

**Town of Burke Planning Commission Meeting
Special Meeting – Open Meeting Law Complaint
212 School Street
West Burke, Vermont 05871
February 4, 2026 at 5:00 PM**

Members Present: Zoe Gascon; Chair (On Zoom), Jim Sullivan; Secretary, Lynn Norris and Jenny McKenna (On Zoom).

Guest(s): Mike Harris; Advisor (On Zoom), Paul Hayes; Caledonian Record (On Zoom), Kevin Blais; Complainant (On Zoom)

Zoe Gascon – Called Meeting to order at 5:00 P.M.

Zoe Gascon - Asked for any additions or changes to the Agenda. There were none.

Zoe Gascon - Then read the Announcements.

“The Chair would like to make the following announcement: The Town of Burke Planning Commission conducts its business in open meetings that are orderly, efficient, and respectful. Only members of the Commission shall participate in the meeting, unless invited by the Chair to participate. We will follow the agenda, which includes an opportunity for public comment at the end of the meeting on any matter that is on today’s agenda.

The role that members of the public play during our meetings is simply to observe. During public comment, individuals shall be allowed to state their positions and shall maintain an atmosphere free of slander, ad hominem attacks, and threats of violence. If an individual breaches this requirement, they will be ruled out of order. Public comment will be limited to two minutes per person. Comments shall be directed to the Commission as a body, not any particular person. Public comment is a time for the Commission to receive comment and will not be used as time for debate or dialogue. The Commission is not obliged to respond to any comment received. If an individual wishes to submit written information to the Commission, they may do so by providing such communication to the Town Clerk who will distribute accordingly.

To maintain order and decorum, the Chair will rule out of order any person who refuses to comply with these requirements. A person who disturbs this meeting or is ruled out of order will be provided with a warning before being asked to leave. If, after warning, the individual continues to interrupt or disturb the meeting, the individual will be asked to leave immediately. The Chair may request the assistance of law enforcement, as needed.

I hope that this sets expectations for everyone observing and participating in this meeting.

4. Address Open Meeting Law Complaints

The Town of Burke Planning Commission has received written notice of alleged violations of Vermont’s Open Meeting Law from Kevin Blais on January 26, 28, and February 3, 2026. These complaints involve Planning Commission meetings held on January 20, 2026 and February 18 and December 16, 2025.

Pursuant to 1 V.S.A. § 314(b)(2), a public body must respond publicly to such alleged violations. I will now read a summary of the allegations. After conferring with our Town attorney, I will present my findings and recommendations to the Commission for each complaint. At the conclusion, I will ask for motions to address these complaints.

1st COMPLAINT – JANUARY 20, 2026 MEETING

Mr. Blais alleges that on January 20, 2026, the Planning Commission violated the State’s Open Meeting Law when it: (1) failed to have its minutes posted within five calendar days as required by law; and (2) failed to post a proper recording of the meeting, instead posting only a very short video clip of about 60 seconds with no audio.

I have caused an investigation into the matter and find the following:

1. The Planning Commission held a regular meeting on January 20, 2026, beginning at 6 p.m. at the Burke Community Building.
2. Draft minutes of this meeting were prepared on Jan. 21, 2026 and posted to the Town’s website on Jan. 21, 2026 which is within five calendar days of January 20, 2026.
3. On January 21, 2026, the Town was made aware of a technical error concerning its website that prevented the display of some documents and videos. It was corrected the next day, Jan. 22, 2026 and the current status is that the draft minutes and video for the January 20, 2026 meeting are available online.
4. The video that is posted online is the result of what was captured by the technology available and in operation at the meeting. This is the only recording of the full meeting in the Town’s possession due to an unknown technical failure.
5. To the extent that the completeness of the video does not satisfy the complainant, the Town asserts that the requirement to record the January 20, 2026 planning commission meeting created an undue burden upon the Town.

Based on these findings, and after consultation with counsel, I conclude and recommend to this Commission that it find that:

-No violation occurred with respect to the posting of minutes, because they were posted within five calendar days; and

- No violation occurred with respect to the meeting recording because whatever caused the technical error resulting in the shortened video is the undue burden on the Town that exempts the Town from the meeting recording requirement for the January 20, 2026 meeting; and No cure is necessary.

2nd COMPLAINT – FEBRUARY 18, 2025 MEETING

Mr. Blais also alleges that on February 18, 2025, the Planning Commission violated the Open Meeting Law when it: (1) failed to provide remote access to a public hearing/meeting despite listing a Zoom link in the public notice; and (2) failed to record the meeting as required by law. He requests that the Commission re-hold the hearing and properly post a recording.

I have caused an investigation into the matter and find the following:

1. On February 18, 2025, the Planning Commission held a duly warned public hearing at 6pm at the Community Building.
2. The meeting was noticed as a working “strategy” meeting, hosted by the planning commission, with the selectboard, development review board, and conservation commission. It was led by the NVDA (Regional Planning Commission) and invited “All comments on the livability, development, direction, or other concerns of the residence and property owners of Burke” so they could be heard and considered before any edits to the Town Plan are made.
3. This meeting was structured as a type of public hearing where small groups assembled for discussion and was not convened as a group of the whole for the purpose of taking action.
4. To have recorded each small group, which met simultaneously, for remote participation or to create a video recording would have put an undue burden on the Town.

Based on these findings, and after consultation with counsel, I conclude and recommend to this Commission that it find that no violation occurred with respect to providing remote participation or recording of the meeting as it would have created an undue burden on the Town due to the nature and format of the meeting. Therefore, no cure is necessary.

3rd COMPLAINT – DECEMBER 16, 2025 MEETING

Mr. Blais also alleges that on December 16, 2025, the Planning Commission violated the Open Meeting Law when it: (1) failed to properly post the agenda; (2) failed to record the meeting and (3) failed to keep the recording posted on the Town’s website as required by law. He requests that the Commission re-hold the hearing and properly post a recording, agenda, and minutes.

I have caused an investigation into the matter and find the following:

1. The agenda for the December 16, 2025 meeting was posted on December 12, 2025.
2. The December 16, 2025 Planning Commission meeting video was posted to the Town website on December 17, 2025.
3. The video was removed from the Town site on January 21, 2026 when it needed to be replaced with the video of the January 20, 2026 meeting.
4. The Town website does not have room to allow for multiple meeting videos to be posted at the same time and must continuously replace old ones with more recent videos.
5. For the reason just stated, the Town is exempt from the requirements of 1 VSA 312(6)(A), but substantially complies with it anyway, showing a good faith attempt to carry forth the policies of the Open Meeting Law.

Based on these findings, and after consultation with counsel, I conclude and recommend to this Commission that it find that no violation occurred with respect to recording and posting the recording of the meeting. Therefore, no cure is necessary.

Having now read a summary of the complaints submitted by Mr. Blais and presented my findings and recommendations regarding each one, I will take a motion that this Commission adopt these findings and conclusions regarding all three complaints that no violations occurred and no cure is necessary.”

Lynn Norris said “So moved.” — then Jim Sullivan “Seconded.”

Zoe asked if all in favor of approving this motion? All were in favor.

Zoe then said “Thank you. I will now take a separate motion to direct that this summary of the alleged violations, along with the Commission’s findings and conclusions, be included with the minutes of this special meeting.

Jim Sullivan Said “So moved.” — then Jenny McKenna “Seconded.”

Zoe Asked if all in favor? All were in favor.

Thank you. We will now move to the rest of our agenda.

5. **Other Business** There was none.

6. **Public Comment**

Zoe stated “We will now take public comment. Members of the public may raise their hand in person or online and I will call on you one by one. Each person will have two minutes to speak. As a reminder, this is not a time for dialogue or discussion — only to hear the comments of the public.”

Kevin Blais asked to make a comment, but asked a legal question. Zoe explained that this was a time for comments on the complaints. Mr. Blais ended up asking more legal questions which the Commission was not able to answer and used up his allotted two minutes.

7. **Adjourn** Zoe then asked for a motion to Adjourn. Jenny McKenna made the motion. Lynn Norris seconded the motion. All were in favor.

Respectfully submitted

Jim Sullivan
Planning Commission Secretary