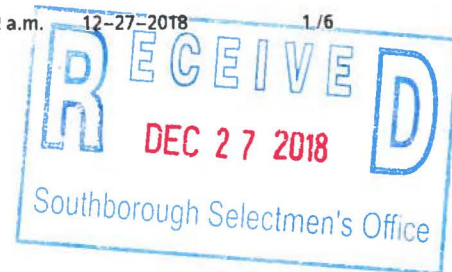


FEDELE AND MURRAY, P.C.

ATTORNEYS AT LAW
17 WALPOLE STREET
NORWOOD, MASSACHUSETTS 02062-3318

781-551-5900
www.FedeleAndMurray.com



JOHN E. FEDELE
LAURA FEDELE RICCIO
ANDREW LAWLOR
MICHAEL K. TERRY

FAX
781-551-9035
OF COUNSEL
GEORGE F. GORMLEY

**TELECOMMUNICATION COVER SHEET
PERSONAL AND CONFIDENTIAL**

Deliver immediately to the party addressed

NOTE: THIS MATERIAL IS ATTORNEY-CLIENT PRIVILEGED AND CONFIDENTIAL. ANY DISCLOSURE, PHOTOCOPYING, DISTRIBUTION, OR USE TO OR BY ANYONE OTHER THAN THE PARTY TO WHOM IT IS ADDRESSED IS PROHIBITED

If there is any problem with this transmission, please call this office. In the event that this material is sent to an incorrect exchange, please notify us by calling, collect, and return the material to the sender.

Pages: 5, NOT including cover sheet
Date: December 27, 2018
To: Ms. Lisa Braccio, Chair, Southborough Board of Selectmen
c/o Mark J. Purple, Town Administrator
Fax: (508) 480-0161
Re: Open Meeting Law Violation Complaints
From: Denise Amara
DA@FedeleAndMurray.com

The material transmitted will follow by mail. ☒ Yes ☐ No

FEDELE AND MURRAY, P.C.

ATTORNEYS AT LAW
17 WALPOLE STREET
NORWOOD, MASSACHUSETTS 02062-3318

781-551-5900
www.FedeleAndMurray.com

JOHN E. FEDELE
LAURA FEDELE RICCIO
ANDREW LAWLOR
MICHAEL K. TERRY
MATTHEW CALLIS

FAX
781-551-9035
OF COUNSEL
GEORGE F. GORMLEY

December 27, 2018

By fax - 508-480-0161 and first class mail

Lisa Braccio
Chair, Southborough Board of Selectmen
c/o Mark J. Purple
Town Administrator
Town of Southborough
17 Common Street
Southborough, MA 01772

Re: Open Meeting Law Violation Complaints

Dear Ms. Braccio:

This firm represents Louise Barron. Pursuant to Mass.Gen.L. ch. 30A, §23, Ms. Barron hereby files the enclosed two Open Meeting Law violation complaints.

Thank you for your attention to these matters.

Very truly yours,



Andrew Lawlor
AL@FedeleAndMurray.com

cc: James F. Hegarty, Town of Southborough Town Clerk (w/enclosures)
Mrs. Louise Barron

**OPEN MEETING LAW COMPLAINT FORM**

Office of the Attorney General
One Ashburton Place
Boston, MA 02108



Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Andrew Last Name: Lawlor

Address: Fedele And Murray, P.C., 17 Walpole Street,

City: Norwood State: MA Zip Code: 02062

Phone Number: +1 (781) 551-5900 Ext.

Email: AL@FedeleAndMurray.com

Organization or Media Affiliation (if any): Attorney for Louise Barron

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☐ Individual

☒ Organization

☐ Media

Public Body that is the subject of this complaint:

☒ City/Town

☐ County

☐ Regional/District

☐ State

Name of Public Body (including city/
town, county or region, if applicable): Town of Southborough Board of Selectmen

Specific person(s), if any, you allege
committed the violation: Daniel Kolenda

Date of alleged violation: December 4, 2018

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On December 4, 2018, acting Chair of the Southborough Board of Selectmen switched off the audio feed of an ongoing Selectmen's meeting, so as to prevent people from observing the meeting remotely from hearing his remarks. Before doing so, Kolenda purported to recess the meeting by moving that the meeting be recessed. No other member, however, seconded his motion; and no vote was taken on the motion. As a result, the motion did not carry and the meeting continued. By shutting off the audio feed of the meeting, Kolenda concealed his remarks and the conduct of the Board. Approximately 10-15 seconds after he shut off the audio feed, Kolenda also caused the video feed of the ongoing meeting to be shut off.

The audio feed and recording was operated by Southborough Access Media, a non-profit organization that records, videos and televises live selectmen meetings so that citizens, including those with disabilities, can observe and listen to meetings remotely. Kolenda's actions interfered with Southborough Access Media's recording of the meeting and with citizens' abilities to see and observe the public meeting remotely.

Kolenda's conduct appears intentional. Once he shut off the audio feed, he angrily insulted a member of the public by calling her disgusting. He also ordered that member of the public to leave the public meeting, or he would have her escorted from the building. Both actions were improper, and it is apparent Kolenda wished to mask his wrongdoing, and prevent the creation of an audio recording of that misconduct.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

- 1) Amend the minutes of the 12/4 meeting to reflect Kolenda's remarks and conduct.
- 2) Issue a formal apology to Louise Barron.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

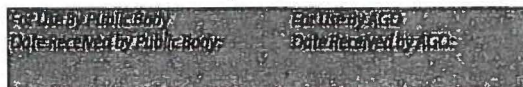
By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed:

Andrew Fedele

Date:

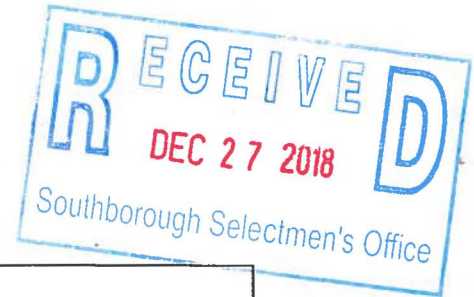
12/26/18



**OPEN MEETING LAW COMPLAINT FORM**

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: Andrew Last Name: Lawlor

Address: Fedele And Murray, P.C., 17 Walpole Street,

City: Norwood State: MA Zip Code: 02062

Phone Number: +1 (781) 551-5900 Ext.

Email: AL@FedeleAndMurray.com

Organization or Media Affiliation (If any): Attorney for Louise Barron

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☐ Individual ☒ Organization ☐ Media

Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (Including city/
town, county or region, if applicable): Town of Southborough Board of Selectmen

Specific person(s), if any, you allege
committed the violation: Entire Board of Selectmen, Twon Administrator Mark Pruple

Date of alleged violation: Dec 18, 2018

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On December 18, 2018, the Southborough Board of Selectmen approved inaccurate minutes of that Board's December 4, 2018 meeting. Specifically, the Board adopted minutes that reflected it had recessed its meeting after the public comment period. In truth, acting Chair Daniel Kolenda purported to recess the meeting by moving that the meeting be recessed and he simultaneously switched off the audio feed for the ongoing meeting. During the continued meeting, Kolenda angrily insulted a member of the public by calling her disgusting. He also ordered that member of the public to leave the public meeting, or he would have her escorted from the building. The Board approved minutes inaccurately reflect that the Board recessed, and they inaccurately omit Kolenda's remarks and actions.

On December 6, 2018, Louise Barron requested from Town Administrator Mark Purple a copy of the December 4, 2014 minutes, along with a copy of the contemporaneous notes taken by the Board staffer who was responsible for preparing the minutes. On December 15, 2018, Purple produced to Barron a copy of draft minutes, but not the staffer's notes. The staffer's notes are public records, and Purple failed to produce them.

The Board's and Purple's conduct appear to be an intentional effort to mask the improper actions of Daniel Kolenda at the Board's December 4, 2018 meeting.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

- 1) Amend the minutes of the 12/4 meeting to reflect Kolenda's remarks and conduct.
- 2) Issue a formal apology to Louise Barron.
- 3) Provide Barron with the staffer's contemporaneous meeting notes.

Review, sign, and submit your complaint**I. Disclosure of Your Complaint.**

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: 

Date: 12/26/2018

File to Public Body	File by AGO
Date Received by Public Body	Date Received by AGO