







New England **First Amendment** Coalition

Protecting First Amendment Freedoms and the Public's Right to Know

111 Milk Street, Westborough MA 01581 | 508.983.6006 | nefac.org      

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

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SENT VIA EMAIL TO MATTHEW@MILTONLIBRARYVT.ORG

Town of Milton
Public Library Board of Trustees
43 Bombardier Road
Milton, VT 05468
Attn: Board Chair Alan Fletcher

November 14, 2024

RE: Public Recording of Open Meetings

Dear Chair Fletcher,

We're writing on behalf of the New England First Amendment Coalition and the Vermont Press Association.

It is our understanding that your Board of Trustees may be discussing tonight whether or not members of the public should be prohibited from recording your meetings.¹ If this is the case, we strongly encourage you to first consider the information in this letter as it pertains to the public's right to record. We would also like to learn more about the concerns prompting this discussion and would welcome an opportunity to hear from your members and to provide additional guidance on the issue.

First, as we've shared with other government bodies seeking to limit the public's right to record open meetings, recording is not just legally protected but it's encouraged under the law. As explained by "numerous [federal] circuit and district courts," the "First Amendment protects the filming of government officials in public spaces." *Glik v. Cunniffe*, 655 F.3d 78, 83 (1st Cir. 2011) (listing cases). This includes filming government officials during public meetings like your own.

Second, and similarly, Article 6 of the Constitution of Vermont states: "That all power being originally inherent in and co[n]sequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them." Vermont's Open Meetings Law (OML) exists to effectuate this value: "[P]ublic commissions, boards, and councils and other public agencies in this State exist to aid in the conduct of the people's business and are accountable to them pursuant to Chapter I, Article VI of the Vermont Constitution." 1 V.S.A. § 311(a).

The right to record public meetings is solidly established in Vermont law and practice. In its 2019 Guide to Open Meetings, the Vermont Secretary of State's Office declared "the open meeting law to permit members of the public to record or film public meetings, so long as this is not done in a manner that disrupts the meeting." Although the publication does not define disruption, it can hardly be said that an individual passively and quietly recording a public meeting "disrupts" that meeting. For that reason, such recordings are common practice for meetings of public bodies throughout the state, and allowing the public to record these meetings facilitates this key constitutional value.

Third, freely allowing recordings of meetings increases not just access, but equity. Residents of Milton living with disabilities rely on the reasonable accommodation of viewing a recording of the meeting at a later time. The OML clearly states that “[a] meeting of a public body is subject to the public accommodation requirements of 9 V.S.A. chapter 139,” which requires government entities to make reasonable accommodations to allow people with disabilities an equal opportunity to participate in its services.

Although the Board of Trustees can record its own meetings, it is much more convenient for these individuals who need accommodations to watch the meetings on a device of their choice at a time of their choosing. Multiple recordings are also important, especially when sound systems are not perfect and audio may not be fully heard on each recording. This concern is especially acute for Vermonters with hearing impairments.

Lastly, we want to emphasize that recent changes to the OML requiring government bodies to record their own meetings are intended to increase transparency. The new laws are not intended to restrict individuals from creating more transparency through recordings of their own.

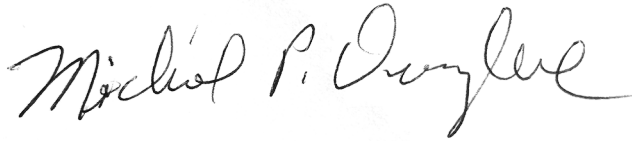
For all of these reasons, we urge your Board of Trustees to continue to allow the recording of your meetings. If any policy is being considered to limit this right, we again ask that you first consider the arguments made in this letter and to meet with representatives from our organizations for further discussion.

Thank you for your time and consideration. We stand ready to assist your Board of Trustees and the town of Milton in complying with open government laws.

Respectfully,



Justin Silverman
NEFAC Executive Director



Michael Donoghue
VPA Executive Director

¹ See <https://www.facebook.com/events/492734320467226> for tonight’s meeting agenda. Listed is an item titled “Discussion of Act 150 (new library statues) and new Open Meeting Law requirements.” It’s our understanding that this discussion will address public recording concerns previously expressed by Board of Trustee members and meeting attendees. Minutes from June 12, for example, detail a request to create a policy “limiting the ability of private individuals to make private recordings of individuals in the audience of library board meetings.” See https://www.miltonvt.gov/AgendaCenter/ViewFile/Minutes/_06122024-1051.