



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
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ATTORNEY GENERAL

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March 26, 2025

OML 2025 – 36

VIA EMAIL ONLY

Ian Cain
President, Quincy City Council
icain@quincyma.gov

RE: Open Meeting Law Complaint

Dear President Cain:

This office received a complaint from Jocelyn Sedney on January 6, 2025, alleging that the Quincy City Council (the “Council”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Council on or about November 2, 2024, and you responded on behalf of the Council by letter dated January 9, 2025.¹ The complaint alleges that the Council improperly deliberated via serial communication regarding a decision to defer salary raises for Councilors.

Following our review, we find that the Council did not violate the Open Meeting Law as alleged. In reaching this determination, we reviewed the Open Meeting Law complaint, the Council’s response, the request for further review, various news articles provided to our office by the Complainant, additional documents provided by Council President Ian Cain, and an October 11, 2024, announcement made by the City and posted on Facebook.² We also communicated with Council President Cain, Councilor Richard Ash, and Councilor James Devine, on separate occasions via both email and telephone.

¹ The Open Meeting Law requires that within 14 business days of receipt of an Open Meeting Law complaint, a public body must meet to review the complaint and respond to the complainant in writing, providing a copy of the complaint and response to our office. G.L. c. 30A, § 23(b); 940 CMR 29.05(5). We remind the Council of its obligation to comply with all requirements of the Open Meeting Law, including the requirement to timely review and respond to Open Meeting Law complaints and to provide a copy of the complaint and response to our office.

² For the sake of clarity, we refer to you in the third person throughout.

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. Sch. Comm. of Southbridge, 376 Mass. 70, 72 (1978). To that end, the Law requires that all deliberations of a public body occur during a properly noticed meeting that is open to the public, unless an executive session has been properly convened. See G.L. c. 30A, §§ 18; 20(a)&(b). The Open Meeting 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.” G.L. c. 30A, § 18.

By way of background, the Council passed an ordinance on June 17, 2024,³ raising the salaries of City Councilors and the Mayor, which raises were to take effect on January 1, 2025. Following public opposition to the raises, on October 11 the City issued a statement on Facebook announcing “that the salary increases set for elected officials will be deferred until the start of the next elected terms—2026 for the Council and 2028 for the Mayor.”⁴ In the announcement, President Cain is quoted as saying “[w]e’ve listened to feedback from the community and, after careful consideration, we’re making the prudent decision to defer these raises.” After the October 11 announcement, it was reported that the Massachusetts State Ethics Commission had become involved at some point following the Council’s June 17 vote to increase salaries for Councilors and the Mayor.⁵

The complaint specifically alleges that the Council improperly deliberated outside of a posted meeting, via serial communication, to reach agreement to defer the salary increases. The Council denies any violation of the Open Meeting Law, specifically asserting that a quorum of the Council did not communicate regarding the decision to defer the salary increases.⁶

The Council is a nine-member public body; therefore, five members constitute a quorum. Based on the information provided to our office, including through our communications with President Cain, Councilor Ash, and Councilor Devine, we understand that at some point prior to the October 11 announcement President Cain attempted to contact each Councilor to discuss matters related to the salary increases, and to poll members regarding the same. However, President Cain was only able to reach, and only communicated with, two fellow Councilors. Where a total of three Councilors does not constitute a quorum of the Council, we find that the Council did not violate the Open Meeting Law by improperly deliberating outside of a posted meeting.

³ Hereinafter, all dates are in 2024, unless otherwise stated.

⁴ The announcement can be viewed online at <https://www.facebook.com/CityofQuincy/posts/1009225197671712/>.

⁵ See Peter Blandino, Why the State Ethics Commission raised concerns over Koch’s huge pay raise, The Patriot Ledger (Oct. 31, 2024), available at <https://www.patriotledger.com/story/news/2024/10/31/quincy-mayor-pay-raise-state-ethics-commission-thomas-koch-city-council-conflict-of-interest/75965567007/>.

⁶ In communications with our office, President Cain also asserted that his discussions with fellow councilors did not constitute deliberation because the discussions pertained to personal matters and therefore were not within the Council’s jurisdiction. Without divulging specific details or making a formal determination on the matter, we note that we do not agree with President Cain’s characterization of the matters discussed as purely personal and outside of the Council’s jurisdiction.

Although we do not find a violation here, based on the response to the complaint and additional communications our office had with President Cain, we are concerned that the Council may not fully appreciate the Open Meeting Law's restrictions on out-of-meeting communications. As noted above, the Law defines "deliberation" broadly as any communication "between or among a quorum of a public body on any public business within its jurisdiction." G.L. c. 30A, § 18. The Open Meeting Law does not carve out an exception to the definition of "deliberation" for discussions that do not result in a decision or vote, see OML 2020-93, and a public body may not engage in serial communication whereby a quorum of the body communicates outside of a proper meeting on matters within the body's jurisdiction in a non-contemporaneous manner. 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).⁷ Furthermore, polling public body members outside of a properly held meeting regarding matters within the body's jurisdiction violates the Open Meeting Law. See OML 2020-160 ("Discussing and reaching a consensus regarding how the Board would advise the MBTA General Manager regarding the use of MBTA buses for transporting non-MBTA police officers to demonstrations is clearly a matter within the Board's jurisdiction and is precisely the type of deliberative action that the Open Meeting Law requires be conducted in an open and accessible manner."); OML 2016-52; OML 2014-76 ("Gauging members' interest in a proposal prior to its introduction at a meeting constitutes active solicitation of an opinion of a Board member. We have previously stated that this behavior, when reaching a quorum, is in violation of the Open Meeting Law."); OML 2013-75; OML 2013-76; see also G.L. c. 30A, § 22(b).

Additionally, a public body may not use a non-member to serve as a conduit or otherwise facilitate deliberation between or among a quorum of the public body. See OML 2020-144 ("A public body may not use a non-member, such as a staff member, to facilitate a deliberation or communicate on matters that the Board would otherwise be required to save for discussion at an open meeting."); OML 2016-31; OML 2013-76. Although generally the Open Meeting Law does not prohibit a non-member from communicating individually with each member of a public body regarding the same matter, it would be improper for that non-member to then follow up with a member of the public body, such as the chair, and report the other members' positions. See OML 2013-186 (finding a violation where the town administrator, at the request of the board chair, polled the other board members regarding a matter within the board's jurisdiction).

⁷ Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.

For the reasons stated above, we find that the Council did not violate the Open Meeting Law as alleged. 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 Council 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: Nicole L. Crispo, City Clerk (via email: ncrispo@quincyma.gov)
Jocelyn Sedney (via email: [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.