

City of Salem, Massachusetts



**"Know Your Rights Under the Open Meeting Law, M.G.L. c. 30A ss. 18-25 and  
City Ordinance Sections 2-2028 through 2-2033."**

The City Council Committee on Public Health, Safety & Environment

will met in the Council Chamber on March 29, 2023 at 6 P.M.

for the purpose of discussing the matters(s) listed below. Notice of this meeting was posted on

March 16, 2023 at 2:21PM

(This meeting is being recorded)

**ATTENDANCE:** Chair Varela, C. McClain, C. Merkl, C. Cohen, Pres. Stott, C. Watson-Felt (remote)

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**SUBJECT(S)**

**The purpose of this meeting is to discuss an Open Meeting Law complaint regarding technical issues with the Zoom link for the Wednesday, February 22, 2023, meeting that was held in the City Council Chambers.**

Chair Varela reads complaint from Stephen Kapantais (on file in City Clerk's Office) which reports that there was no remote participation possible for the meeting in question. The complaint is that there was a violation since the meeting was not open to the public. Chair Varela invites City Clerk Simons to speak.

City Clerk Simons: Thanks all for the opportunity to speak. (Explains that Maureen (Fisher) admitted posting the incorrect link, and process of how the mistake could happen). On January 30, 2023, Maureen posted two meetings at the same time. Two weeks later, the Committee Chair asked to amend the time of the February 22, 2023, meeting from 6 PM to 7 PM. Maureen used the template for the agenda, checked the last four digits of the link; they were the same. Notice was amended. Third agenda to say the meeting would open at 6, then recess until 7 and start.

Chair Varela invites Solicitor to speak

Elizabeth Rennard: I recommend the following action – that the Public Health, Safety & Environment (PHSE), co-posted with Committee of the Whole (COW) reschedule and reinvoke presenter. May be simpler to have to link first meeting to watch and catch up. Committee to discuss with City Clerk to ensure proper posting. Verify amendments. Presenter should present summary of public testimony and committee present corrective action.

Chair Varela: Thank you, Solicitor. C. Cohen?

C. Cohen: Thanks Chair. I like this course of action. Also include the link when Chair opens meeting. I understand mistakes happen. Is there a check list for each meeting?

City Clerk Simons: We are taught how to post meetings; no check list. Typically, it is copied and pasted, then remove what is not relevant. Match all to meeting being held. Just sort of happens.

C. Cohen: Is there a timetable for changing to make it a legal meeting?

Solicitor: 48 hours in advance. If time is needed to correct, discontinue or reschedule. I reached out to the Attorney General. If meeting is in person, not required to have Zoom as well. May have "In Person" as primary. On the notice "If technically feasible, will be on Zoom." If that had been done, there would not have been a violation. The issue is that they were both seen as equally important. Primary in person; secondary, Zoom.

Chair Varela: Thanks, Beth. On the right track, but attempt to have hybrid even though not required. Keep up hybrid. C. Merkl?

C. Merkl: Wanted to have hybrid even though we don't have to. Thank you, Clerk Simons, for encouraging civic engagement. Can't rule out IT issues. Need to examine the language on postings.

C. Watson-Felt: Thanks, Chair. To Solicitor: Procedural for language to be recommended by legal department or should the Council take up?

Solicitor: I will bring to Council in another meeting.

C. W-F: If we need to make a change, can the Chair still take virtual public comment or only in person?

Solicitor: Will have to discuss.

C. W-F: We will do lots of remote in the future. It is wonderful for participation. Important for accessibility.

Chair Varela: Still in Committee. Meeting in the future regarding the posting. I look forward to another meeting. Committee should designate Solicitor as respondent to complaint.

C. McClain: Thanks Solicitor for feedback. Good to clarify format to the public.

Solicitor: Meeting link is equally important, thus violation.

C. McClain: Unlikely this will ever be error-free. Can we have steps codified/ reviewed to ensure success?

Chair Varela: Welcomes Public Comment.

Stephen Kapantais, 23 Wisteria St.: I am satisfied with response from the Clerk and Solicitor to rectify the situation.

Chair Varela: How can we make "remote" an easier process. Thank you, Mr. Kapantais.

C. Cohen: I move that the Solicitor becomes the Respondent, include the Attorney General's response. Move that all presenters appear at future scheduled meetings who were unable to attend. Chair will get summary and at introduction of meetings, read the link to previous meeting.

Chair Varela: I respect motion; seconded by C. Merkl. RCV: C. W-F – Yes, McClain – Yes, Merkl – Yes, Cohen – Yes, Varela – Yes. Matter carries.

C. McClain: Further motion URL from prior meeting be included. Remain in committee to see codified procedure of postings.

C. Cohen: Second motion.

Pres. Stott: This demonstrates growing pains of Zoom. Zero guidance on how to do this, no rules. Every city/ town does this differently. Many don't do hybrid like we do. Make sure will be advised as well.

C. W-F: If we suggest to leave in committee, will that affect the vote we took to take action on the violation?

Solicitor: Close this meeting and have new order to talk about process of hybrid meetings. Second motion to include link. I recommend close and go back to full Council to discuss.

City Clerk: Open Meeting Law. Never went to committee. Needs to be closed and reopened.

McClain: Moved to Committee of the Whole.

Solicitor: No matter other than complaint.

McClain: Include previous recording link. Close and reopen.

C. Merkl: I second on everything.

Solicitor: Part of the next meeting.

C. Cohen: Do not refer to full Council.

Chair Varela: C. McClain's motion seconded by C. W-F. Recording should be accessible.

McClain: Include link to prior recording.

Chair Varela: Seconded by C. W-F. RCV: C. W-F – Yes, C. McClain – Yes, C. Merkl – Yes, C. Cohen – Yes, Chair Varela – Yes. Matter carries.

C. McClain: Matter not before us, not in committee. No further action?

C. Cohen: Motion to close.

C. McClain: Second.

Chair Varela: RCV: C. W-F – Yes, C. McClain – Yes, C. Merkl – Yes, C. Cohen – Yes, Chair Varela – Yes. Matter carries.

C. McClain: Motion to adjourn.

Chair Varela: RCV: C. W-F – Yes, C. McClain – Yes, C. Merkl – Yes, C. Cohen – Yes, Chair Varela – Yes.

On the motion of C. McClain, the meeting adjourned at 6:47 P.M.

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(Chairperson)