



**Wednesday, October 19, 2022**  
**Select Board Meeting Minutes**  
**Zoom Meeting ID: 810 8427 0145**

Pursuant to notice duly filed with the Town Clerk, a meeting of the Select Board was held at 6:00p.m. in the Hadley Council on Aging, 46 Middle Street and as a hybrid meeting via Zoom for the Town of Hadley.

Present were: Jane Nevinsmith, Chair; Joyce Chunglo, Clerk; Randy Izer, Member; Molly Keegan, Member  
Amy Parsons, Member arrived at 6:05 pm

Also present were Carolyn Brennan, Town Administrator, Jennifer Sanders James, Assistant Procurement Officer; Dan Zdonek, Assessor; Jen Trovato, HR Manager; Susan Glowatsky, Town Collector; Linda Sanderson, Town Treasurer; Mitch Kuc, HPD Lieutenant; Joe Boisvert, Resident; Emma Dragon, Resident; Pamela Rogers, Amherst Housing Authority; Mary Billion, Hadley Housing Authority; Susan Mosler, Board of Health; Margaret Mastrangelo, Board of Health; Jack Czajkowski, Climate Change Committee; William Dwyer, Planning Board; Greg LaSage, Park and Recreation Director

**1. Call to Order**

**1.1 Call to order**

**\*Amended -10/19/2022 at 10:45 AM**

The Select Board will convene a hybrid meeting on Wednesday, October 19, 2022 at 6:00 p.m. at the Hadley Senior Center at 46 Middle Street, Hadley, MA 01035 and on Zoom Meeting ID: 810 8427 0145 there and then to act on the following agenda.

The public may access the meeting remotely by using a computer or telephone and follow the instructions below:

Time: Oct 19, 2022 06:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us06web.zoom.us/j/81084270145?pwd=KzNsck9TYXVmZS9yS2R5Mzl4TWWhNZz09>

Meeting ID: 810 8427 0145

Passcode: 033602

Jane Nevinsmith states” In accordance with Mass. General Law Chapter 22 of the Acts of 2022 signed by Governor on February 15, 2022, I announce that this meeting of the Select Board is being recorded by Hadley Media, the Select Board’s Office via Zoom and ask if there is anyone present who is also recording this meeting.

No one is recording.



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**2. Public Comments**

**2.1 Public Comments**

There were no public comments.

**3. Consent Agenda**

**3.1 Consent Agenda**

Warrants	AP2314INS, AP2314, AP2314V, AP2314S, AP2315S, AP2315, PR2306 SUPPLEMENTAL, PR2307
Minutes	-

Motion to approve the consent agenda.

Motion: Izer

Second: Chunglo

Vote: 4-0-0

**4. Old Business**

**4.1 Z.G. Motors Class II Auto Dealer's License**

Armani George from Z. G. Motors has applied for a Class II Auto Dealer's License at 249 Russell Street.

Jennifer Sanders James states that the application is complete and has received his surety bond. This is a license that existed prior but due to the time lapse they went back to the Planning Board for review of two vehicles on site.

Motion to approve Z.G. Motors Class II Auto Dealer's License contingent upon verification of good standing with town departments and complying with conditions from the Planning Board for two vehicles for sale on property.

Motion: Keegan

Second: Parsons

Vote: 5-0-0

**4.2 Sav- A- Buck Class II Auto Dealer's License**

Kevin Michelson from Sav-A-Buck LLC., has applied for a Class II Auto Dealer's License at 8 Pine Hill Road.

Randy Izer states that he is recusing himself from the this vote due to a conflict of interest.

Jennifer Sanders James states that the application is complete, and the site has been reviewed by the Planning Board for 1 vehicle on site. However, there is an outstanding driveway that needs to be completed by Kevin Michelson and I recommend making the license contingent upon the successful completion of the permit.

Motion to approve Sav- A – Buck Class II Auto Dealer's License contingent upon successful completion of his driveway permit with the DPW and complying with the conditions from the Planning Board for 1 vehicle for sale on the property.



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Motion: Chunglo

Second: Keegan

Vote: 5-0-1

**4.3 Attorney General Determination**

The Select Board will read the findings of the Attorney General Open Meeting Complaint (OML 2022-164) into the Select Board minutes.

Jane Nevinsmith read the complete Attorney General Open Meeting Complaint (OML 2022-164) which is attached to these minutes along with emails from July 7, 2021, as requested by the Attorney General Office.

**4.4 Warrant Recommendations**

The Select Board will make their warrant recommendations and the division of motions for the Special Town Meeting Warrant.

Carolyn Brennan, Town Administrator presents the Special Town Meeting warrant for review and recommendations from the Select Board.

Article 1 Omnibus Budget – General Fund

Motion: Chunglo

Second: Keegan

Vote: 5-0-0

Division of Motion: Carolyn Brennan

Article 2 Budget – Sewer, Water and Hadley Media Enterprises funds

Motion: Chunglo

Second: Parsons

Vote: 5-0-0

Division of Motion: Carolyn Brennan

Article 3 Clean up Prior Capital Balances

Article 3.1 and Article 3.2

Motion: Chunglo

Second: Parsons

Vote: 5-0-0

Division of Motion: Randy Izer

Article 4 Capital Articles

Motion: Chunglo

Second Keegan for discussion

Vote: 5-0-0

Division of Motion:

Molly Keegan asks why all the capital items were included in one warrant article instead of multiple articles which was typical in the past.

Carolyn Brennan states that this is how the Finance Committee wanted to present the capital articles since they felt that they were all necessary items.

Randy Izer states that he is concerned about how Article 4 is only one motion.





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Greg LaSage presents his plan for fee structure for school use and facility reservations. The Park and Recreation has been reserving space for different organizations without insurance and having them on Park and Rec's.

Susan Glowatsky raises concerns about insurance liability with this policy.

The Select Board tables this discussion and asks that Greg LaSage follows up with Susan Glowatsky about the insurance and with the school for why organizations are coming through Park and Recreation instead of contacting them directly.

**4.6 DPW Building Feasibility Committee Appointments**

The Select Board will appoint the following members to DPW Facilities Feasibility Committee:

Scott McCarthy, DPW Director

Gary Berg, Building Maintenance Supervisor

Tommie Quinlan, Building Inspector

Randy Izer, Capital Planning Committee

Andy Klepacki, Finance Committee

Community Member Pending

Community Member Pending

Carolyn Brennan asks that the Select Board appoint the members listed and that we are still seeking two community members.

Jane Nevinsmith asks that interested community members contact the Select Board by emailing [info@hadleyma.org](mailto:info@hadleyma.org).

Motion to appoint the DPW Building Feasibility Committee with the following members:

Tommie Quinlan, Gary Berg, Randy Izer, Andy Klepacki, and Scott McCarthy.

Motion: Keegan

Second: Parsons

**5. New Business**

**5.1 Interview Candidates and Appoint one for Board of Health Vacancy**

Interview candidates for Joint Appointment by Select Board and Board of Health to fill a Board of Health vacancy until the next town election.

Candidates are:

Joseph Boisvert of 6 Mount Warner Road

Emma Dragon of 6 Maple Avenue

John Mieczkowski Jr of 269 Bay Road

**The Board of Health calls their meeting to order at 7:45 pm.**

The joint meeting between the Select Board and the Board of Health to fill the open seat on the Board of Health.



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Randy Izer states that he has filed a Conflict-of-Interest form because Joe Boisvert is a client of his business.

Joe Boisvert offers an introduction and states his interest in the Board of Health opening. After several questions from the Board of Health and the Select Board Joe Boisvert withdraws his name from consideration.

Emma Dragon offers an introduction and states her interest in the Board of Health opening.

The Select Board and Board of Health asks Emma Dragon several questions about her interest in the position.

John Mieczkowski, the 3<sup>rd</sup> applicant was not able to attend the meeting.

Motion to appoint Emma Dragon to the vacant Board of Health position until the next town election.

Motion: Parsons

Second: Chunglo

Vote: 4-0-1

Board of Health

Motion to appoint Emma Dragon to the vacant Board of Health position until the next town election.

Mosler – Aye

Mastrangelo – Aye

## **5.2 Hadley Housing Authority State Appointee**

The Select Board will appoint David Moskin to the Hadley Housing Authority. This agenda item was passed over by the Select Board.

Pamela Rogers asks that to speak even though the item is not being discussed tonight. She states that the state was not officially notified of the state appointee resignation until September 7<sup>th</sup>. They have received interest from 2 people and David Moskin's information has been sent to Governor Baker's office.

Hadley Housing Authority requests a meeting with the Select Board. This will be added to a future agenda.

## **6.1 Town Administrator Report**

The Town Administrator will report on special projects, departmental functions, and community events.

## **7. Select Board Members Items for Future Discussion**

## **8. Select Board Members Liaison Report**

## **9. Other Items Not Anticipated 48 Hours in Advance**

## **9.1 Climate Change Emergency Declaration - Revision**



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The Climate Change Committee has revised the Climate Change Declaration on the Special Town Meeting Warrant.

Jack Czajkowski from the Climate Change Committee states that the committee made some significant changes after their public forum. The committee would like to change the declaration.

Carolyn Brennan informs Jack Czajkowski that this will have to be amended on the floor of town meeting.

**10. Announcements**

Joyce Chunglo announces the Trunk or Treat on October 28<sup>th</sup> at the Public Safety Complex and the Rag Shag Parade on October 30<sup>th</sup> at Hadley American Legion Post 271.

Joyce Chunglo offers condolences to the families of the following individuals Janice Slavaka, Richard Sullivan, Mary Murphy, Nancy Russell, Claire Yezierski.

Jane Nevinsmith announces the Friends of Lake Warner Concert on November 6<sup>th</sup> and the Friend of the COA Wine Tasting on October 28<sup>th</sup>.

**11. Executive Session**

**11.1 Executive Session**

The Select Board will hold an executive session for the following purposes per M.G.L. c. 30A s. 21 (a) to discuss strategy with respect to collective bargaining to consider voluntary recognition consideration for a new union; if the chairperson declares that an open meeting may have a detrimental effect on the bargaining and negotiating positions of the public body.

Motion to enter executive session and not to reconvene in executive session.

Motion: Chunglo

Second: Parsons

Vote: 5-0-0

Jane Nevinsmith states "Chair of the Hadley Select Board, I state that the Board has moved and seconded to enter into executive session, and that I state that discussing the matter in open session will have an adverse effect on the Town of Hadley."

**12. Adjournment**

**12.1 Adjournment**

Meeting was adjourned to executive session at 8:39 pm.

Respectfully submitted,

Jennifer Sanders James

Approved 10/20/2022 Select Board Meeting.



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY  
ATTORNEY GENERAL

TEL: (617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

August 19, 2022

OML 2022 – 164

**VIA EMAIL ONLY**

Jeffrey T. Blake, Esq.  
KP Law  
[jblake@k-plaw.com](mailto:jblake@k-plaw.com)

**RE: Open Meeting Law Complaint**

Dear Attorney Blake:

This office received a complaint from Paulette Kuzdeba on October 15, 2021,<sup>1</sup> alleging that the Hadley Select Board (the “Board”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Board on or about July 14, and you responded on behalf of the Board by letter dated August 19. The complaint alleges that the Board deliberated outside of a posted meeting regarding whether to reduce the membership of the Hadley Conservation Commission (the “Commission”) and whether to reappoint to the Commission Ms. Kuzdeba and another member, Steve Szymkowicz.

We appreciate the patience of the parties while we investigated this matter. Following our investigation and review, we find that the Board deliberated outside of a posted meeting by email on one occasion but do not otherwise find sufficient evidence to conclude that the Board deliberated outside of a noticed meeting. In reaching this determination, we reviewed the Open Meeting Law complaint, the Board’s response, the request for further review, additional documents and information provided by the Complainant and the Board, and a video recording of the Board’s meetings held on May 12 and July 7.<sup>2</sup> We also communicated with Counsel for

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<sup>1</sup> All dates are in 2021 unless otherwise stated.

<sup>2</sup> A video recording of the Board’s May 12 meeting can be found at [https://www.youtube.com/watch?v=IG4KuWiEs8A&list=PLuAxVh4DPo5z42FhMfNCjYMONvwEkTp\\_&index=33](https://www.youtube.com/watch?v=IG4KuWiEs8A&list=PLuAxVh4DPo5z42FhMfNCjYMONvwEkTp_&index=33). A video recording of the Board’s July 7 meeting can be found at <https://www.youtube.com/watch?v=djC22GSuXaA&feature=youtu.be>.

the Board<sup>3</sup> on numerous occasions seeking additional information. Finally, we conducted a phone interview with Board member Joyce Chunglo.

At the outset, we note that our review is limited to whether the Board violated the Open Meeting Law by deliberating outside of a posted meeting; we do not review, and take no position on, whether the Board was authorized to or justified in reducing the number of Commission members and not reappointing Ms. Kuzdeba.

## FACTS

We find the facts to be as follows. The Complaint stems from a July 7 Board meeting, and events surrounding that meeting, in which the Board voted to reduce the membership of the Commission and did not reappoint Ms. Kuzdeba, who had served on the Commission for many years and was the Commission's chair at the time.

The Board is a five-member public body; therefore, three members constitute a quorum. On May 8 and 11, the Board and the Board's then-Chair, David Fill,<sup>4</sup> received three emails from citizens expressing frustration or concerns regarding the Commission. On May 12 the Board held a meeting, and during public comment heard from a citizen regarding his dissatisfaction with the Commission. In response, Board member Joyce Chunglo asked the citizen to send his concerns to the Board in writing and noted that the Board was gathering information for future use. Board member John Waskiewicz<sup>5</sup> then stated that he watched two prior Commission meetings and that he believed the Commission was having some problems. Mr. Waskiewicz also stated that he wished to see the Commission membership reduced from seven members to five. Ms. Chunglo spoke a few more times briefly and a few more citizens commented regarding the first citizen's complaints.

On July 1, the Board posted notice for a meeting to be held on July 7 at 6:00 p.m. The notice read, in relevant part,

### 7. Old Business

#### 7.1 Boards and Committees - Annual Appointments Renewals - Additional . . . Conservation Commission - Paulette Kuzdeba

Stephen Szymkowicz

The Select Board will also discuss the lowering of the numbers of members of the Conservation Commission from 7 to 5.

On July 6, Ms. Chunglo called Ms. Kuzdeba and discussed the above notice topic as it related to the Commission. Although Ms. Kuzdeba and Ms. Chunglo disagree about the substance of the conversation, both agree that the conversation took place. Ms. Kuzdeba contends that Ms. Chunglo stated during the call that the Board had already decided to reduce the number of Commission members and that, therefore, there was no reason to reappoint Ms. Kuzdeba or Mr. Szymkowicz. Ms. Chunglo contends that she did

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<sup>3</sup> For the sake of clarity, we refer to you in the third person.

<sup>4</sup> Mr. Fill no longer serves on the Board.

<sup>5</sup> Mr. Waskiewicz no longer serves on the Board.

not say that the Board had already decided to reduce the Commission, but rather that she simply informed Ms. Kuzdeba that this topic would be discussed at the next day's meeting.

On July 7 at 8:56 a.m., Board member Jane Nevinsmith<sup>6</sup> emailed the Town Administrator stating, in part, "attached is from the state regarding conservation commissions. It appears that this is a town meeting issue, not a select board choice. Do you want me to let David know, or can you do that?" Attached to the email was a document including an excerpt from the Massachusetts Association of Conservation Commissions' handbook regarding the size of, and changes to the size of, conservation commissions. The document also included a comment about the creation of the Commission. That same day, at 3:19 p.m., the Town Administrator forwarded Ms. Nevinsmith's email to Chair Fill. Mr. Fill then forwarded the email from the Town Administrator to Mr. Waskiewicz at 4:18 p.m., stating "Jane sent to [the Town Administrator]. I read that as 3-7 members which we are keeping 5 so we are following town meeting vote. If we need to appoint 7 then we keep Sinky, get rid of [Ms. Kuzdeba] and appoint Joe Boisvert for 7."

On July 7 the Board convened its meeting. In total, there was approximately one hour of discussion related to reducing the size of the Commission and reappointment of Ms. Kuzdeba and Mr. Szymkowicz. During this time, the Board heard from members of the public, the Commission, and Commission staff. Members of the Board discussed the topic as well. Ms. Nevinsmith expressed her concern that the Board did not have authority to reduce the membership of the Commission and advocated that the Board not make a decision that evening. Other Board members expressed their support for reducing the number of Commission members and for not reappointing Ms. Kuzdeba and Mr. Szymkowicz, specifically noting that they had received complaints about the Commission. Throughout the discussions, Ms. Kuzdeba spoke a few times and there was back and forth regarding whether the Commission had ever been made aware of the complaints that supposedly formed part of the basis for reducing the size of the Commission and not reappointing Ms. Kuzdeba and Mr. Szymkowicz.

Ultimately, the Board voted to reappoint Mr. Szymkowicz, but not Ms. Kuzdeba, and to reduce the Commission by one member.

### DISCUSSION

The Open Meeting Law was enacted "to eliminate much of the secrecy surrounding the deliberations and decisions on which public policy is based." Ghiglione v. School Board of Southbridge, 376 Mass. 70, 72 (1978). The law states, in relevant part, that "[e]xcept in an emergency, . . . a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays." G.L. c. 30A, § 20(b). Except when convened in executive session, "all meetings of a public body shall be open to the public." G.L. c. 30A, § 20(a).

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<sup>6</sup> Ms. Nevinsmith now serves as Chair of the Board.

A “meeting” is defined, in relevant part, as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” G.L. c. 30A, § 18. The Law defines “deliberation” broadly as any “oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.” Id. A “quorum” is a simple majority of the members of a public body. Id. A one-way communication from one public body member to a quorum on matters within the body’s jurisdiction constitutes deliberation for purposes of the Open Meeting Law, even if no other public body member responds. See OML 2016-104; OML 2015-33; OML 2012-73.<sup>7</sup> A public body may not engage in serial communication whereby a quorum communicates in a non-contemporaneous manner outside of a meeting on a subject within the public body’s jurisdiction. See OML 2015-3; OML 2012-84; OML 2011-27; McCrea v. Flaherty, 71 Mass. App. Ct. 637 (2008) (holding that private serial communications violate the spirit of the Open Meeting Law and may not be used to circumvent the intent of the law).

We find that the Board deliberated outside of notice meeting on July 7 when Mr. Fill forwarded Ms. Nevinsmith’s email regarding the Board’s authority to reduce the size of the Commission to Mr. Waskiewicz, thus causing the communication to reach a quorum of the Board. We order the Board, if it has not already done so, to release to the public the full chain of July 7 emails.

We received inconsistent explanations from Board members regarding whether additional communications concerning the membership of the Commission occurred. Although we are concerned that the Board may have further discussed the membership of the Commission, following our investigation, we were unable to find sufficient evidence of improper deliberation. We note that, based on correspondence reviewed in the course of our investigation, it appears that Mr. Fill may have had a practice of communicating with Board members individually, including by phone, regarding matters within the Board’s jurisdiction, including discussing upcoming votes, in a way that clearly would violate the Open Meeting Law. We take this opportunity to remind the Board that deliberation is broadly defined as any communication between or among a quorum of the Board on any business within its jurisdiction and that deliberation may only take place during a meeting for which notice has been properly posted and which is open to the public, unless a lawful executive session has been convened. Furthermore, impermissible deliberation can occur in a serial manner, including by calling a quorum of a public body individually to convey the same information or to poll members. See OML 2011-27; OML 2020-160.

### CONCLUSION

For the reasons stated above, we find that the Board improperly deliberated via email July 7 when Chair Fill forwarded an email from one Board member to a third Board member. We order the Board’s immediate and future compliance with the Open Meeting Law, and we caution that similar future violations may be considered evidence of intent to violate the law and may result in the imposition of \$1,000 civil penalty per intentional violation. Additionally, we

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<sup>7</sup> Open Meeting Law determinations may be found at the Attorney General’s website, [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).

order the Board, if it has not already done so, to release to the public the full chain of July 7 emails.<sup>8</sup>

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with the Board or with our office. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



Elizabeth Carnes Flynn  
Assistant Attorney General  
Division of Open Government

cc: Jane Nevinsmith, Chair, Hadley Select Board (via email: jnevinsmith@hadleyma.org)  
Paulette Kuzdeba (via e-mail: [REDACTED])

**This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.**

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<sup>8</sup> The Board may release the chain of July 7 emails either by reading them aloud at an open meeting or by attaching the emails to the minutes of an open meeting.

## Town Administrator

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**From:** Diane and Jane Nevinsmith <nevinsmith21@charter.net>  
**Sent:** Wednesday, July 7, 2021 8:56 AM  
**To:** Town Administrator  
**Subject:** [EXTERNAL] Conservation Commission  
**Attachments:** MACC Handbook citation.docx

Sorry to hear about your health - I hope you are allowing your body to recover. Let me know if I can do anything.

attached is from the state regarding conservation commissions. It appears that this is a town meeting issue, not a select board choice. Do you want me to let David know, or can you do that?

## Hadley BoS and Licensing

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**From:** David Fill  
**Sent:** Wednesday, July 7, 2021 4:18 PM  
**To:** John Waskiewicz  
**Subject:** Fwd:  
**Attachments:** MACC Handbook citation.docx

Jane sent to Carolyn. I read that as 3-7 members which we are keeping 5 so we are following town meeting vote. If we need to appoint 7 then we keep Sinky, get rid of Paulette and apppint Joe Boisvert for 7

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David J. Fill II  
Select Board Member  
Town of Hadley, MA  
Email: dfill@hadleyma.org  
Mobile: 571-439-6410

### PUBLIC RECORD NOTICE:

E-mails and other forms of electronic communications to/from Town officials, departments, and employees may be subject to the Massachusetts Public Records Law, M.G.L. c. 66 § 10.

### CONFIDENTIALITY NOTICE:

The contents of this email message and any attachments are intended solely for the addressee(s) and may contain confidential and/or privileged information and may be legally protected from disclosure. If you are not the intended recipient of this message or their agent, or if this message has been addressed to you in error, please immediately alert the sender by reply email and then delete this message and any attachments. If you are not the intended recipient, you are hereby notified that any use, dissemination, copying, or storage of this message or its attachments is strictly prohibited.

Begin forwarded message:

**From:** Town Administrator <Townadmin@hadleyma.org>  
**Date:** July 7, 2021 at 15:19:35 EDT  
**To:** David Fill <dfill@hadleyma.org>

From Jane