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Re: December 12, 2025 OML Complaint

Background:

On September 30, 2025, the Mayor (not a member of the Malden City Council Finance Committee), circulated a letter to the Finance Committee detailing his expectations of a budget deficit in the amount of \$8,400,000.00 for the fiscal year of 2027.

On December 4, 2025, the Malden City Council Finance Committee ("Committee") posted an agenda for a December 9, 2025 meeting. The proposed override would enable the City to assess an additional \$5,400,000.00 in real estate and personal property taxes. The agenda included notice that a ballot question relating to a tax override pursuant to proposition 2.5 would be considered. Attached to the agenda was the Mayor's September 30 letter as well as reference to what he believed to be the cause of the anticipated deficit, school spending mandates.

On December 9, 2025, before the Finance Committee meeting, the Mayor sent a second letter to the Committee, alerting them of a new school spending mandate which was related to budget concerns. At this meeting, the Mayor spoke and addressed the topics covered in the second letter. The Finance Committee then openly contemplated alternative sums and wording for the proposed ballot measure. Complainant argues that this discussion violated the Open Meeting Law. The City of Malden respectfully disagrees.

Argument:

A. The Agenda Was Sufficiently Specific to Reasonably Advise the Public of the Issues to Be Discussed at the Meeting.

If a reasonable member of the public could read the topic and understand the anticipated nature of the public body's discussion, the agenda was sufficiently specific to not violate the Open Meeting Law. 940 CMR 29.03(1)(b).

The discussion of alternative amounts flowed naturally from its consideration of a posted agenda topic. The agenda stated that the amount to be sought would be \$5,400,000.00 with reference to an attached letter from the Mayor (who is not a member of the Finance Committee) dated September 30, 2025. This letter detailed the Mayor's expectation for a budget shortfall as well as his opinions about the best way to address the anticipated issue. Among those suggested solutions, was the proposition 2.5 override.

After his September 30 letter, the Mayor stated that he subsequently learned of an additional \$1,600,000.00 that he considers to be a part of the City's anticipated budget shortfall. He related this additional sum of money to the same cause of the \$8,400,000.00 that he anticipated the City would be short, to the school spending formula. On the day of the Finance Committee's December 9, 2025 meeting, the Mayor circulated a second letter detailing this information, as well as referencing a third option which totaled \$9,000,000.00.

Where the amount of money needed to cover certain costs in the City was projected, and the position that a tax override should be used to cover all or some of the cost, a reasonable reader of the agenda and attached documents could anticipate that alternative amounts would be discussed.

B. Even If Alternative Amounts Did Not Flow Naturally from the Agenda Topic, They Were Properly Discussed.

A public body may discuss topics not noticed on the agenda if the chair could not reasonably foresee the topic when posting the agenda. To any extent that the alternative sums discussed in the Mayor's second letter are not closely tied to what was on the agenda, they also could not have been reasonably foreseen where the letter was sent out the same day as the meeting. 940 CMR 29.03 (a)(b).

While the Attorney General fairly prefers unanticipated topics which may arise naturally from the discussion of properly noticed topics be tabled for future discussion, the Finance Committee had serious time constraints. The Finance Committee needed to have this discussion so that it could finalize the wording of a potential ballot measure, recommend it out favorably to the full Council, take a vote on whether a special election would be held, provide educational materials to the public, hold the election, and ascertain the results in enough time to plan for the City's fiscal year 2027 budget. With the City Council taking a recess from December 16, 2025 until January 6, 2026, and the new fiscal year beginning on July 1, 2026, the City Council needed to act on the new information brought to it quickly.

Conclusion:

The Attorney General's Office should determine that there was no breach of the Open Meeting Law for the reasons stated above.

Best,

/s/Christopher L. Mooney

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