



CITY OF SOMERVILLE, MASSACHUSETTS LAW DEPARTMENT

February 6, 2018

Honorable Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02143

Re: That the City Solicitor Provide an Opinion on the Open Meeting Law and Attendance of Greater than a Quorum of the Board of Aldermen at a Committee Meeting, and Committee Chairperson's Authority to Allow Public Discussion

Board Order No. 205056

Dear Honorable Board Members:

You have asked this office to provide a legal opinion on two questions: (1) How the Open Meeting Law applies to more than a quorum of the Board of Aldermen attending a Board of Aldermen committee meeting; and (2) What is a committee chair's authority as to whether to allow public discussion on an item. I address each question in turn below.

As to the first question, in my opinion, based upon the determination¹ of the Office of the Attorney General Division of Open Government ("Division"), the Open Meeting Law applies to a quorum or more of the Board of Aldermen attending a Board of Aldermen committee meeting in the following manner: Members of the Board of Aldermen may attend a meeting of its subcommittee provided there is no deliberation.² In considering whether members of the Board of Aldermen "deliberated" during a committee meeting, the Division looks for "indicia such as whether the [attending Board of Aldermen members] were seated with the general public and whether they participated by open participation to conclude that no improper deliberation

¹ OML 2016-117. Note this order is the subject of a pending appeal in Fall River City Council v. Maura Healey, Bristol Superior Court, Civil Action No. 1673CV00865: argued on August 3, 2017, under advisement.

² A "meeting" is "a deliberation by a public body with respect to any matter within the body's jurisdiction," excluding "attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate." Deliberation" is, in relevant part, "an 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.

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occurred.” Id. If there is to be deliberation by a quorum of the Board of Aldermen, a meeting of the full Board of Aldermen must also be posted under the Open Meeting Law³.

As to the second question, in my opinion, the Open Meeting Law provides that, “[n]o person shall address a meeting of a public body without permission of the chair...” G.L. c. 30A, § 20(g)(emphasis added); OML 2018-12.⁴ Depending upon the nature of any specific matter before a committee, additional considerations as to whether public participation must be permitted may be warranted. (i.e. public hearing requirements, other statutes, or local board rules).

Please contact me if you have any additional questions.

Very truly yours,

Jason D. Grossfield
Assistant City Solicitor

cc: Mayor Joseph A. Curtatone
John Long, City Clerk

³ Also See Board of Aldermen Rule 30 which states “Pursuant to the Open Meeting Law, if less than a quorum of the full board attends a committee meeting, the visiting members may participate in full discussion. However, if a quorum of the full board is present at the committee meeting, the visiting members must sit in the audience and participate as members of the public and may not deliberate.”

⁴ Also See Board of Aldermen Rule 18. “Any member may sponsor a member of the public to address the board on any matter properly before the board unless such sponsorship is objected to by any member. Upon such objection, the address shall occur only by a two thirds vote of the entire membership.”