



City of Malden

Malden City Hall
215 Pleasant Street
Malden, MA 02148

Meeting Minutes - Final City Council

*Council President Neal Anderson,
Councillor David Camell,
Councillor Paul Condon,
Councillor Peg Crowe,
Councillor Deborah DeMaria,
Councillor Amanda Linehan,
Councillor Barbara Murphy,
Councillor Ryan O'Malley,
Councillor Jadeane Sica,
Councillor Craig Spadafora,
Councillor Stephen Winslow*

Tuesday, March 9, 2021

7:00 PM

REMOTE VIRTUAL MEETING

Committee of the Whole Meeting

96-21

In accordance with Governor Baker's 3/12/20 Order Suspending Certain Provisions of the Open Meeting Law, G.L.c.30A,ss18, and the Governor's 3/23/20 Revised Guidance on Order by the Governor Prohibiting Assemblage of More than Ten People, this meeting will be conducted via remote participation.

In person attendance by members of the public is prohibited, and all effort will be made to permit public attendance of this meeting, in the manner specified below, via remote access by internet, telephone, and if available via public broadcast of the meeting by Malden Access Cable Television on public access television channels.

Public access will also be provided by posting draft minutes, and/or a transcript, recording, or record of the meeting on the city of Malden website at cityofmalden.org as soon as practicable after the meeting.

Additional information/guidelines for the public can be found here:

<https://www.cityofmalden.org/DocumentCenter/View/2487/Public-Information-on-Public-Meetings-and-Hearings-during-the-Declared-State-of-Emergency-related-to-COVID19PDF>

Members of the public who wish to attend remotely can do so using the following information:

Please click the link below to join the webinar:
<https://cityofmalden.zoom.us/j/97330339889?pwd=bjR0TnZ1aTZMOFpjTyt2ZGI5SHMxUT09>
Passcode: 976594

Or iPhone one-tap :

US: +19294362866,,97330339889#,,,,*976594#
+16465189805,,97330339889#,,,,*976594#

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Webinar ID: 973 3033 9889

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<https://cityofmalden.zoom.us/j/976594>

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Maria Luise, ADA Compliance Coordinator at
mluise@cityofmalden.org

<mailto:mluise@cityofmalden.org> or 781-397-7000, Ext 2005.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE IN HONOR OF SERVICEMEN & WOMEN

Councillors Spadafora and Sica requested a moment of silence for Athena Hartwell who was tragically killed by a motor vehicle while walking on Huntington Street.

3. ROLL CALL

Also in attendance was City Solicitor Kate Fallon.

Present - Councillors: 11 - Neal Anderson, David Camell, Paul Condon, Peg Crowe, Deborah DeMaria, Amanda Linehan, Barbara Murphy, Ryan O'Malley, Jadeane Sica, Craig Spadafora and Stephen Winslow

4. BUSINESS

5. EXECUTIVE SESSION

97-21

The City Council will vote to go into executive session with legal counsel in accordance with Exemption One, Massachusetts General Laws Chapter 30A Section 21(a)(1), and Exemption Seven, Massachusetts General Laws Chapter 30A Section 21(a)(7), to comply with or act under the authority of any general or special law, specifically to comply with the provisions of Massachusetts General Laws Chapter 30A Section 23(b), to act on the pending Open Meeting Law Complaint filed by Ryan O'Malley on February 25, 2021, against Councilor Spadafora, Chair of the Rules and Ordinance Committee, the Rules and Ordinance Committee and the City Council.

Sponsors: Neal Anderson

Councillor DeMaria made a motion to suspend Council Rules and not go into Executive Session to discuss paper 97-21, seconded by Councillor Spadafora and it was so voted by roll call vote; Camell (y), Condon (y), Crowe (y), DeMaria (y), Linehan (y), Murphy (y), O'Malley (y), Sica (y), Spadafora (y), Winslow (y), Anderson (y).

President Anderson stated it is better to discuss this in open session and the council will be looking for legal guidance. Attorney Fallon agreed with Council President Anderson about addressing the matter in open session and added that is typically how these matters are handled. Councillor Spadafora wanted the complaint to be heard in open session. Council President Anderson told the council he has directed the City Solicitor to set up an open meeting law training for the council, in person, with the City Clerk and Clerk of Committees to be held on a Tuesday in the Council Chambers. President Anderson turned the meeting over to City Solicitor Fallon. Before Attorney Fallon began, Councillor Spadafora read a statement regarding the complaint.

Attorney Fallon gave a 21 page slide presentation on the Open Meeting Law and the specifics of the Complaint. Attorney Fallon explained the term deliberation from the AG OML Guide (2018), Quorums, what does not constitute a deliberation, email communications, the emails that triggered the OML Complaint with her analysis of each email. Attorney Fallon informed the Council it would need to vote on remedial action and how it would like to answer Councillor O'Malley's complaint in writing. The Council must notify Councillor O'Malley and the Attorney General of remedial action taken. Attorney Fallon outlined 4 points of Remedial Measures (slide #17). Attorney Fallon stressed that the council utilize their administrative staff when wanting to transmit documents. Attorney Fallon believes the initial email Councillor O'Malley and Spadafora had was a zoning paper on an Ordinance agenda item and did not reach a quorum, Councillor Spadafora's response to the email went to the same people as Councillor O'Malley's initial email and was on procedure and in her opinion did not constitute a deliberation. It is Attorney Fallon's analysis that Councillor Crowe's response did not constitute a deliberation. Attorney Fallon stressed to the council do not send group emails. Attorney Fallon felt the 1/26 email from Councillor Spadafora to the full council about land parcels is a tough analysis and could be considered an OML gray area and although Councillor Spadafora sent the email for informational purposes, the AG might determine it a deliberation. Councillor Winslow thanked Attorney Fallon for a thorough presentation. Councillor Winslow asked about reaching out for sponsors on papers. Councillor O'Malley wanted confirmation that the OML complaint would be part of the minutes, this was confirmed by Clerk Lucey. Solicitor Fallon told the Council the Complaint was against City Council/Rules and Ordinance Committee and the Council will need to vote if Councillor O'Malley needs a written response. Councillor O'Malley asked "how did we get here" and stated he could have been filing complaints for the last five years. Councillor Linehan asked about the use of list serves, Attorney Fallon answered it's OK but need to be careful about discussions taking place with other councillors. Councillor DeMaria thanked Attorney Fallon for the thorough presentation and asked if the OML has changed much which Attorney Fallon answered no and the law has been consistent. Councillor Crowe welcomed the additional training. Councillor Sica spoke of the difficulties of the past year without meeting in person and that she will not be using email going forward. The remedial measures are:

- 1) training/legal assisting the council
- 2) the clerk will issue a directive to the council regarding best practices avoiding OML violations going forward
- 3) City Solicitor Fallon has spoken to Councillor Spadafora, Clerk Lucey and Clerk of Committees Cagno

Attorney Fallon told the council, the remediation goes to Councillor O'Malley and if he disagrees the Attorney general will weigh in. Attorney Fallon stressed the training is very important.

Councillor Murphy wanted to make it clear that Councillor Spadafora's actions were not egregious or intentionally trying to violate the OML.

Councillor O'Malley felt his intentions were misrepresented and the reason for the complaint is that we should be having our discussions in open meetings and not through email.

Councillor Spadafora wanted to make a point he was responding to Councillor O'Malley's email.

Councillor Camell made the motion to have City Solicitor Fallon respond to the Complaint and remedial measures that will be taken.

Councillor O'Malley voted present which counted with the majority vote of yes.

A motion was made by Councillor Camell, seconded by Councillor Murphy, that the Council approve to have City Solicitor Fallon to answer the Complaint and remedial measures that will be taken.. The motion carried by the following vote:

Yea: 11 - Anderson, Camell, Condon, Crowe, DeMaria, Linehan, Murphy, O'Malley, Sica, Spadafora and Winslow

6. PERSONAL PRIVILEGE

7. ADJOURNMENT

A motion was made by Councillor Murphy, seconded by Councillor Camell, that the meeting be adjourned. The motion carried by the following vote:

The meeting adjourned at 9:49 P.M.

Yea: 11 - Anderson, Camell, Condon, Crowe, DeMaria, Linehan, Murphy, O'Malley, Sica, Spadafora and Winslow

GREGORY LUCEY, CITY CLERK