Municipal Resources, Inc. who in turn screened the applicants. Upon completion of the screening process, the applications were sent to the Mayor. Based upon information and belief, the Mayor withheld the fact that the young woman's application was outside the application deadline from some or all of the council members. Given the application deadline of June 26, 2023, and given the applicant's submission date of on or about September 1, 2023, the Council lacked legal authority to consider the young lady's candidacy. Hence, the Council's interview of the young lady during the September 11, 2023 Council Meeting executive session was not legitimate. Her inclusion in the

executive session violated 1 VSA §313(a)(3) because the Council had no legal power to appoint, employ or evaluate the young lady for the public office of City Manager.

The Council further violated 1 VSA §313(a)(3) on two occasions during the September 11, 2023 Council Meeting. The Council took up agenda item #9, "Interview and discussion regarding Interim employee Executive Session 1 VSA §313(a)(3) Anticipated VOTE." Upon conclusion of this executive session, the Council returned to the open meeting and appointed an Interim Fire Chief. The Mayor immediately began to move to the next agenda item. I asked for the Council's reasons for their decision to appoint Kevin LaCosse as the Interim Fire Chief. The Mayor ignored me and continued to move on to the next agenda item. I stated that the Council had a statutory mandate to report their reasons for the appointment. The Mayor again ignored me and continued with the next agenda item. I then stated, "Madame Mayor, this is mandated by statute." The Mayor continued to ignore me and moved forward with the agenda. The Council never supplied the reasons for its final decision during the open meeting as mandated by 1 VSA §313(a)(3).

The Council violated 1 VSA §313(a)(3) a second time when it failed to explain in the open meeting the reasons for its final decision to appoint Karen Geraghty as City Manager.

Pursuant to 1 VSA §314(b)(1), I hereby request that the City of Newport, by and through the City Council, cure its violations of 1 VSA §313(a)(3) as follows:

1. Publicly declare that the Council lacked the legal authority to appoint, employ or evaluate the applicant recently relocated from Indiana due to the submission of her application on or about September 1, 2023 when the deadline was June 26, 2023. Hence, her inclusion in the executive session for the interview of potential candidates for City Manager was a violation of 1 VSA §313(a)(3).
2. Publicly declare that the City Council violated 1 VSA §313(a)(3) when it refused to explain the reasons for its final decision to appoint Kevin LaCosse as Interim Fire Chief.
3. Publicly declare that the City Council violated 1 VSA §313(a)(3) when it refused to explain the reasons for its final decision to appoint Karen Geraghty as City Manager.
4. State on the record at the next open council meeting the Council's reasons for appointing #2 and #3.
5. The Council shall attend trainings with the City's Attorney and/or the Vermont League of Cities and Towns to educate themselves as to their responsibilities and obligations under Vermont Open Meeting Law.

Sincerely,

/Jennifer L. Bjurling/

Jennifer L. Bjurling