OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

(617) 349-4260
FAX: (617) 349-4269

September 28, 2015

DONNA P. LOPEZ
CITY CLERK

PAULA M. CRANE
DEPUTY CITY CLERK

TO: **THE HONORABLE, THE CITY COUNCIL**

FROM: **DONNA P. LOPEZ, CITY CLERK**

SUBJECT: **SIGNED OPEN MEETING LAW COMPLAINT**

Please be advised that attached you will find a signed copy of the Open Meeting Law Complaint filed by Ilan Levy received by this office today. The original complaint appears on the Agenda of 9/28/15 as Communications and Reports from City Officers # 1.

The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

2015 SEP 28 AM 9 16

OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Office of the Attorney General's Division of Open Government is responsible for interpreting and enforcing the Open Meeting Law. Pursuant to G.L. c. 30A, §23, the Open Meeting Law requires that complaints must first be filed with the public body that is alleged to have committed the violation, prior to filing a complaint with the Attorney General.

The complaint must be filed with the public body within 30 days of the alleged violation, or if the alleged Open Meeting Law violation could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered. The complaint must set forth the circumstances which constitute the alleged violation, giving the public body an opportunity to remedy the alleged violation.

Please complete the entire form, providing as much information as possible, to assist the public body in responding to your complaint. The Division of Open Government will not, and public bodies are not required to, investigate anonymous complaints. You may attach additional materials to your complaint if necessary. The public body may request additional information if necessary.

For complaints alleging a violation of the Open Meeting Law by a local public body, you must file with the public body and file a copy with the clerk of the city or town where the alleged violation occurred. For complaints alleging a violation by a county, regional or state public body, you must file with the chair of the public body.

If you are not satisfied with the action taken by the public body in response to your complaint, you may file a copy of your complaint with the Attorney General's Office 30 days after filing your complaint with the public body. The Attorney General's Office may decline to investigate a complaint that is filed with the Attorney General's Office more than 90 days after the alleged OML violation, unless an extension was granted to the public body or the complainant demonstrates good cause for the delay.

The complaint must include this form and any documents relevant to the alleged violation. A complaint may be filed either by mail or by hand:

Office of the Attorney General
Division of Open Government
One Ashburton Place
Boston, MA 02108

OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Ilan Last Name: Levy

Address: 148 Spring St

City: Cambridge State: MA Zip Code: 02141

Phone Number: +1 (617) 475-0087 Ext.

Email: vote1ilan@gmail.com

Organization or Media Affiliation (if any): None

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

☒ Individual ☐ Organization ☐ Media

Public Body that is the subject of this complaint:

☒ City/Town ☐ County ☐ Regional/District ☐ State

Name of Public Body (including city/ town, county or region, if applicable): Cambridge City Council

Specific person(s), if any, you allege committed the violation: Mayor David Maher, Vice Mayor Dennis Benzan, councilors Leland Cheung, Craig Kelley, Marc McGovern, Denise Simmons and Tim Toomey

Date of alleged violation: prior to 9/9/15

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

See attached document

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

See attached document

Review, sign, and submit your complaint

I. **Disclosure of Your Complaint.**
Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, will be considered a public record and available to any member of the public upon request. In response to such a request, the AGO generally will not disclose your contact information.

II. **Consulting With a Private Attorney.**
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. **Submit Your Complaint to the Public Body.**
The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: _____ **Date:** 9/23/2015

For Use By Public Body *For Use By AGO*
Date Received by Public Body: *Date Received by AGO:*

Open Meeting Law Complaint by Ilan Levy on September 23, 2015

DESCRIPTION OF ALLEGED VIOLATION

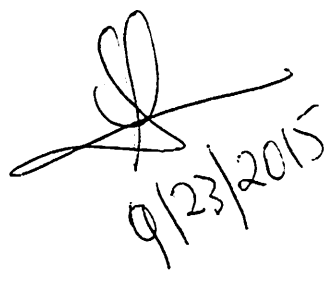
As an independent candidate for Cambridge City Council ("CCC"), I, Ilan Levy, contend that seven current Cambridge city councilors violated the Open Meeting law ("OML") when they discussed their opinions on issues of public business, and on their joint strategic approach, and leadership, of these issues, outside of a properly posted meeting. At least one such violation occurred prior to the publication of the article in the Cambridge Chronicle posted on September 9, 2015.

On September 9, 2015, the Cambridge Chronicle published an article reporting that seven elected and sitting councilors have decided to run for re-election on a platform of issues on which they have determined to be in agreement (http://cambridge.wickedlocal.com/article/20150909/NEWS/150906753). Vice Mayor Dennis Benzan is quoted as stating that "members of the slate want to build more housing now". Councilor Marc McGovern indicated that they have made "this commitment to work together...on issues...such as affordable housing, education, poverty, and the environment." Councilor Leland Cheung said that "by forming a slate, we're letting voters know that we have worked well...so we can continue to do so."

By law, The CCC is comprised of nine members. In forming any substantial alliance, the individual allies need to first exchange views. In order to form the unity slate, the seven councilors exchanged views on a wide range of major issues, from affordable housing, to residential tax rates, to their joint current and future collaboration on these issues. Such communications involved questions of public improvements, finances, and the body's own leadership—business that falls squarely within the CCC jurisdiction. [OML 2014-14 (stating that "discussions about a public body's own leadership do concern public business within that body's jurisdiction", and are not mere political statements)]. No notices of these meetings were posted and no minutes were kept. In their formation of a slate, the seven councilors have violated the OML, by engaging in deliberation outside of a meeting, on matters presently, and prospectively before the CCC.

In addition, the seven councilors intentionally and deliberately violated the OML. Five of the seven councilors (Cheung, Kelley, Simons, Maher, and Toomey) were found to have violated the OML in 2013. [OML 2013-76]. In that decision, the Attorney General's Office warned that future similar violations may be considered evidence of intent to violate the Law. The facts of that case parallel this current complaint. In 2013, an OML violation was found when the CCC, outside of a posted meeting, conducted an improper poll of the sponsorship of a City Manager appointment, obtained co-sponsorships of the appointment, and appointed the sponsored individual to the position. In 2015, the seven councilors, outside of a properly posted meeting, conducted a poll of their views on various policy issues, obtained commitments to their common agreement on those issues, and mutually sponsored each other's candidacy for re-election. The commonality of the facts in both cases calls for a finding that the violation of the law was intentional and deliberate.

Given that the slate was formed in order to influence voters in an election less than six weeks away, in the interest of democracy, the seven councilors should respond and correct the violation as swiftly as possible.



Open Meeting Law Complaint by Ilan Levy on September 23, 2015

DECLARATION OF RELIEF SOUGHT

The seven councilors should

1. Publicize all slate-related communications, discussions, and other materials, and if unavailable draft minutes of slate-related discussions with sufficient detail and accuracy so that the public clearly understands what occurred.
2. Publicly acknowledge their intentional and deliberate violation of the law.
3. Give assurance and evidence of compliance with the law, including detailed record, for all future SR meetings and events, including event of 9/22.
4. if compliance and giving assurance and evidence of compliance is not practicable, immediately dissolve the slate.

9/23/2015

WICKED LOCAL CAMBRIDGE

Print Page

By Sara Feijo
sfeijo@wickedlocal.com

September 09. 2015 11:18AM

Seven Cambridge councilors form 'Unity Slate' for election

Seven out of the nine Cambridge city councilors have banded together to form a slate in their run for re-election in this November's municipal election.

Cambridge councilors Craig Kelley, Marc McGovern, Tim Toomey, Denise Simmons, Leland Cheung, Mayor David Maher and Vice Mayor Dennis Benzan, left to right, have formed the Cambridge Unity Slate with a focus on affordable housing, education, environment, public safety, arts and culture, poverty and job creation. Courtesy photo

A slate is a group of candidates who lead their campaigns on a common platform. In this case, Mayor David Maher, Vice Mayor Dennis Benzan and councilors Leland Cheung, Craig Kelley, Marc McGovern, Denise Simmons and Tim Toomey say their slate, the Cambridge Unity Slate, is committed to investing resources into affordable housing, education, environment, public safety, arts and culture, poverty and job creation, while keeping residential taxes low.

"Everyone on the slate is absolutely committed to Cambridge and dedicated to work despite having sometimes opposing opinions," said Benzan, a first-time councilor. "The group has a diversity and a wide range of opinions, and we're willing to work together."

First-time councilors Dennis Carlone and Nadeem Mazen are the only two incumbents running for re-election not included in the slate. However, Mazen had formed his own slate in early August with newcomers Mariko Davidson, John Sanzone, Romaine Waite, and School Committee candidate Jake Crutchfield. The group of young activists hopes to encourage civic engagement.

"Dennis and Nadeem are a part of other groups in our community and that's okay. It's not that they were disinvited or uninvited," Benzan said. "I have an incredible amount of respect for the both of them. There's a way to lead a city and the way to lead a city is that you have to be willing to compromise."

According to Benzan, there has been some tension on the council around development and housing. While some people believe the city should spend more time looking at potential housing developments, Benzan said members of the slate want to "build more housing now."

The Unity Slate was born out of a collective commitment to continue leading the city in a positive direction, and the councilors share a vision of Cambridge as a welcoming community for everyone who wants to make it a home, they said.

"I hope that by making this commitment to work together we can assure the community that they will have a council that will be able to tackle the tough issues facing our community such as affordable housing, education, poverty and the environment," said McGovern, a first-time councilor. "The only way we will continue to make progress for our city is if the council is committed to working together in a bold, responsible way. Like my slate mates, I believe Cambridge is a great city but can be even better. We have to be united. We have to be willing to work together. We can't have division and obstruction and expect to accomplish our goals. The seven of us will bring that direction and commitment to the city."

According to Leland Cheung, the Unity Slate is about stability and operating at a high level while innovating, adapting and addressing potential problems. He said he decided to form a slate with his fellow colleagues because they have built trust and a good working relationship, while tackling challenging issues this term.

"Historically, because of our Proportional Representation system, municipal elections have sometimes frayed personal relationships amongst the council to the point where it's difficult to have the trust and collegiality necessary to tackle challenging issues in the beginning of a new term," Cheung said. "By forming a slate, we're letting voters know that we have worked well together on the council, and now in this election, so we can continue to do so from Day 1 of the new term in the best interest of all our residents."

Simmons, a seven-term councilor, feels she has developed a strong relationship with the other slate members even though the current term has been busy.

"We just work well together. We have established a relationship together because we are so collaborative and that creates a healthy environment," Simmons said.

Over the course of this term, members of the slate said they have worked to increase the amount of affordable housing by raising commercial linkage fees and ensuring a maximum number of inclusionary units were built at no expense to taxpayers.

Cambridge, they said, has maintained the lowest residential tax rate in Massachusetts and has a AAA bond rating. The city is also on the cutting edge of having a transparent, responsive and interactive government, and continues to have the most highly rated emergency services in the commonwealth, they said.

However, slate members said they are seeking re-election because there is still more work to do.

"We have increased linkage fees, set the Foundry on the course to becoming a community asset, kept providing excellent city services, and, most importantly, we have continued to fight to keep Cambridge affordable for as many families as possible, but our work is far from finished. I believe that those who are on the Cambridge Unity Slate have the unique combination of experience, diversity and vision necessary to lead Cambridge forward." Toomey said.

The Cambridge Unity Slate, members said, represents the city's great diversity.

"This slate brings together some very talented individuals who bring a wealth of knowledge and varied opinions to the table. We are a diverse group who love this city, who come from different backgrounds and different areas of the city, and who want to stand together to create meaningful solutions to our most pressing problems," said Mayor Maher, who was elected to the council in 1999 after serving four terms on the School Committee.

Craig Kelley, who is in his 10th term on the council, said he has worked with most of the members of the slate for years, including first-time councilor McGovern, who served on the Cambridge School Committee for four terms.

"I have increasingly found them to be people whose policies and communication patterns I understand and can work well with, even though we don't always agree," Kelley said. "Dennis Benzan, while new to elected office, is someone I've worked closely with on youth safety issues in the past 18 months and is someone who helps me understand much about how the people he most ably represents view life in Cambridge. Cambridge is a hugely diverse and wonderful city and I feel the other members of the slate, along with me, catch much of that feeling in a productive way."

Twenty-four people are running for council in this year's upcoming election on Nov. 3.

Cambridge Unity Slate members will be holding a joint event at 5:30 p.m. on Tuesday, Sept. 22, at Moksa Restaurant to kick off their campaign and discuss their vision for Cambridge.

Contact Chronicle reporter Sara Feijo at sfeijo@wickedlocal.com or follow her on Twitter at @s_fjo.