

Town of Norwich, Vermont
Norwich Selectboard Special Meeting
Thursday, April 16, 2026

Selectboard Members: Kimo Griggs, Chair; Brendan Classon, Vice-Chair; Mary Layton; Matt Swett; and Rob Gere

Others Participating: Brennan Duffy, Town Manager; Beriah Smith, Town Counsel; Priscilla Vincent; John Carroll; Cheryl Lindberg; Kris Clement.

Key: Motions are noted in italics.
Public comments are in blue.

The meeting was called to order by Chair Griggs at 6:39 pm.

Welcome & Introductions

YouTube Time Stamp: 17:55

1. Agenda – Discussion/Motion

YouTube Time Stamp: 19:37

Griggs asked if there were any edits to the agenda.

--Priscilla Vincent commented that the Board was there to consider if any of the SB's executive sessions had violated the OML and that she was mildly astonished that there is a potential Executive Session on this agenda.

Mary Layton questioned whether it was standard practice to allow public comments during the agenda setting process. Swett moved (2nd Layton) to approve the agenda as presented. The vote was unanimous.

2. Chair's Report

YouTube Timestamp: 22:40

Griggs stated that he will delay the Chair's Report to the meeting on April 22, 2026.

3. Public Comments for items not on the agenda – Discussion

YouTube Timestamp: 22:50

--Priscilla Vincent stated that she was surprised that the public records provided to Mr. Katucki had redactions and hopes that the unredacted documents will be provided.

--Cheryl Lindberg stated that previous SB meetings have allowed public comments during the agenda setting process and she recounted a time when she requested a change to the agenda for the SB's consideration.

Rob Gere asked if it would be appropriate to move the acceptance of the agenda before taking public comments. Griggs agreed that this could be done in the future.

4. Consider Response to Alleged Open Meeting Law Violations by Christopher Katucki – Potential Proposed Executive Session

YouTube Timestamp: 25:13

Griggs stated that Mr. Katucki's complaint has 5 alleged OML violations and 6 requested cures. Mr. Katucki has granted the SB an extension to acknowledge the violations at their April 22, 2026, regular meeting.

--Beriah Smith, Town Counsel, said he was not aware of the extension granted by Mr. Katucki. He explained that, according to statute, the Town has ten (10) days to respond to the complaint to acknowledge or deny the violations and fourteen (14) days after that to cure the violations, if the Board votes to acknowledge any of these allegations.

Griggs noted that allegation #1 stated the agenda cited "potential litigation" but did not state what that litigation might be. All SB members were allowed to comment. Layton stated that she found it difficult to know how much information would be appropriate on the agenda. She also wondered whether the SB has relied too much on counsel. Griggs stated that he knew that no SB members had ill-intent, but we can do better.

--John Carroll stated that what was on the agenda was Mr. Katucki's concern with regard to Item 6 [of the January 28, 2026 SB agenda]. The agenda has only 4 words to describe the agenda item. He cautioned the SB that, by the end of next meeting, you need to be very specific about how you will do it better.

The SB members agreed that this would be easy to cure. Griggs stated that the general agreement seems to be that on allegations 1 and 2 we can do better. Classon questioned if the agenda description should exactly align with the documents provided in the packet. The SB members agreed that this would be helpful.

Griggs noted that allegation #3 alleged that the SB did not disclose the nature of the legal dispute. Griggs asked if there is any reason not to disclose the nature of the legal dispute and that may be a question for legal counsel.

Griggs stated that allegation #4 is very similar to the allegation #2.

Griggs stated that allegation #5 alleges that the SB communications went beyond the discussion allowed for agenda setting. Swett stated he would like to have a legal opinion on how much discussion the SB can have during agenda setting. Griggs stated that he understands that you should say "yea" or "nay" and not give your reasons.

--John Carroll stated that allegations #1 and #2 are about the agenda. Allegations #3 and #4 are about how you describe what you are going to do in executive session.

Allegation #5 is about the agenda-setting emails. Communications outside the meeting among SB members are permitted only for the purposes of establishing an agenda. The Supreme Court has ruled over and over that the language of the statutes is clear. The statute requires that agenda items contain sufficient details of what is going to be discussed. He urged the SB to err on the side of openness if there is a question about what is sufficient to comply with the OML.

Swett suggested that agenda-setting could be discussed at the end of each meeting to establish what will be on the next agenda. Griggs suggested that the SB could invite counsel to help explain the issue in the public session and then cite the statute that supports the executive session needed. Griggs further suggested that, if counsel is going to be invited to the meeting, we might wish to meet an hour earlier, as meetings tend to go late into the evening. Griggs stated that the SB might call upon counsel to explain procedural issues, but not answer legal questions, in public session.

--Beriah Smith stated that he understands that his interest is that of the Town. The Town is the client, and he is duty bound to do what is best for the Town and advise the Town on what is in their best interest. He cautioned the SB to be careful about what is stated in open session. Decisions are made by the SB and he is here to advise. Smith demurred on whether it would be wise for him to give the reason for the executive session, as he may not have as much information as the SB on some topics.

--John Carroll stated that, on the question of whether the meeting should begin at 5:30 or 6:30, the public's convenience should take precedence rather than the attorney's convenience. The SB should be making the decision on whether or not to have an executive decision and not subcontracting that decision to an attorney.

Swett stated that it should be clear to the SB why they are going into executive session. Griggs stated that, in the past, we have been told that counsel advised us to go into executive session. Why they have advised us is not always clear.

--Cheryl Lindberg stated that an attorney is not always involved in the executive session. She stated that the SB doesn't seem to know that this is the SB's meeting. She emphasized -- It's your meeting and it's your agenda for that meeting, and it's your packet. You should know that the packet contains documents that will be discussed. She stated that any SB member who has taken the OML training should be clear on not discussing agenda items in depth as stated in allegation #5 by Mr. Katucki. She also mentioned that the \$100,000 lawsuit was a big lesson in OML violation. Lindberg stated that she was aware that during Layton's term [as Chair], Layton was contacted by the Vermont Attorney General's office who expressed an opinion that the Norwich SB was having too many executive sessions.

Griggs stated that we are fortunate to have people in the town who are knowledgeable and "hold the our feet to the fire".

--Lindberg added that there was an agenda item at the January 28 SB meeting with a possible executive session that was a disconnect between the stated agenda item and the statute cited for going into executive session.

Classon mentioned that several statements from emails from allegation #5 were redacted and some redactions seem perfectly reasonable and others make him wonder what is going on here. Layton stated that counsel reviewed the emails before they were provided in the public records request and there are exemptions that allow redactions. Griggs asked counsel if he would like to comment before the SB asks questions. Counsel demurred. Gere asked if we are asking for legal advice at this moment. Classon responded that he wanted procedural advice. Classon asked counsel how the redactions were done. Were they done manually or by AI?

--Beriah Smith responded that the redactions were made manually. Never by AI. Layton stated that we are being asked to release the January 23-26 emails without redactions and the allegation is that the exemptions did not apply.

--Beriah Smith stated that Mr. Katucki is asking for the unredacted emails, regardless of whether the exemptions apply, as a cure to the OML violation. It is up to the SB whether that is the cure. It is not up to Mr. Katucki to decide what cure the SB will adopt, but he may decide to take further action to get the cure he has requested. If the SB acknowledges a violation, there are two parts to the cure. The SB should address how to cure the violation and then adopt a policy to prevent similar violations from occurring in the future.

Layton asked counsel how the SB is to understand what is allowable discourse as far as putting items on the agenda.

--Beriah Smith explained that the statute says that the conversations that involve a quorum of the SB...the number that is sufficient to take action...need to be about agenda setting and scheduling. Further explanation would involve giving legal advice. Griggs asked if putting the emails into the packet would not have avoided a violation.

--Beriah Smith stated that discussions [of a quorum] outside of a warned public meeting is a violation. Just publishing the minutes of that meeting [the email exchange] in the packet doesn't take away the violation. You are limited to agenda setting and scheduling.

Gere stated that his understanding is that two SB members can communicate about topics in the realm of municipal governing. When you have three members as addressees, then you have an issue. He said he understands that agenda setting could be done with communication between one SB member and the Chair.

--Beriah Smith stated that he understands that it is the Chair's responsibility to set the agenda. That is why the OML states that the first item of business is agenda review and acceptance. This gives the full Board the opportunity to check the Chair on agenda

setting. The conversation about whether an item should be deleted or added to the agenda is better had in open session.

--John Carroll stated that it is the Chair's job to create the agenda. As Chair of the State Board of Education, if he received a request for an agenda item, he would inform the Board but also state "do not reply all". Each member would respond individually to the Chair.

Griggs asked counsel if this would be allowed.

--Beriah stated that if they reply only to the Chair and they don't communicate with the other members, that would be fine.

Gere asked if one-on-one communication among members other than the Chair would be allowed.

--Beriah Smith stated that it depends. There are some limits.

--John Carroll stated that, if only one SB member suggests that an agenda item might require an executive session, you should put "possible" executive session on the agenda even if that only was suggested by one SB member. Then the Board can decide during the meeting if they feel an executive session is appropriate.

Swett felt that the SB had already agreed how to cure the wording on the agenda for "possible proposed" executive sessions.

--Beriah Smith stated that there is nothing in the OML requiring the SB to warn an executive session. But the public prefers to be warned about an executive session to decide if they are going to attend.

Griggs stated that residents would be justifiably upset if they learned that town counsel was invited to attend for a possible executive session that wasn't warned on the agenda.

Layton asked with regard to Mr. Katucki's request to disclose the nature of the legal dispute in [the January 28, 2026] agenda item 6, if there is a legal issue, about an action taken by another body or public official, how private should that be?

--Beriah Smith stated that, if you are asking for legal advice by town counsel, you can go into executive session to receive legal advice and legal services.

Layton asked how the Board would know if asking for an executive session for legal advice is using good judgment. Under allegation #3, Mr. Katucki would like us, the Board, to disclose the nature of the legal dispute regarding item 6 [on the January 28, 2026 agenda] which is about the Fire District tax-exempt properties.

--Beriah Smith stated the Board could go into executive session to get legal advice if they felt that having a discussion in an open session could risk waiving the attorney-client privilege. This would place the Board at a substantial disadvantage.

--John Carroll reminded the Board that they cannot just "find" that the Board would be at a substantial disadvantage. Finding requires evidence that has been presented

in the open session. He stated that has been this SB's habit to assert that they find a substantial disadvantage without presenting any evidence.

Swett said the Board members have been told that they cannot discuss a pending legal case, so there is confusion about what can and cannot be disclosed in public session.

--John Carroll gave the Board an example of how a past agenda item could have been handled in the meeting to disclose information to the public without disclosing anything that could be embarrassing to any of the parties involved. He suggested that the Chair, not the Town Manager, should confer with town counsel to determine whether an executive session is, or is not, recommended. The recommendation that it should be the Chair and not the Town Manager is because the Chair has executive authority as this is a matter before the Board.

--Kris Clement commented on the Katucki complaint that mentions Trombley [Trombley v. Bellows Falls Union H.S.]. She spoke to the importance of Trombley as it emphasizes that the analysis needs to be done on a case-by-case basis. She encouraged all Board members to read Trombley if they have not read it yet.

--Beriah Smith responded, "I don't think you would like my opinion on Trombley."

Griggs said he would like to go through the cures. Gere led the Board back to the list of alleged violations. Classon reviewed the allegations: #1 is specifically a single agenda item; #2 same; #3 is an amorphous dispute that is not clear; #4 is a vague reference to a dismissal action that seems out of context – Mr. Katucki sees a disconnect or an inconsistency between the agenda item and the citation of 313(a)(4) as a legal basis the executive session; #5 is a very complicated, very protracted email thread question. Griggs tried to move back to the specific cures requested. The Board agreed that they would acknowledge a violation of allegation #1. Griggs stated on #2, we could acknowledge that the SB's reason for going into executive session did not comply.

--Beriah Smith reminded the Board that they need to decide if they acknowledge or deny each of the 5 allegations. Then the Board has 14 days to institute

5. the cures in policy for any that they acknowledge .

Griggs stated that he has an email from Mr. Katucki extending the deadline to acknowledge or deny. Swett said he would like more time to think it over before the Board decides to acknowledge or deny these allegations. He believes that the Board could have done 3 and 4 better, but he is unclear on whether there was a violation of the OML. Griggs read the email from Mr. Katucki offering an extension to April 22.

--Town Manager Duffy reminded the Board that the packet had a legal letter from the Fire District and the executive session was to get more information. He further stated, if the Board did nothing wrong, then the appropriate action would be to deny.

Griggs stated Mr. Katucki has asked the Board to disclose the nature of the legal dispute and since the letter was in the packet, there should be no reason not to

disclose the nature of the legal dispute.

--John Carroll explained, in that meeting, you did not disclose what was in the packet. What is in the meeting is what counts, not what is in the packet.

Griggs stated that, since the document was in the packet, it is a public document and there is no reason to fight disclosing this. Gere explained that the \$100,000 lawsuit got started because it didn't seem as if some of the complaints were valid. So, how does one acknowledge something that you don't necessarily think is valid?

--John Carroll stated that the minutes simply don't explain why you are going into executive session. The minutes state, "The Chair stated that she would welcome the chance to go into executive session due to legal questions." Calloway raised questions about Lister minutes, the Fire District's tax-exempt parcels and the approval of the PVR317. Then she moved to go into executive session regarding "potential litigation". There was no "specific finding".....no evidence....that would place the public or the Selectboard at a substantial disadvantage.

Griggs said the request is for the Board to disclose the nature of the legal dispute.

--Beriah Smith asked, "is there a legal dispute?" He stated that he could give legal advice and that it would be proper to have an executive session to get his legal advice. Griggs stated that #6 of the January 28 agenda states, "Fire District Tax Exemption Agreement – possible executive session" and page 7 of the packet has the letter from the Prudential Committee to the Selectboard setting out what the disagreement was.

--Beriah Smith stated that he doesn't believe the Selectboard has said there is a disagreement. The Selectboard hasn't come down on either side. The Fire District is saying in the letter that the development rights we granted to you have reverted to us. So far, the Selectboard hasn't taken a position on whether or not the development rights have reverted to the Fire District. Without a decision by the SB, there is not necessarily a dispute.

Swett stated that the SB went into executive session to get advice of counsel on this matter. Griggs stated that he doesn't believe there is any reason we can't disclose.

--Beriah Smith said, "I believe I just did."

Griggs asked if we can be done with #3 by saying we will disclose.

--Beriah Smith said you can't be done until you acknowledge or deny the OML violation. We don't know if it is a dispute yet because the Selectboard hasn't decided if there is a dispute.

--Duffy stated that the letter [in the January 28 SB packet] is from the Fire District attorney

--Beriah Smith stated that he has a lot of advice that he could share with the Board to provide some candid legal advice. Regardless of what we do, Mr. Katucki could still decide to bring a lawsuit, so all of our analysis could be used against us. He stated

that he could provide a lot more legal advice in executive session regarding these allegations that he thinks could be useful.

Classon expressed a concern that one SB member has not seen the 500+ pages from the Katucki PRA request and he, Classon, has not seen the unredacted emails.

--Beriah Smith stated that he has taken out the emails and he could email those to all SB members so that they can see what was redacted. There are only about 6 pages of those referenced by Mr. Katucki.

Layton asked if the Board was being reckless by not going into executive session to get legal advice. Swett said that he thinks the Board has, with Griggs leadership, done a remarkable job to keep this in the public forum to ask many questions and get them answered. But we are also facing possible legal action and we should use executive session as it is meant to be used to talk to legal counsel to get legal advice that, if talked about in open session, could put us at a substantial disadvantage. He thinks that the Board needs to hear from counsel. Classon said he and Gere were not on the SB [on January 28, 2026] and don't understand everything in the minutes.

--Beriah Smith offered to gather pertinent documents for the SB and he could return to the SB meeting on April 22nd to go into executive session.

Layton said Mr. Katucki has graciously offered to delay the expected response to April 22 and several Board members thought that it was wise to take advantage of the delay.

--John Carroll asked if the redacted emails made available to Mr. Katucki under a public records request are therefore public records and could be released to the public.

Griggs asked if the Board could make the emails public.

--Beriah Smith said the Board can do whatever it wants.

--Duffy said this is very complicated. The documents were made available electronically as an accommodation and he doesn't think it is appropriate to release them to the public.

Griggs said his question is, "can it be done?" "If we decide to do it, is there a way to do it?"

--Beriah Smith said they are public records and they are redacted.

Gere said they have the appropriate redactions for Mr. Katucki. Other individuals could have access to them, but they would have to request them. This is a matter of asking for paid services and whether they are now freely available. He suggested that they could view them on a computer terminal at Tracy Hall and they would have to wade through them the same way that anybody requesting public access would have to do. But, setting a precedent that you are going to do all of this filtering work for free seems inappropriate.

--Beriah Smith stated that if someone requested the documents, they could be

provided and be required to pay the cost of producing them.

Griggs thought that sounded reasonable.

--John Carroll stated that we are talking about a few pages of emails. Why can't the public see these few pages? Mr. Katucki has filed his complaint based on the documents he has received. Carroll asked if the public could see these documents and if the Board has seen these documents.

Classon stated that the Board has received copies of the redacted emails. Classon asked if the time period [January 23-26] contains comments by Calloway as referenced in allegation #3.

--Beriah Smith stated that allegation #3 refers to comments made in the SB meeting. Griggs asked if the emails can be produced and does the Board want to make them public. Swett said he understands that John Carroll has asked that these emails be released in the next packet. Classon asked if the emails would be redacted. Griggs reviewed the Katucki request and what John Carroll is requesting. After much discussion among the Board, it was the consensus of the Board that the Katucki allegations in his complaint provide the information to the public.

--John Carroll asked if his request was being denied.

Griggs stated that, for now, yes. He urged Carroll to submit a written request that the Board can get on the agenda. Griggs summarized the consensus and asked if the Board was agreeing to meet next Wednesday at 5:30pm.

--Duffy reminded the Board that they have a public hearing at 6:30 pm and it is too late to reschedule the public hearing. You could warn a Special meeting starting at 5:30 and then open the Regular meeting at 6:30.

Layton asked if a meeting at 5:30pm was to have an executive session to get advice of counsel. Griggs stated that we could have a one-hour meeting and then continue the discussion in the regular meeting.

--Beriah Smith estimated that it would take 30-45 minutes for his legal advice. He asked if the Board was also thinking about dealing with cures on the 22nd and then take the 14 days to craft policy for any allegations that the Board acknowledges.

Board members stated that they wished to meet with counsel to decide how to respond to the allegations and then take the 14 days to craft policy for any cures for any violations that were acknowledged. Layton said that she would like to have the motions ready in order to save time.

--Duffy stated he will be remote on April 22 and that he can make a 5:30 special meeting that will need to be warned.

--John Carroll thanked the Board for the hard work they have put into this. He confirmed that the meeting on the April 22 would be a continuation of this meeting. He reminded the Board that they need to acknowledge the violations or deny them. He

clarified that allegations 1 and 2 have two questions each. So that is 4 questions that the Board has to decide. Allegation #3 is a single question. Allegation #4 is also a single question. Allegation #5 is harder to understand for a lay person who hasn't seen all of the material. There appears to be seven questions that the Board needs to decide by the end of the meeting on April 22. If you don't do that, then the law says you are in denial of everything.

Classon said the allegations don't necessarily align with the requested cures so he would like counsel to explain this. Gere asked if this is being tabled to next week or was this agenda item completed at this meeting.

--Beriah Smith said that there are several ways to do this. As long as it is on the next agenda and is properly warned, that would be fine.

Griggs confirmed that he will create an agenda for a special meeting for the meeting that begins at 5:30.

--John Carroll questioned why the Board wouldn't recess to a time and date certain. The Board decided to hold a special meeting at 5:30pm with its own agenda and then the Board will hold its regular meeting at 6:30pm which will have a separate agenda.

--Beriah Smith said that the Board can bring this meeting to a close and warn a new meeting with this topic on the agenda.

YouTube Timestamp: 3:02:44

Motion by Layton to adjourn the meeting (2nd Classon). The vote was unanimous.

Minutes taken by Pam Smith.

Minutes approved on May 13, 2026

Kimo Griggs, Selectboard Chair