

Thomas Dougherty Resigns

Town would not follow his legal advice on the MBTA Communities law.



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Susan M Galvin 06/23/2025 04:21 pm

Posting Authority

AGENDA

(Must be included at time of posting)

In Massachusetts, Governor Healey signed a bill on March 28, 2025, extending the temporary provisions of the Open Meeting Law, allowing public bodies to continue holding remote meetings and providing "adequate, alternative" access until June 30, 2027.

1. Call to Order
2. Executive Session – M.G.L. c. 30A, § 21(a)(3) – To discuss strategy with respect to potential litigation regarding M.G.L. c. 40A, Section 3A (the “MBTA Communities Act”) and 760 CMR 72.00
3. Discussion/Approval – Engagement with Special Counsel related to the MBTA Communities Act
4. Discussion/Update/Approval – MBTA Communities Act
5. Adjourn

June 26, 2025 (Milton) — Attorney Thomas Dougherty resigned as Milton’s special counsel on Sunday because the town refused to send in a reservation of rights letter the state to accompany a recently approved 25% zoning plan.

The 25% plan meets the requirements accompanying the state’s designation of Milt as a rapid transit community under the MBTA Communities regulations.

The plan zones several areas of Milton for high density, multifamily zoning to allow for the creation of new housing units equal to 25% of the town's current housing stock.

Dougherty had prepared a brief asking for a declaratory judgment that the town can choose to be an adjacent community, which requires a 10% plan.

He advised the town to send a letter accompanying their submittal of the 25% plan, reserving the right to change the zoning for a 10% plan should the town win the case.

The town, particularly Benjamin Zoll, the chair of the Select Board, refused to do so.

The Select Board met this morning in executive session with Dougherty to discuss the plan. They refused to agree to send the letter.



Zoll tried to blame Dougherty for the decision to drop the case even though Dougherty did show up for an 8:00 am meeting with the Select Board.

Vice Chair John Keohane disagreed indicating that Dougherty would have been willing to work with Milton if the town had agreed to follow his advice.

That advice was in regard to routine legal matters.

Dougherty, a Marshall scholar, Harvard Law School graduate, and former clerk for Stephen J. Breyer, would have brought a whole new level of legal expertise to the disputes over the MBTA Communities law.

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