



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

April 18, 2018

Jonathan Sclarsic, Esq.
Director, Division of Open Government
Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Re: City of Somerville Board of Aldermen – Open Meeting Law Complaint
Dated April 6, 2018

Dear Mr. Sclarsic:

This letter is on behalf of the City of Somerville Board of Aldermen (“Board”) in response to the above-referenced Open Meeting Law Complaint filed by Michael Kiely (“Complaint”). Upon review of the Complaint, the Board¹’s position is there is no violation of the Open Meeting Law, for the reasons set forth herein.

The Open Meeting Law requires a Public Body to post a meeting notice in advance of a meeting that includes “the date, time and place of such meeting...” MGL c. 30A, s. 20(b). Notice of each of the above-referenced Committee meetings properly states where each meeting will be held in the “Committee Room – 2nd Floor – City Hall”. See Exhibit 1. In City Hall, signage above the doorway indicates the entrance to the Committee Room in the hallway of the second floor. Once you enter the Committee Room from the hallway, there is one room which contains a large table used for meetings, and immediately off of that room is a room with a smaller table used for meetings². As the smaller room does not have its own entry to the hallway on the second floor, the public enters via the doorway for the Committee Room. Accordingly, the notice identifies the meeting location in a way that both meetings were open to the public, and the public can access the correct meeting location. *Contrast* OML 2014-21(notice listing location as “Town Hall.” not sufficient because members of the public should not have to guess

¹ While the Complaint states the Board is the subject Public Body, the allegation in the April 6, 2018 Complaint specifically references March 7, 2018 meetings of two (2) respective committees of the Board – (a) the Confirmation of Appointments and Personnel Matters Committee and (b) the Youth Services Committee.

² This is the only other egress to/from the room with the larger table. Off of the room to the right is a smaller room used for audio/video recording of meetings, and an entryway to the “Chambers” used for Board of Aldermen meetings.

Jonathan Sclarsic, Esq.
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Office of the Attorney General
April 18, 2018
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where in the building the meeting is being held.) Notwithstanding that to the Board's knowledge these meetings were open and readily locatable by the public, the Board may evaluate whether to place an additional sign on or around the entryway to the Committee Room when there is more than one meeting taking place in this location.

On the date referenced by the Complainant, the Confirmation of Appointments and Personnel Matters Committee met in the room with the large table, and the Youth Services Committee met in the room with the smaller table – all within the Committee Room on the Second Floor of City Hall. That any member of one Committee may have left one meeting to attend another Committee meeting taking place at the same time does not violate the Open Meeting Law. Further, to the extent the Complainant alleges Board President Ballantyne attended both meetings that evening, this is factually inaccurate.

In conclusion, the Board of Aldermen denies that any alleged Open Meeting Law violation took place for the reasons stated above. Please contact me if you have any additional questions.

Very truly yours,

Jason D. Grossfield
Assistant City Solicitor

Encs.

cc: Board of Aldermen
John Long, City Clerk
Mr. Michael Kiely



**CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES**

**CONFIRMATION OF APPOINTMENTS AND PERSONNEL MATTERS COMMITTEE
Committee Meeting**

Wednesday - March 7, 2018, 6:00 PM
Committee Room – 2nd Floor – City Hall

AGENDA

(Posted online: 3/3/18 at 8:23 AM)

1. **Approval of the February 20, 2018 Minutes**
2. **205203: Discuss** (Davis) – That the City Solicitor advise this Board's Committee on Confirmation of Appointments and Personnel Matters of any legal requirements and/or standards that may exist for appointments and re-appointments.
3. **205204: Discuss** (Davis) – That the Administration provide this Board's Committee on Confirmation of Appointments and Personnel Matters with all documentation considered for each appointee's appointment, and any updated information since the time of any appointment to a "reserve list".
4. **205083: Discuss** (Scott, and the Entire Board) – That this Board's Committee on Confirmation of Appointments and Personnel Matters develop a comprehensive procedure manual regarding review processes for all categories of appointments and re-appointments.
5. **205039: Recommend** Requesting the appointment of Charles Conway to the position of Fire Fighter.
6. **205040: Recommend** Requesting the appointment of Lysander Amado to the position of Fire Fighter.

Note: The Committee may meet in Executive Session for items 205204, 205039, 205040 to review protected personnel information or to discuss matters related to individual candidates pursuant to MGL c30A s21(a)(1).



CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

YOUTH SERVICES COMMITTEE
Committee Meeting

Wednesday - March 7, 2018, 6:00 PM
Committee Room – 2nd Floor – City Hall

AGENDA

(Posted online: 3/3/18 at 7:48 AM)

1. **Approval of the May 10, 2017 Minutes**
2. **198075: Discuss** (Rossetti, McLaughlin) – That the Director of the Office of Prevention update this Board's Youth Services Committee of the department's plan to address youth health matters of concern.
3. **198227: Discuss** (Ballantyne) – That the Administration provide this Board, in early 2015, with an update regarding the city's efforts to combat drug addiction.
4. **198586: Discuss** (McLaughlin) – That the Director of SPCD update this Board on renovating and taking control of Foss Park.
5. **198742: Discuss** (Ballantyne) – That the Director of Recreation update this Board's Committee on Youth Services on the 100 day plan.
6. **198955: Discuss** (Rossetti, Connolly, Sullivan, White Jr., McLaughlin) – That the Administration of Teen Empowerment update this Board of its recent accomplishments and plans for the remainder of the calendar year.
7. **201166: Discuss** (Rossetti) – That the Director of Health and Human Services share the report on community conversations regarding race and racism with this Board's Committee on Youth Services when it becomes available.
8. **202113: Discuss** (McLaughlin) – That the Director of Health and Human Services appear before this Board to discuss progress in the city's race dialogs.

9. **202316: Discuss** (Connolly, and the Entire Board) – That the Administration resolve the outstanding issues with Teen Empowerment's contract.
10. **202416: Discuss** (Ballantyne) – That the Superintendent of Recreation update this Board on the number of youth served, by program and gender, since Spring 2016.
11. **202555: Discuss** Director of Parks and Recreation responding to #202416 re: the numbers of youth served since Spring, 2016.
12. **204870: Discuss** (Hirsch, Ballantyne, Scott) – That the Administration report to this Board, by the next Youth Services Committee meeting, on ways to expand open swimming hours at the Kennedy School pool, such as Sundays, Friday/Saturday evenings, school holidays and half-day Wednesdays.
13. **204871: Discuss** (Hirsch, Niedergang) – That the Administration report to this Board, by the next Youth Services Committee meeting, on ways to keep the Kennedy School playground open for public use during non-school day daytime hours.
14. **204873: Discuss** (Hirsch) – That the Administration, with the School Department, provide data by student income, school and grade, on children being served after school at school-based and non-profit providers, to identify gaps in service and better coordinate and expand such programming.
15. **204996: Discuss** (Hirsch, Ballantyne, Clingan) – That this Board's Committee on Youth Services organize one or more workshops to ask tweens and young teens about how the city can make sure our community is a great place for them to live.
16. **205096: Discuss** (Hirsch) – That the Director of Recreation appear before this Board's Committee on Youth Services to provide information on the membership and function of the Recreation Commission.

COPY OF COMPLAINT



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.

2018 APR -6 A.M. 19

CITY CLERK'S OFFICE
SOMERVILLE, MA

Your Contact Information:

First Name: Michael Last Name: Kiely

Address: 49 Holyoke Road

City: Somerville State: MA Zip Code: 02144

Phone Number: 6178923161 Ext.

Email: mkiely@police.somerville.ma.us

Organization or Media Affiliation (if any):

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): City of Somerville, Board of Alderman

Specific person(s), if any, you allege committed the violation: Alderman Katjana Ballantyne, President of the BOA, Alderman Stephanie Hirsch & Alderman Jefferson Scott

Date of alleged violation: March 7th, 2018

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.

The Board of Alderman held two committee meetings in the same room, at the same time, on the same date of March 7th, 2018 @ 6:00PM at Somerville City Hall. The committees that met are the Confirmation of Appointments and the Youth Services. Alderman Hirsch chaired the Youth Services meeting and was also present for the Confirmation of Appointments meeting. Alderman Jefferson Scott also chaired a meeting at the same time, location, date and room. The President of the Board of Alderman was also present and has direct oversight, assignments and control of the manner of business that takes place was also present for the two meetings in the Committee Room.

2018 APR -6 A 11:19
CITY CLERK'S OFFICE
SOMERVILLE, MA

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.

Explain how this is possible? What actions will be taken to apologise. Recieve training on the Open Meeting Laws.

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, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish 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: 4-6-18

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:



**CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES**

**CONFIRMATION OF APPOINTMENTS AND PERSONNEL MATTERS COMMITTEE
Committee Meeting**

Wednesday - March 7, 2018, 6:00 PM
Committee Room - 2nd Floor - City Hall

AGENDA

(Posted online: 3/3/18 at 8:23 AM)

1. **Approval of the February 20, 2018 Minutes**
2. **205203: Discuss** (Davis) – That the City Solicitor advise this Board's Committee on Confirmation of Appointments and Personnel Matters of any legal requirements and/or standards that may exist for appointments and re-appointments.
3. **205204: Discuss** (Davis) – That the Administration provide this Board's Committee on Confirmation of Appointments and Personnel Matters with all documentation considered for each appointee's appointment, and any updated information since the time of any appointment to a "reserve list".
4. **205083: Discuss** (Scott, and the Entire Board) – That this Board's Committee on Confirmation of Appointments and Personnel Matters develop a comprehensive procedure manual regarding review processes for all categories of appointments and re-appointments.
5. **205039: Recommend** Requesting the appointment of Charles Conway to the position of Fire Fighter.
6. **205040: Recommend** Requesting the appointment of Lysander Amado to the position of Fire Fighter.

Note: The Committee may meet in Executive Session for items 205204, 205039, 205040 to review protected personnel information or to discuss matters related to individual candidates pursuant to MGL c30A s21(a)(1).



CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

March 7, 2018

REPORT OF THE CONFIRMATION OF APPOINTMENTS AND PERSONNEL MATTERS COMMITTEE

Attendee Name	Title	Status	Arrived
Jefferson Thomas ("J.T.") Scott	Chair	Present	
Stephanie Hirsch	Vice Chair	Present	
Wilfred N. Mbah	Alderman at Large	Present	
Lance L. Davis	Ward Six Alderman	Present	
Ben Ewen-Campen	Ward Three Alderman	Present	

Others present: Candace Cooper - Personnel, Frank Wright - Law, Shannon Phillips - Law, Charles Breen - SFD, Christopher Major - SFD, Charles Conway - Appointee, Lysander Amado - Appointee, Annie Connor - Legislative Liaison, Rositha Durham - Clerk of Committees.

The meeting took place in the Committee Room and was called to order at 6:00 PM by Chairman Scott and adjourned at 7:36 PM.

Approval of the February 20, 2018 Minutes

RESULT:	ACCEPTED
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205203: That the City Solicitor advise this Board's Committee on Confirmation of Appointments and Personnel Matters of any legal requirements and/or standards that may exist for appointments and re-appointments.

The committee received communications from the solicitor. Questions were asked about the goal and/or the intention on how the standards will be used. The standard guideline will be used to help candidates and the administration know what to expect in the meetings. This item was kept in committee to give the committee members time to review the documentation.

RESULT:	KEPT IN COMMITTEE
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205204: That the Administration provide this Board's Committee on Confirmation of Appointments and Personnel Matters with all documentation considered for each appointee's appointment, and any updated information since the time of any appointment to a "reserve list".

Ms. Connor from the Mayor's office sent information to the committee members on the commissions, applications and other documents. This information will help the committee understand how each commission is screened. Ms. Cooper explained what the Confirmation of Appointments and Personnel Matters Committee reserve list works for fire fighters. The list is thoroughly vetted to help expedite the candidate's process. The hiring timeline can be a lengthy process. Once a full-time fire fighter vacancy becomes available, the vetted candidate is then selected in order listed on the reserve list. The committee talked about the probational period on the reserve list. The reserve list is an unpaid position. The question was asked if those on the reserve list can accrue time for a pension. The chair asked for clarification if those on the reserve list can accrue time. Approximately 20 towns and cities in Massachusetts utilize reserve lists. Somerville has been using the reserve list since 2008. To hire a reserve fire fighter to the reserve list, you must have two times plus one candidates, for example if there is one vacancy then you must have three candidates. A candidate might withdraw from the reserve list if they are hired by another community. It is not uncommon for candidates to be on several reserve lists. The City Solicitor and his office will research whether it is considered a promotion for a candidate to be hired from the reserve list. The reserve list is maintained by the City of Somerville.

RESULT:

KEPT IN COMMITTEE

205083: That this Board's Committee on Confirmation of Appointments and Personnel Matters develop a comprehensive procedure manual regarding review processes for all categories of appointments and re-appointments.

RESULT:

KEPT IN COMMITTEE

205039: Requesting the appointment of Charles Conway to the position of Fire Fighter.

Provisional Chief Breen introduced Charles Conway and talked about his background in roofing. Mr. Conway has a BS in finance from Bentley. He has lived in Somerville for over 10 years. He wanted to be a fire fighter since he was a kid. His father was a fire fighter in Medford. Mr. Conway works for the family roofing company. The committee were all impressed with his resume. Ald. Ewen-Campen motioned and it was accepted to go into executive session to review the candidates background records. The candidate was given the option to decline the executive session which he agreed to go into the session. Ald. Mbah motioned and it was accepted to approve the appointment of Mr. Conway to fire fighter.

RESULT:

APPROVED

205040: Requesting the appointment of Lysander Amado to the position of Fire Fighter.

Chief Breen introduced Lysander Amado who has military experience, has several degrees and speaks three languages. Mr. Amado wanted to be a fire fighter because of his cousin. He recalled when his cousin was a kid and a fire fighter invited his cousin into the fire house and treated him a little brother. Mr. Amado and his cousin took the test at the fire fighter test at the same time. Everyone on the committee was impressed with Mr. Amado's resume. The candidate played football for Somerville High School. The candidate was asked if he would go back to Somerville High School and talk to the students. Ald. Ewen-Campen motioned and it was

accepted to go into executive session to review the candidates background check. The candidate was given the option to decline the executive session which he agreed to go into the session. Ald. Ewen-Campen motioned and it was accepted to approve the appointment to the position of fire fighter.

RESULT:

APPROVED

Note: The Committee may meet in Executive Session for items 205204, 205039, 205040 to review protected personnel information or to discuss matters related to individual candidates pursuant to MGL c30A s21(a)(1).

Handouts:

- Exec Session Notice - Employment - C of APM - 3-7-18
- Conditional Offer (with 205039, 205040)
- Supporting Docs (with 205039, 205040)



CITY OF SOMERVILLE, MASSACHUSETTS
CLERK OF COMMITTEES

YOUTH SERVICES COMMITTEE
Committee Meeting

Wednesday - March 7, 2018, 6:00 PM
Committee Room – 2nd Floor – City Hall

AGENDA

(Posted online: 3/3/18 at 7:48 AM)

- 1. Approval of the May 10, 2017 Minutes**
- 2. 198075: Discuss** (Rossetti, McLaughlin) – That the Director of the Office of Prevention update this Board's Youth Services Committee of the department's plan to address youth health matters of concern.
- 3. 198227: Discuss** (Ballantyne) – That the Administration provide this Board, in early 2015, with an update regarding the city's efforts to combat drug addiction.
- 4. 198586: Discuss** (McLaughlin) – That the Director of SPCD update this Board on renovating and taking control of Foss Park.
- 5. 198742: Discuss** (Ballantyne) – That the Director of Recreation update this Board's Committee on Youth Services on the 100 day plan.
- 6. 198955: Discuss** (Rossetti, Connolly, Sullivan, White Jr., McLaughlin) – That the Administration of Teen Empowerment update this Board of its recent accomplishments and plans for the remainder of the calendar year.
- 7. 201166: Discuss** (Rossetti) – That the Director of Health and Human Services share the report on community conversations regarding race and racism with this Board's Committee on Youth Services when it becomes available.
- 8. 202113: Discuss** (McLaughlin) – That the Director of Health and Human Services appear before this Board to discuss progress in the city's race dialogs.

9. **202316: Discuss** (Connolly, and the Entire Board) – That the Administration resolve the outstanding issues with Teen Empowerment's contract.
10. **202416: Discuss** (Ballantyne) – That the Superintendent of Recreation update this Board on the number of youth served, by program and gender, since Spring 2016.
11. **202555: Discuss** Director of Parks and Recreation responding to #202416 re: the numbers of youth served since Spring, 2016.
12. **204870: Discuss** (Hirsch, Ballantyne, Scott) – That the Administration report to this Board, by the next Youth Services Committee meeting, on ways to expand open swimming hours at the Kennedy School pool, such as Sundays, Friday/Saturday evenings, school holidays and half-day Wednesdays.
13. **204871: Discuss** (Hirsch, Niedergang) – That the Administration report to this Board, by the next Youth Services Committee meeting, on ways to keep the Kennedy School playground open for public use during non-school day daytime hours.
14. **204873: Discuss** (Hirsch) – That the Administration, with the School Department, provide data by student income, school and grade, on children being served after school at school-based and non-profit providers, to identify gaps in service and better coordinate and expand such programming.
15. **204996: Discuss** (Hirsch, Ballantyne, Clingan) – That this Board's Committee on Youth Services organize one or more workshops to ask tweens and young teens about how the city can make sure our community is a great place for them to live.
16. **205096: Discuss** (Hirsch) – That the Director of Recreation appear before this Board's Committee on Youth Services to provide information on the membership and function of the Recreation Commission.



CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

March 7, 2018

REPORT OF THE YOUTH SERVICES COMMITTEE

Attendee Name	Title	Status	Arrived
Stephanie Hirsch	Chair	Present	
Jesse Clingan	Vice Chair	Present	
Katjana Ballantyne	Ward Seven Alderman	Present	

Others present: Doug Kress - HHS, Jill Lathan - Recreation, Linda Ingersol - Recreation Commission, Natalie Viera - Recreation Commission, Richard Liberatore - Recreation Commission, Tim Snyder - Mayor's Office, Charles Sillari - Clerk of Committees.

The meeting took place in the Committee Room and was called to order at 6:04 PM by Chairman Hirsch and adjourned at 7:17 PM.

Approval of the May 10, 2017 Minutes

RESULT:	ACCEPTED
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198075: That the Director of the Office of Prevention update this Board's Youth Services Committee of the department's plan to address youth health matters of concern.

RESULT:	WORK COMPLETED
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198227: That the Administration provide this Board, in early 2015, with an update regarding the city's efforts to combat drug addiction.

RESULT:	WORK COMPLETED
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198586: That the Director of SPCD update this Board on renovating and taking control of Foss Park.

RESULT:	WORK COMPLETED
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198742: That the Director of Recreation update this Board's Committee on Youth Services on the 100 day plan.

RESULT:

WORK COMPLETED

198955: That the Administration of Teen Empowerment update this Board of its recent accomplishments and plans for the remainder of the calendar year.

RESULT:

WORK COMPLETED

201166: That the Director of Health and Human Services share the report on community conversations regarding race and racism with this Board's Committee on Youth Services when it becomes available.

RESULT:

WORK COMPLETED

202113: That the Director of Health and Human Services appear before this Board to discuss progress in the city's race dialogs.

RESULT:

WORK COMPLETED

202316: That the Administration resolve the outstanding issues with Teen Empowerment's contract.

RESULT:

WORK COMPLETED

202416: That the Superintendent of Recreation update this Board on the number of youth served, by program and gender, since Spring 2016.

The director of recreation had submitted the data requested previously. Female participation has increased as a result of outreach. There are some cultures that dissuade female children from participating in recreation programs.

RESULT:

WORK COMPLETED

202555: Director of Parks and Recreation responding to #202416 re: the numbers of youth served since Spring, 2016.

RESULT:

WORK COMPLETED

204870: That the Administration report to this Board, by the next Youth Services Committee meeting, on ways to expand open swimming hours at the Kennedy School pool, such as Sundays, Friday/Saturday evenings, school holidays and half-day Wednesdays.

The committee discussed the need for additional staff to extend the hours. Internal and external partnerships are a possibility and will be explored. Ways to encourage more people to use the pools as well as ways to allow children to use the pool without the accompaniment of an adult.

RESULT:

KEPT IN COMMITTEE

204871: That the Administration report to this Board, by the next Youth Services Committee meeting, on ways to keep the Kennedy School playground open for public use during non-school day daytime hours.

Mr. Snyder stated that signage about liability will be posted and this issue can be resolved.

RESULT:

KEPT IN COMMITTEE

204873: That the Administration, with the School Department, provide data by student income, school and grade, on children being served after school at school-based and non-profit providers, to identify gaps in service and better coordinate and expand such programming.

The committee reviewed data on the income levels of students and how those students utilize services. Mr. Kress discussed various programs that could fill some gaps where needed and pointed out that federal funding has an impact on the services. The chair feels that low income kids are not being served enough and middle school kids aren't being served at all.

RESULT:

WORK COMPLETED

204996: That this Board's Committee on Youth Services organize one or more workshops to ask tweens and young teens about how the city can make sure our community is a great place for them to live.

RESULT:

KEPT IN COMMITTEE

205096: That the Director of Recreation appear before this Board's Committee on Youth Services to provide information on the membership and function of the Recreation Commission.

The committee discussed the role of the commission and how the commission is structured. Communication between the rec department and the school department was discussed. The committee discussed ways in which the rec department supports non-profits. Constituent communication regarding events and programs can be improved according to some people. Members of the commission discussed their experiences with the community. The committee discussed the recent need for support by the city of youth sports leagues. The need for a safe gathering place for children is needed and the city is working on a building for the recreation department.

Ald. Ballantyne will work with the School Committee to explore ways to improve communications between the school department and the recreation department.

The scheduling of gyms is currently under the DPW and that will be looked into further as there may be a more appropriate way to manage it.

RESULT:

WORK COMPLETED

Handout:

- Graphs (with 204873)