

Seacoast online, Legal expert: Meeting was illegal (4.25.12)

YORK — The York Board of Selectmen held an illegal executive session Sunday afternoon, a municipal law expert said this week, because the meeting was not properly posted and the public was not notified.

Selectmen held the closed session for the purpose of the town manager's annual review at 1 p.m. Sunday, April 22, in the York Public Library, according to Chairwoman Tracy Jackson McCarty.

"It was the only day everybody could do it," Jackson McCarty said Tuesday.

Both Jackson McCarty and Town Manager Rob Yandow said Monday night they thought the meeting had been posted and the media alerted as part of an "e-mail blast."

The meeting did not appear on the town's Web site, www.yorkmaine.org.

That the non-public meeting wasn't properly posted nor the public notified was "certainly not intentional," Jackson McCarty said Tuesday.

Yandow, who did not attend Sunday's meeting, acknowledged a mistake was made.

Susie Scott, assistant to the town manager, informed selectmen and the town manager of the meeting by e-mail Wednesday, April 18. She was then absent Thursday and Friday.

Yandow said Tuesday that Scott was originally expected back to work on Friday and would likely have sent out an amended meetings list for the week that day.

Technology Coordinator Dana Moulton sent out a meetings list by e-mail Friday but that schedule was for the week beginning Monday, April 23, and did not include Sunday's meeting.

Selectmen did not make any decisions during the meeting, nor did they go into a public session to announce any determination, according to Jackson McCarty.

"It was a violation of the law," said Sigmund Schutz, an attorney with Preti Flaherty of Portland and a representative for the Maine Press Association. "The real penalty is any action (taken at the meeting) could be declared null and void."

As no action was taken, the main focus now should be how town officials can take steps to avoid non-posted meetings in the future, he said.

The Maine Revised Statutes for Freedom of Access, Public Notice, states, "Public notice shall be given for all public proceedings as defined in section 402, if these proceedings are a meeting of a body or agency consisting of three or more persons. This notice shall be given in ample time to allow public attendance and shall be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served by the body or agency concerned."

