



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.

Your Contact Information:

First Name: Brian Last Name: DeLacey

Address: 1 Earl Street

City: Malden State: MA Zip Code: 02148

Phone Number: 617-863-0497 Ext.

Email: bdelacey@gmail.com

Organization or Media Affiliation (if any): Malden News Network

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): Malden Finance Committee

Specific person(s), if any, you allege committed the violation: Malden Finance Committee

Date of alleged violation: 5/25/21 and 6/1/21

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.

Minutes of the 5/25/21 and 6/1/21 meetings provide no "list of documents and other exhibits used at the meeting". A further detailed description is provided in the attached "List of Documents and Other Exhibits Complaint".

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.

- > This request seeks future compliance of Malden's Minutes to the OML requirement for a "List of documents and other exhibits".
- > Further, it is requested that a standard formatting of the template for these Minutes, includes a boilerplate section "list of documents and other exhibits used at the meeting".
- > Further, it would be helpful to adopt consistent naming conventions in recording "the list of documents and other exhibits".

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: Brian DeLacey (electronic signature)

Date: June 23, 2021

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:

A further detailed description:

List of Documents and Other Exhibits Complaint

=====

Minutes of the Finance Committee meeting of May 25, 2021 and June 1, 2021 are attached. These lengthy, detailed documents include references to documents, exhibits, spreadsheets, a feasibility study, budgets, multiple grants and the like which were physically present, verbally identified, and/or the contents of which were discussed by the members of that public body during those meetings.

However, these minutes provide no "list of documents and other exhibits used at the meeting". This appears to be in violation of Open Meeting Law. This is not just a shortcoming of the Finance public body. Malden's public body Minutes typically fail to record "a list of documents and other exhibits used at the meeting".

Prior to the identified meetings - in a March 7, 2021 email - the City Clerk, Council President and more than a half-dozen city officials received a communication indicating a requirement of Open Meeting Law whereby public body minutes must include "a list of documents and other exhibits used at the meeting" G.L. c. 30A, § 22(a)." (See OML 2019-163). Malden's Minutes often fail to record "a list of documents and other exhibits used at the meeting". That email has been provided as a reference.

In the three months since the March 7th communication, it is unclear what effort was made by the City to comply with this part of the Open Meeting Law. As a result, this complaint is filed in an effort to improve the city's recording of minutes. It is hoped this will make the record more complete and accessible. Addressing this should have important long-term benefits, given the permanent retention of minutes.

Additional description of what OML requires was provided in that correspondence of March 7th, included this:

"Where a document is physically present, verbally identified, and the contents are discussed by the members of a public body during a meeting, it has been "used" for purposes of the Open Meeting Law. See OML 2014-12; OML 2012-42. By reviewing and briefly discussing the document at the meeting, the document was "used" by the Commission and should have been listed in the minutes." (OML 2017-85)

Requested Actions

=====

> This request seeks future compliance of Malden's Minutes to the OML requirement for a "List of documents and other exhibits".

> Further, it is requested that a standard formatting of the template for these Minutes, includes a boilerplate section "list of documents and other exhibits used at the meeting".

> Further, it would be helpful to adopt consistent naming conventions in recording "the list of documents and other exhibits". This could greatly help and simplify the retrieval of these documents by interested

parties, both residents and city staff. Here are some some examples, with reference to prior documented agenda items, which might be used as a reference for your further consideration:

FORMAT -> FileNumber-SourceSubmitter-Date:YYYYMMDD-Description

65-21-Anderson-2021-02-15-DempseyLetter

97-21-OMalley-2021-03-09-OMLComplaint

79-21-DeLacey-2021-03-02-PublicComment

371-18-Christenson-2018-09-11-ConsolidationOfCharter

368-19-OMalley-2018-09-11-SalarySchedule

Thank you for your consideration.

Sincerely,

Brian DeLacey