



Ryan O'Malley
City Council President

City of Malden

Massachusetts

Malden City Council
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Malden, Massachusetts 02148



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TO: Craig Spadafora, Councillor At-Large
FROM: Ryan O'Malley, City Council President
RE: Apology and Response to Open Meeting Law complaint

Dear Councillor Spadafora,

Let me start by saying that I wholeheartedly agree with you that the manner in which the roll out of the Affordable Homes Act has unfortunately been rushed because of factors largely out of our control. I truly wish that the City Council had participated in policy discussions concerning accessory dwelling units (ADU) months ago. The implementation of this local zoning ordinance highlighted a significant gap in how the City of Malden develops public policy. I apologize for my role in this and commit to ensuring that, under my watch, the City Council will never again be given less than three weeks' notice to draft, enroll, and ordain a zoning ordinance. That said, we both know that not acting swiftly would have been a mistake for our community. Please accept this communication as both a formal written apology and the Malden City Council's response to your complaint supported by the facts as described below.

I apologize to Councillor Spadafora and the public for the short turnaround time on the implementation of the ADU zoning ordinance and for the delayed start time of the City Council meeting on January 28, 2025. The delay was not deliberate and was purely the result of the Rules and Ordinance Committee finishing its committee report with relevant amendments suggested by the Planning Board and the Committee itself.

Going forward, I commit to improving how the City Council conducts business and will take the following remedial actions to ensure that the impact of future delays is minimized:

1. Where a delay can be anticipated because one public meeting is predicated by the business, action, or adjournment of another, the public notice will state the time at which the meeting is anticipated on starting (e.g. 7:00PM) and will include additional language to clarify that the meeting may be held later than the anticipated time (e.g. "Or after the Ordinance committee adjourns on January 28, 2025."). As an example, a public notice might now read, "The Malden City Council will meet in the Herbert Jackson Council Chamber, 215 Pleasant Street, Malden, MA 02148 at 7:00PM or after the Ordinance committee adjourns, on January 28, 2025."
2. Where a delay cannot be anticipated, a minority or majority of the City Council or Council Committee, will be encouraged to call the meeting to order and publicly announce the delay. The public body members would then be encouraged to recess the meeting until the reason for the delay has ended.

While, in reviewing prior Open Meeting Law determinations, it does not appear that a delayed start to a meeting constitutes an open meeting law violation, I do commit to making sure the business before the City Council and its committees is conducted in a timely and transparent manner. I want to thank Councillor Spadafora for bringing his concerns to my attention and look forward to working with him and every other Councillor to continually improve. Councillor Spadafora's advocacy has helped ensure that a similar situation will be handled better by all involved.

Please accept my formal and public apology for the delayed start time of the City Council meeting on January 28, 2025.

Earnestly,

Ryan O'Malley
City Council President
City of Malden

Supporting Facts:

On January 7, 2025, a proposal (City Council Paper (CCP) 13-25) was submitted to the City Council regarding the amendment of zoning ordinances regulating accessory dwelling units (ADU) in Malden.

On the same date, the City Council referred the matter to a joint Rules and Ordinance Committee (herein referred to as Ordinance or Committee) and Planning Board hearing scheduled on January 27, 2025.

Following referral to Ordinance, the Committee met to discuss the ADU zoning proposal every week on the following dates: January 14, 21, 27, and 28.

On January 21, 2025, the Council President requested that Ordinance meet an additional time, immediately following the close of the joint Ordinance and Planning Board hearing to finish discussion and amendments to the proposal. Multiple Councillors requested that Ordinance not meet after the hearing because it could go on late. Instead, Ordinance was scheduled just prior to the January 28, 2025 City Council meeting to finish the Committee's work.

Enacting a zoning ordinance requires a public hearing before the Ordinance and Planning Board, a public meeting of the City Council to enroll the proposed ordinance, and a public meeting of the City Council to ordain the ordinance.

On January 27, 2025, the joint Ordinance and Planning Board hearing was held. There was no testimony in opposition to CCP 13-25.

On January 28, 2025, Ordinance was scheduled to meeting at 5:45PM to finish amending CCP 13-25. The meeting ran long and adjourned at approximately 8:25PM. Councillor Spadafora was remotely in attendance at the Ordinance meeting and participated in the discussion.

The City Council meeting was scheduled for January 28, 2025, at 7:00PM in the City Council Chamber and started at approximately 8:29PM because of the work being finished in Ordinance. The Clerk of Committees was in the City Council Chamber and informed guests and the public that the meeting was starting late because Ordinance was delayed.

The Council Chamber and Room 105, where Ordinance was meeting, are directly across from and within eyesight of each other. Guests and members of the public came into Room 105 and were told the meeting was running late.

The effective date of the Affordable Homes Act was February 2, 2025. Municipalities had to enact zoning effective by this date to preserve any local control or requirements.

The City Council held three meetings on three consecutive days to ensure that there would be ample opportunity for public participation and debate by the City Council.

On January 28, 2025, the date on which the City Council enrolled CCP 13-25, no member of the public signed up for or submitted public comments related to matters on the City Council agenda for that date.

On January 29, 2025, the date on which the City Council ordained CCP 13-25, no member of the public signed up for or submitted public comments related to matters on the City Council agenda for that date.

On January 30, 2025, the date on which the City Council reserved time for any reconsiderations related to CCP 13-25, no member of the public signed up for or submitted public comments related to matters on the City Council agenda for that date.

Councillor Spadafora attended the City Council meeting on January 28, 2025, and actively participated in the meeting.

The two Councillors that did not attend the City Council meeting on January 28, 2025, were aware that Ordinance was delayed and that the City Council was delayed, not cancelled.