

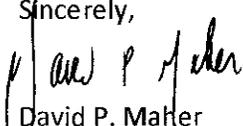
795 Massachusetts Avenue
Cambridge, MA 02139
617-349-4321
dmaher@cambridgema.gov

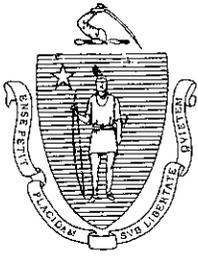
May 28, 2014

City Clerk Donna Lopez
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Ms. Clerk,

Please place the attached item on the Communications and Reports from City Officers for consideration at the next City Council Meeting.

Sincerely,

David P. Maher
Mayor



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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May 27, 2014

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OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

Nancy Glowa, Esq.
City Solicitor
City of Cambridge
Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, MA 02139

RE: Open Meeting Law Complaint

Dear Attorney Glowa:

This office received a complaint from John Hawkinson dated March 3, 2014, alleging that the Cambridge 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 January 30, 2014, and City Clerk Donna Lopez responded on behalf of the Council by letter dated February 11, 2014. In his complaint, Mr. Hawkinson alleges that a Special Ad-Hoc Committee created by Mayor David Maher did not comply with the Open Meeting Law's notice posting requirements.

We reviewed the January 30, 2014 complaint; the Council's February 11, 2014 response; the March 3, 2014 complaint filed with our office requesting further review; and your March 11, 2014 letter to our office. Following our review, we find that the Council did not violate the Open Meeting Law.

FACTS

We find the facts as follows. On January 6, 2014, the Council elected City Councilor David Maher to serve as Mayor for a two-year term. Pursuant to Rule 26 of the Council's Provisional Rules, which the Council approves for each mayor's term, the mayor appoints councilors to 17 named standing committees. Following his election, Mayor Maher created the Special Ad Hoc Committee (the Committee), which was comprised of three city councilors,¹ the City Clerk, a former City Clerk, and the Executive Assistant to the Council. The mission of the Committee is to review the Council's standing committee structure under the Council's Provisional Rules and report back to the Mayor.

¹ Three councilors is less than a quorum of the full Council, which consists of nine members.



The Committee met on January 21, 2014 and January 27, 2014.² Following these meetings, the Committee reported back to Mayor Maher with its recommendations to revise Provisional Rule 26, in part, to reduce the number of standing committees from 17 to 11 and to require a quorum for all meetings. Based on the Committee's recommendations, Mayor Maher drafted a memorandum to the Council, which he asked the City Clerk to distribute to the Council for discussion at its upcoming meeting on February 3, 2014. In the memorandum, he outlined the Committee's recommendations, including a proposal that the Council adopt revisions to Provisional Rule 26, as outlined in an attachment.

DISCUSSION

The threshold question is whether the Committee is a public body subject to the Open Meeting Law. "Public body" is defined, in relevant part, as "a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose." G.L. c. 30A, § 18. A "subcommittee" includes "any multiple-member body created to advise or make recommendations to a public body." *Id.* Where, however, an individual public official creates an informal committee to advise that person on a decision that he or she has the sole authority to make, that committee is not subject to the Open Meeting Law. Connelly v. School Committee of Hanover, 409 Mass. 232, 235 (1991).³

Here, Mayor Maher created the Committee of his own volition, and it reported its recommendations to him directly. Neither the Committee nor the Mayor was tasked by the Council with bringing any recommendations before the Council. While Mayor Maher ultimately decided to forward the Committee's recommendations to the Council, he was not required to do so. Because the Committee was created by a public official to advise him on a decision that he retained the sole authority to make, we find that this Committee fell within the Connelly exception to the definition of "public body," and was therefore not subject to the Open Meeting Law. See Connelly, 409 Mass. at 235; OML 2012-65. As such, the Committee was not required to post notice of its two meetings under the Open Meeting Law. We commend the Committee for taking steps to make the public aware of its meetings nonetheless.

CONCLUSION

For the reasons stated above, we find that the Council did not violate the Open Meeting Law.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints which may be pending with our office or

² The Committee posted notice of these two meetings on a bulletin board at City Hall, but did not post them to the City website, which is the City's official notice posting method for public bodies. See G.L. c. 30A, § 20(c); 940 CMR 29.03(2)(b)(a).

³ We have previously concluded that the 2009 revisions to the Open Meeting Law did not call into question the ongoing validity of Connelly. See OML 2013-56; OML 2011-4.

the Council. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



Hanne Rush
Assistant Attorney General
Division of Open Government

cc: John Hawkinson
Cambridge City Council ✓

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by this order 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 this order.