

**CITY OF MALDEN, MASSACHUSETTS
Office of the City Solicitor
215 Pleasant Street, Suite 420
Malden, MA 02148**



Kathryn M. Fallon
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August 19, 2021

Brian DeLacey
1 Earl Street
Malden, MA 02148

Via Email Transmission to bdelacey@gmail.com

Office of the Attorney General
ATTN: Division of Open Government
One Ashburton Place
Boston, MA 02108

Via Email Transmission to openmeeting@state.ma.us

Re: Open Meeting Law Complaint of Brian DeLacey August 2, 2021

Dear Mr. DeLacey and Division of Open Government:

This office represents the City Council for City of Malden regarding the 8/2/21 Open Meeting Law Complaint filed by you against them. The City Council voted during its 8/17/21 meeting to permit this office to answer the allegations of your complaint.

I have attached the Report Regarding August 2, 2021 DeLacey Open Meeting Law Complaint.

Respectfully submitted,

s/John J. McNaught, Jr.

JJM:dma
Enclosure

**CC: Members of the Malden City Council
Greg Lucey, City Clerk**

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REPORT REGARDING OPEN MEETING LAW COMPLAINT OF BRIAN DELACEY DATED
August 2, 2021

FACTS

On August 2, 2021 Brian DeLacey submitted to the City Clerk in the City of Malden an Open Meeting Law Complaint. Mr. DeLacey alleged an Open Meeting Law violation by Jadeane Sica, then President of the Malden City Council, that was alleged to have taken place between March 10, 2020 and April 14, 2020. Attached hereto is a copy of the Complaint of Mr. DeLacey (It should be noted that several of the exhibits were printed in such small print that I could not read them.)

The essence of the Complaint is that the then City Council President, Jadeane Sica had on the several occasions between March 10, 2020 and April 14, 2020 communicated by email with the members of the City Council regarding the cancellation of City Council Meetings asking City Councilors for their opinion on when and if to conduct Council meetings. The complaint mentions emails by Council President, Jadeane Sica that took place on the following dates: March 12, 2020, March 16, 2020, March 24, 2020, March 28, 2020, April 2, 2020 and April 5, 2020. These emails were addressed to every member of the City Council.

I attach a copy of the Complainant's OML Complaint, marked as **Exhibit 1**.

The City Clerk provided to each Councilor a copy of Mr. DeLacey's OML complaint.

This writer appeared before the meeting of the City Council on August 17, 2021 to discuss the complaint and to request authority to investigate the complaint. The City Council unanimously voted to authorize the investigation and to provide the report.

SUMMARY OF REVIEW

The first issue that stood out with regard to the date of the Complaint was that it was more than thirty days after the event(s) complained about. Thus, in accord with the Open Meeting Law statute G.L. c. 30A, §

23, the Complaint should be dismissed as not timely. The Complaint was filed on August 2, 2021. See **Exhibit 1**.

Notwithstanding the fact that the complaint was brought 16 to 17 months after the alleged violation took place, the matter deserves historical perspective. On March 10, 2020 Governor Baker declared a State of Emergency to respond to a pandemic described by the World Health Organization as a novel Coronavirus outbreak of international concern. I attach a copy of this Declaration of State of Emergency issued by Governor Baker, marked as **Exhibit 2**. On March 12, 2020 Governor Baker issued another Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, § 20. I attach a copy of this Order, marked as **Exhibit 3**. On March 13, 2020 President Trump declared a National Emergency due to Covid-19. On March 18, 2020 Mayor Gary Christenson issued a Declaration of Emergency for the City of Malden a copy of which is attached hereto and marked as **Exhibit 4**. On March 23, 2020 Governor Baker issued Covid-19 Order No. 13, a copy of which is attached and marked as **Exhibit 5**.

In a review of President Sica's emails there was communication with each and every member of the City Council. On March 12, 2020 President Sica provided a coronavirus update by stating that she attended a meeting at the Mayor's office with the Department Heads. She further stated that the meeting resulted in a decision that all boards and commissions that are not statutorily required to meet or that do not have a critical vote or deadline are cancelled until further notice. City Council meetings were cancelled until further notice. On March 16, 2020 President Sica sent an email to each and every member of the City Council stating that City Council meetings were cancelled for the next two weeks; that IT will explore options for the City Council to hold meetings remotely. She also commented on Governor Baker's Declaration of Emergency related to Covid-19. She commented that public meetings and hearings that have been cancelled will be rescheduled as soon as practicable and possible. On March 24, 2020 President Sica discusses with each and every member of the City Council by email of her discussion with Councilor DeMaria and her suggestions of possible ways to meet and do the business of the City. On March 28, 2020 President Sica relates that she has spoken to most of the City Councilors regarding an attempt to have meetings. She refers to the Governor's order for the public to shelter in place. She states that the City Clerk informed her that there was nothing of importance for the Council to act upon. President Sica stated that it might be April 7th before a meeting to conduct business may be scheduled. On April 5, 2020 President Sica provides, in memo form by way of email to each and every City Councilor, a guidance involving several issues, including local health services, housing assistance, ongoing communications, tax payments and City Council Meetings. The information of significance to the members of the City Council was about the technology that was being placed before them to conduct Council meetings in compliance with the Governor's Order (**Exhibit 3**). President Sica then scheduled a City Council Meeting for April 14, 2020.

Gov. Baker's Order of March 12, 2020 relates to certain provisions of the open meeting Law, G. L. c. 30A, § 20 suspending certain provisions of the open meeting Law. This particular order takes into consideration the emergency due to the outbreak of coronavirus pandemic. It states that although public bodies pursuant to G. L. c. 30 A, § 18 require meetings be open to the public to ensure active public engagement, the State of declared emergency enables the Governor to exercise authority over public assemblages is necessary to protect the health and safety of persons. His order also indicates that low-cost telephone, social media, and other Internet – based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to activities of the public body. This information is of

significance to municipal bodies such as the Malden City Council. As President, Jadeane Sica sought through the IT Department of the City of Malden the ability to convene City Council meetings by remote means.

The OML complaint of Mr. DeLacey states in part that the City Council did not convene for a properly called public body meeting at any point during this time period. During this time, one or more councilors engaged in impermissible deliberations.

Mr. DeLacey also alleges that he could not have known of these violations as he discovered them upon receiving documents obtained through a recent public records request of February 25, 2021.

LEGAL ANALYSIS

G.L. c. 30A, §23 (b) requires that a complainant file a written complaint of any open meeting Law violation alleged with the public body setting forth the circumstances which constitute the alleged violation and giving the body and opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation.

The complainant filed this complaint on August 2, 2021, almost sixteen months after the alleged violations. The complaint was not filed timely and should be dismissed on those grounds alone.

The allegation that this information could not have been discovered earlier is a ruse to overcome the requirement that the complaint be filed within thirty days of the violation.

G.L. c. 30A, § 20 governs meetings of a public body, such as, the Malden City Council. In part, the statute states that all meetings of a public body shall be open to the public. The statute however was subject to Gov. Baker's executive order dated March 12, 2020, attached and marked as **Exhibit 3**. The time of these alleged or mail violations was immediately following the federal, state and local declarations of a pandemic called Covid – 19. Gov. Baker's orders of March 10, 2020 and March 12, 2020 clearly indicate that the public was to shelter and place and that government was to obtain the necessary tools to conduct business remotely.

The complainant ignores these circumstances. The complainant did not take into consideration the orders given by Gov. Baker. All public bodies were subject to the Governors orders. All public bodies had to obtain the necessary technology to conduct their business and prevent further spread of Covid- 19. Therefore, public meetings of the City Council could not take place until the technology was available for use. This didn't occur until April, 2020. As soon it was available to the City Council a meeting was scheduled virtually for April 14, 2020. In emergency situations such as this, the City Council was ordered to convene only after obtaining the necessary tools and technology to allow a virtual public meeting and to allow public participation.

It was the duty of the President of the Malden City Council to provide information and guidance to the membership of the Council during the early stages of the pandemic regarding cancellation of meetings and the potential for scheduling of meetings. Each and every correspondence, both as described by the complainant and as detailed by the copies of the emails indicates that the entire subject discussed had to do with the scheduling of a meeting for the City Council.

G. L. c. 30A, § 18 provides definitions applicable to the Open Meeting Law. “‘Deliberation’, and oral or written communication through any medium including electronic mail, by and among a quorum of a public body on any public business within its jurisdiction; provided, however, that ‘deliberation’ shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of the member is expressed.”

At no time during the communications by President Sica was there an opinion expressed on any matter of public business. Each and every communication had to do with scheduling information or attempts to obtain the necessary technology to provide the City Council with the ability to conduct public meetings virtually.

REMEDIAL MEASURES

The complainant’s allegations of violations of the Open Meeting Law have no merit. The complaint should be dismissed. There are no necessary remedial measures as there are no Open Meeting Law violations.

Malden City Council
By its attorneys:

/s/John J. McNaught, Jr., Esq.
Kathryn M. Fallon, Esq.
Alicia A. McNeil, Esq.
Mark Rumley, Esq.
City of Malden Legal Department
215 Pleasant Street, Suite 420
Malden, MA 02148

Dated: 8/19/21

cc: via email transmission
Brian DeLacey
All members of the Malden City Council
City Clerk Greg Lucey
Attorney General’s Office

EXHIBIT 1



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: 6176945791 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 City Council

Specific person(s), if any, you allege committed the violation: Jadeane Sica, Barbara Murphy

Date of alleged violation: 3/10/20-4/14/20

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.

See attached description of alleged violation/s and reasons which support belief of intentionality. Included in that attachment is a digital signature to accompany this submission.

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.

- > Acknowledge all Council email deliberation violations which occurred during the period of 3/1/20 - 4/14/20;
- > Publish the record of all virtual votes taken of the Council (who voted, who did not, by what media, and on which matter) as described in various emails to a quorum of the Council, during the period of 3/1/20 - 4/14/20;
- > Publish any emails exchanged between a quorum of the Council, during the period of 3/1/20 - 4/14/20, to serve as minutes of a running meeting during that timeframe.

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: _____

Description of alleged violation

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This complaint involves alleged violations occurring in the timeframe of 3/10/20 - 4/14/20. This period of time was a declared state of emergency when a variety of email exchanges took place on important matters of business properly before the Council during a public health crisis. The documentary record indicates the prevalent concern of residents on some matters: for instance, some "come up repeatedly [on] what we can do as a city to assist residents". Other non-public email to a quorum addressed "the right course of action for the City Council as a body", clearly a matter of business before the Council.

The City Council did not convene for a properly called public body meeting at any point during this time period. During this time, one or more councilors engaged in impermissible deliberations.

The law defines deliberation as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.

In the facts and documentation provided here, we find email sent directly to a quorum - as well as serial communication whereby a quorum communicated in non-contemporaneous manner - outside of a public meeting. This included multiple email communications initiated by the Council President.

The following excerpts highlight exchanges believed to be representative of violations involving a quorum of the Council (full emails are available):

03/12/20 - jsica @ 3:52 PM to quorum of Council -

"As a result, all Boards and Commissions that are not statutorily required to meet or that do not have a critical vote or deadline are cancelled until further notice. Kate Fallon is working with the Planning Board and Board of Appeal to determine which matters are time sensitive as far as statutory requirements and will try to see if they can be waived. Additionally, Kate informed us that there is emergency legislation pending that will relax open meeting law requirements. As far as the City Council, all Committee meetings are cancelled until further notice."

3/24/20 @ 3:38 PM - jsica to quorum of Council -

"I've had discussions with several of you and want to communicate with you all as a group so we can be as unified as possible on the right course of action for the City Council as a body."

3/28/20 @ 5:36 PM - jsica to quorum of Council -

"I have heard back from just all of you regarding how to move forward. At this time the majority of Councilors would like not to have meetings conducting business as usual until at least April 7th to adhere to the governor's shelter in place. ... I have spoken to City Solicitor Fallon and we can have no more than 5 on a call at one time."

4/2/20 - bmurphy @ 12:30 PM to quorum of Council - "Personally I disagree with DPH's recommendation. This is a life and death situation for many ... Just my thoughts on the topic."

4/5/20 - jsica @ 11:28 AM to quorum of Council -

"Moving Forward" communication "From: Council President Jadeane Sica" and "To: Members of the Malden City Council" - "I have been in communication with each of you and it's that

feedback , and the consensus opinion, that led to us taking a pause along with all other city bodies. ... I hope this memo addresses many different topics of interest to all of us, and some clarity on what I think our path from here is."

These relate to non-public email deliberations, which were only available to the public recently. A public records request was filed in February 25, 2021, #2021-0066. A response providing the emails was only provided by the City on or about 7/22/21.

The alleged violation/s could not have reasonably been known at the time they occurred since they were contained in non-public email. This complaint is being filed within 30 days of the date on which the alleged violation could reasonably have been discovered. 940 CMR 29.05(4).

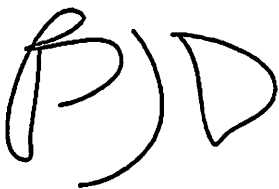
If you believe the alleged violation was intentional, please say so and include reasons:
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These actions appear to show evidence of intentionality, specifically:

- > An email on 3/12/20 references involvement of the City Solicitor: "Additionally, [the City Solicitor] informed us that there is emergency legislation pending that will relax open meeting law requirements."
- > An email on 3/24/20 states: "I am sure you are all aware that that [sp] Governor published an executive order relaxing some of the requirements of the open meeting law. However, most aspects still apply."
- > An email on 3/28/20 indicates awareness of quorum limits on the Council and some efforts to construct meeting groups to avoid hitting those limits: "I have spoken to City Solicitor Fallon and we can have no more than 5 on a call at one time."
- > The City Council received Determination OML 2019-140 dated 11/5/19 on a similar aspect of Open Meeting Law and email deliberation. That Determination stated, "a similar violation in the future may be considered evidence of intent to violate Open Meeting Law." This appears to document one or more similar violations.

What action do you want the public body to take?
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See original complaint form

A handwritten signature in black ink, appearing to be the initials 'PD' or a stylized 'P' followed by a 'D'.

Signed, August 2, 2021

From: Jadeanne Sileo <jasileo@CITYOFMALDEN.ORG>
Sent: 2/12/2020 3:52:50 PM
To: "Craig Spadefora" <cspadefora@CITYOFMALDEN.ORG>; "Peg Grove" <pgrove@CITYOFMALDEN.ORG>; "Amanda Linsman" <alinsman@CITYOFMALDEN.ORG>; "Paul Anderson" <paanderson@CITYOFMALDEN.ORG>; "Paul Gaudin" <pgaudin@CITYOFMALDEN.ORG>; "Ryan O'Malley" <romalley@CITYOFMALDEN.ORG>; "Stephen Winkler" <swinkler@CITYOFMALDEN.ORG>; "Debbie Gonzalez" <dgonzalez@CITYOFMALDEN.ORG>; "David Daniels" <ddaniels@CITYOFMALDEN.ORG>; "Barbara Murphy" <bmurphy@CITYOFMALDEN.ORG>
Subject: Corona virus update

Good afternoon,

I attended a meeting this morning in the Mayor's Office with all City Department Heads regarding the Coronavirus. We received updates from Chris Webb and East. Goals as to what has been happening and what we can expect. I am attaching notes from the meeting led on by Kathleen Blawie Hall. The Mayor also reported on his telephone conference with Mayor Maura and her staff experts.

As a result, all Board and Committee that are not historically required to meet or that do not have a COVID vote or decision by consensus will not meet. The Planning Board and Board of Appeal to determine which matters are more feasible as far as (1) taking any requests and will try to see if they can be worked. Additionally, I am informed that there is emergency legislation pending that will make open meetings law requests. As far as the City Council, all Committee meetings are cancelled until further notice. The meeting on the new Queens station project on Commercial Street for next week may have some requirements as to take in building only that as well, I will be in touch about our other meetings as I learn more.

Superintendent Dineen was also present at the meeting and is in the process of planning for school closures. Fortunately, there is no school open by tomorrow and the Professional Development scheduled for the teachers has been canceled. Decisions will be made in the next 24 hours or so and myself or Maria Lefebvre will keep you all updated.

As far as City leaders, Department Heads by tomorrow will report to the Mayor's Office as to departmental operations, what is essential, who can work from home, etc. We are regrouping tomorrow morning to discuss this further.

This is an evolving situation and again, I will keep everyone posted.

Jasileo



MAURA HEALEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

(617) 727-2200
www.mass.gov/ago

November 5, 2019

OML 2019 – 140

Kathryn Fallon, Esq.
Malden City Solicitor
City of Malden Legal Department
110 Pleasant Street, 3rd Floor
Malden, MA 02148

RE: Open Meeting Law Complaint

Dear Attorney Fallon:

This office received a complaint from Brian DeLacey on December 4, 2018, alleging that the Malden City Council (the "Council") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Council on September 21, 2018, and you responded on behalf of the Council by letter dated October 10, 2018. In his complaint, Mr. DeLacey alleges that a City Councilor deliberated outside of a public meeting via an email he sent to a quorum of the Council about a matter before the Council.¹

We appreciate the patience and cooperation of the parties during this investigation. Following our review, we find that City Councilor Matheson violated the Open Meeting Law by deliberating outside of a public meeting. In reaching a determination, we reviewed the complaint, including the email at issue which was sent to us by the Complainant on April 5, 2019, the Council's response and the request for further review. In addition, we spoke with you by phone on September 16, 2019.

FACTS

We find the facts as follows. The Council is an eleven-member public body. Thus, any six members constitute a quorum.² On September 13, 2018, Councilor John Matheson sent an email to Malden Assistant Solicitor John McNaught and copied City Solicitor Fallon, eight City Councilors, an administrative assistant and the public representative on the Malden Hospital Site Development Committee.

¹ We decline to review any allegations made in the request for further review. Our office does not conduct broad audits of public bodies and will address only allegations made in an Open Meeting Law complaint in order to give public bodies a chance to address those allegations. See OML Declination 4-22-15; OML Declination 8-25-2015.

² For the purposes of the Open Meeting Law, a quorum is a simple majority of the members of a public body. G.L. c. 30A, § 18.

In the email in question, Councilor Matheson thanked Assistant Solicitor McNaught for his work on resolving a previous Open Meeting Law complaint that Mr. DeLacey had filed against the Malden Hospital Site Development Committee. Councilor Matheson went on to explain that he thought the previous complaint had been filed "with the intention of harassment" because he believed that Mr. DeLacey had a pattern "over the years" of "mak[ing] a request of someone with the intention of trapping the person who attempts to help him, like a game of gotcha." Councilor Matheson went on to recommend that the Council "comply strictly to the requirements of the open meeting law, without any additional courtesies, such as uploading committee minutes online, which can then be used to generate additional [Open Meeting Law] complaints. It is unfortunate that it has come to this, but necessary."

DISCUSSION

I. City Councilor Matheson violated the Open Meeting Law by deliberating outside of a public meeting via a September 13, 2018, email.

The purpose of the Open Meeting Law is "to eliminate much of the secrecy surrounding the deliberations and decisions on which public policy is based." See Dist. Attorney for N. Dist. v. Sch. Comm. of Wayland, 455 Mass. 561, 563 (2009); Ghiglione v. School Comm. of Southbridge, 376 Mass. 70, 72 (1978). Accordingly, the law requires that all meetings of a public body be properly noticed and open to members of the public, unless an executive session is convened. See G.L. c. 30A, §§ 20(a)-(b), 21. In relevant part, a "'meeting' is defined as a deliberation by a public body with respect to any matter within the body's jurisdiction." G.L. c. 30A, § 18. The law defines deliberation as "an oral or written communication through any medium, *including electronic mail*, between or among a quorum of a public body on any public business within its jurisdiction[.]" G.L. c. 30A, § 18 (emphasis added).

Here, we find that Councilor Matheson engaged in impermissible deliberation outside of a public meeting when he sent the September 13, 2018, email to eight other members of the Council, thereby reaching more than a quorum of the Council. The Council argues that the email was not deliberation because Councilor Matheson had not "intended for the quorum to deliberate." We find this argument unavailing. The mere act of sending such a communication to a quorum of other members is itself deliberation. The Open Meeting Law does not carve out an exception to the definition of "deliberation" for discussions that do not result in a decision or vote. OML 2019-120.³ Furthermore, the expression of an opinion by one public body member on matters within the body's jurisdiction to a quorum of a public body is considered a deliberation, even if no other public body member responds. OML 2016-104; OML 2015-33; OML 2012-73.

The Council further asserts that any discussion of the first Open Meeting Law complaint in the email was not an issue "under consideration" of the Council because a response had already been sent to the first complaint. This argument also misconstrues the legal standard of deliberation, which includes "any public business within [the public body's] jurisdiction," regardless of timeframe. Furthermore, we find that the discussion of how Council meeting minutes should be handled in order to prevent future complaints was clearly a matter of public business within the jurisdiction of the Council, thereby satisfying that element of the standard.

³ All previous determinations issued by the Division can be found on the Attorney General's website: <https://www.mass.gov/the-open-meeting-law>.

For these reasons, we find that the September 13, 2018, email constituted deliberation, and was impermissible outside of a properly noticed meeting under the Open Meeting Law.

II. Regardless of whether the September 13, 2018, email was privileged under the attorney-client privilege, it must be released to cure the Open Meeting Law violation.

The Council argues that the email was exempt from the requirements of the Open Meeting Law under the attorney-client privilege doctrine as enunciated by the Supreme Judicial Court in Suffolk Construction v. Division of Capital Asset Mgt., a case construing the Public Records Law. 449 Mass. 444 (2007). Our office does not quarrel with the right of the Council or its members to consult with counsel. See OML 2011-27. However, there is no attorney-client privilege exception to the Open Meeting Law. Quite to the contrary, the Supreme Judicial Court has ruled that the Open Meeting Law constitutes a "statutory public waiver of any possible privilege of the public client in meetings of governmental bodies except in the narrow circumstances stated in the [Open Meeting Law]." District Attorney for the Plymouth Dist. v. Selectmen of Middleborough, 395 Mass. 629, 634 (1985).

The Appeals Court recently confirmed that this rule remains in effect, notwithstanding the Supreme Judicial Court's 2007 decision in Suffolk Construction. Revere Retirement Bd. v. Attorney General, 93 Mass. App. Ct. 1117 (2018) (Rule 1:28 Decision) (Further Appellate Review denied Sep. 13, 2018). Therefore, communication between counsel and a quorum of a public body may occur only during a properly posted open meeting or during a valid executive session. See District Attorney for the Plymouth Dist. v. Selectmen of Middleborough, 395 Mass. 629, 632-634 (1985); see also; OML 2018-139; OML 2017-72. A discussion between a quorum of public body members and counsel may be held in executive session, outside of the view of the public, only if the communication falls within one of the enumerated executive session purposes. Id. The attorney-client privilege itself is not an explicitly enumerated basis for executive session, nor is there an implied executive session purpose for attorney-client communications. See Id.; G.L. c. 30A, § 21(a).

Where, as here, impermissible deliberation has taken place via email, our usual remedy is to order the release of the email communications to the public. See OML 2019-75; OML 2017-199; OML 2015-33; OML 2012-63; OML 2011-14. We need not analyze whether the September 13, 2018, email would fall within the scope of the attorney-client privilege in another context. Here, the Open Meeting Law constituted a "waiver of any possible privilege," District Attorney for the Plymouth Dist., 395 Mass. at 634, and the email communication constituted a deliberation that should have occurred only at a properly posted public meeting in the first instance. Therefore, we order that the Council publicly release the email within 30 days from receipt of this determination by disclosing it at a public meeting of the Council and listing it in the minutes. See OML 2017-72; OML 2015-10.

CONCLUSION

For the reasons stated above, we find that City Councilor Matheson violated the Open Meeting Law by deliberating outside of a public meeting. We commend the Committee for its subsequent efforts to ensure that all members are educated about the requirements of the Open Meeting Law and its stated commitment to comply with those requirements in the future.

We order the Council's immediate and future compliance with the Open Meeting Law and caution the Council that a determination by our office of a similar violation in the future may be considered evidence of intent to violate the Open Meeting Law. We also order that the Council release to the public, within 30 days following its receipt of this determination, the September 13, 2018, email referenced in this letter.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Council. Please feel free to contact the Division at (617) 963 - 2540 if you have any questions.

Sincerely,



Sarah Chase
Assistant Attorney General
Division of Open Government

cc: Brian DeLacey
Malden City Council

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.

From: Jadeene Sles <jles@CITYOFMILWAUKEE.ORG>
Sent: 3/23/2020 5:36:43 PM
To: "Craig Spodefora" <cspefora@CITYOFMILWAUKEE.ORG>; "Peg Creve" <pcreve@CITYOFMILWAUKEE.ORG>; "Amanda Linahan" <alinahan@CITYOFMILWAUKEE.ORG>; "Paul Anderson" <banderson@CITYOFMILWAUKEE.ORG>; "Paul Gordon" <pgordon@CITYOFMILWAUKEE.ORG>; "Ryan O'Malley" <romalley@CITYOFMILWAUKEE.ORG>; "Stephen Winslow" <swinslow@CITYOFMILWAUKEE.ORG>; "David Conell" <dconell@CITYOFMILWAUKEE.ORG>; "Barbara Murphy" <bmurphy@CITYOFMILWAUKEE.ORG>; "Debbie Demaria" <ddemaria@CITYOFMILWAUKEE.ORG>
Subject: Re: Council

Good Evening

I have heard back from just all of you regarding how to move forward. At this time the majority of Councilors would like not to have meetings conducting business as usual until at least April 7th to adhere to the governor's shelter in place.

I have spoken to the City Clerk and he agrees there is nothing of importance at this time.

Gary has agreed to send calls to give Councilors updates and to hear your comments/concerns regarding Covid-19. He is available Monday or Wednesday 11am and on. I have spoken to City Solicitor Fallon and we can have no more than 5 on a call at one time.

Please respond to me only with the day and time you are available and I'll send out confirmation once I coordinate groups.

Hope you are well.
Jadeene

From: Jadeene Sles

Sent: Tuesday, March 24, 2020 2:23 PM

To: Craig Spodefora <cspefora@CITYOFMILWAUKEE.ORG>; Peg Creve <pcreve@CITYOFMILWAUKEE.ORG>; Amanda Linahan <alinahan@CITYOFMILWAUKEE.ORG>; Paul Anderson <banderson@CITYOFMILWAUKEE.ORG>; Paul Gordon <pgordon@CITYOFMILWAUKEE.ORG>; Ryan O'Malley <romalley@CITYOFMILWAUKEE.ORG>; Stephen Winslow <swinslow@CITYOFMILWAUKEE.ORG>; David Conell <dconell@CITYOFMILWAUKEE.ORG>; Barbara Murphy <bmurphy@CITYOFMILWAUKEE.ORG>; Debbie Demaria <ddemaria@CITYOFMILWAUKEE.ORG>
Subject: Council

Good Afternoon,

First and foremost, I hope you are all safe and well and focused appropriately on the health of yourselves, your families, and your loved ones, as that truly is far more important than anything else.

I've had discussions with several of you and want to communicate with you all as a group so we can be as unified as possible on the right course of action for the City Council as a body.

First, I had a request by Council DeMaio to schedule an executive session meeting of the City Council. I am sure you are all aware that that Governor published an executive order relating some of the requirements of the open meeting law. However, most aspects still apply. I've copied the summary of what the Governor ordered (available on legis.wisconsin.gov) at the bottom of this email. As you see by the text in bold, the rules around executive sessions have not changed. We would need a 7-vote action to meet in executive session, the current health crisis doesn't change that.

It is my belief that there of some time together with us have to do, we should be continuing our mission to do our part in staying home as requested by the Governor. In speaking with Councilor DeMaio, she indicated she spoke with many of you and you feel the Council is being underfunded and left in the dark, and that many of you desire to get back to meeting and doing our business. I have been in regular contact with the Mayor's office, as I know how many of you, about the path being charted on this crisis by the Mayor and his team and would encourage anyone to do the same. While we as a body don't need to meet to get information, I'm open to it if that's the desire of the body. We have two options:

- 1.) Have a meeting where we all show up in person at the Senior Center, but close it to the public. Public access to our deliberations would be provided through MATV broadcasting the meeting. This I believe fits in the Governor's executive order.
- 2.) Have a virtual meeting where everyone participates remotely through a land bank or "zoom". While I myself am not familiar with this type of app, Councilor DeMaio has indicated she is and I'm sure she could help each Councilor who may not be familiar with these options. If options would need to be able to call in to listen and follow along on our deliberations.

Please don't respond to this email with a response at, but either reach out to me directly with your thoughts and willingness to meet so we can chart a course. And don't forget...wash those hands!

Jadeene

On March 23, 2020, Governor Evers issued Executive Order Wisconsin 19.001, which provides that the following provisions of the Open Meetings Law shall not apply during the current health crisis: (a) the requirement that a meeting be open to the public; (b) the requirement that a meeting be held in a public building; (c) the requirement that a meeting be held at a certain time; (d) the requirement that a meeting be held at a certain place; (e) the requirement that a meeting be held at a certain time; (f) the requirement that a meeting be held at a certain place; (g) the requirement that a meeting be held at a certain time; (h) the requirement that a meeting be held at a certain place; (i) the requirement that a meeting be held at a certain time; (j) the requirement that a meeting be held at a certain place; (k) the requirement that a meeting be held at a certain time; (l) the requirement that a meeting be held at a certain place; (m) the requirement that a meeting be held at a certain time; (n) the requirement that a meeting be held at a certain place; (o) the requirement that a meeting be held at a certain time; (p) the requirement that a meeting be held at a certain place; (q) the requirement that a meeting be held at a certain time; (r) the requirement that a meeting be held at a certain place; (s) the requirement that a meeting be held at a certain time; (t) the requirement that a meeting be held at a certain place; (u) the requirement that a meeting be held at a certain time; (v) the requirement that a meeting be held at a certain place; (w) the requirement that a meeting be held at a certain time; (x) the requirement that a meeting be held at a certain place; (y) the requirement that a meeting be held at a certain time; (z) the requirement that a meeting be held at a certain place.

EXHIBIT 2

EMERGENCY ALERTS

Show Coronavirus Update ▼

Mass.gov

NEWS

Declaration of a State of Emergency to Respond to COVID-19

3/10/2020

Office of Governor Charlie Baker and Lt. Governor Karyn Polito

WHEREAS, on January 30, 2020, the World Health Organization designated the 2019 novel Coronavirus outbreak as a Public Health Emergency of International Concern;

WHEREAS, on January 31, 2020, United States Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the entire United States to aid the nation's healthcare community in responding to the 2019 novel Coronavirus ("COVID-19");

WHEREAS, the disease caused by the 2019 novel Coronavirus is a contagious, and at times fatal, respiratory disease;

WHEREAS, symptoms of COVID-19 include fever, cough, and shortness of breath, and the disease can spread from person to person via respiratory droplets produced when an infected person coughs or sneezes;

WHEREAS, as of March 10, 2020, according to the Centers for Disease Control and Prevention ("CDC"), there are more than 114,000 confirmed cases of COVID-19 worldwide, and over 4,000 of those cases have resulted in death;

WHEREAS, as of March 10, 2020, according to the CDC, there are more than 600 confirmed cases of COVID-19 in the United States, and 25 of those cases have resulted in death;

WHEREAS, as of March 10, 2020, there are 91 presumed positive cases of COVID-19 in the Commonwealth;

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been detected in the Commonwealth and such transmission is expected to continue;

WHEREAS, the Massachusetts Department of Public Health has instituted a Public Health Incident Management Team to manage the public health aspects of the incident;

WHEREAS, the worldwide outbreak of COVID-19 and the effects of its extreme risk of person-to-person transmission throughout the United States and the Commonwealth significantly affect the life and health of our people, as well as the economy, and is a disaster that impacts the health, security, and safety of the public;

WHEREAS, it is critical to take additional steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of the people of the Commonwealth; and

WHEREAS, declaring a state of emergency will facilitate and expedite the use of Commonwealth resources and deployment of federal and interstate resources to protect persons from the impacts of the spread of COVID-19;

NOW THEREFORE, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, do hereby issue this proclamation that there now exists in the Commonwealth of Massachusetts a STATE OF EMERGENCY.

Pursuant to the powers granted to the Governor in Sections 5, 6, 7, 8, and 8A of Chapter 639 of the Acts of 1950, as amended, and other provisions of law, I shall from time to time issue recommendations, directives, and orders as circumstances may require.

This proclamation of a STATE OF EMERGENCY is effective immediately and shall remain in effect until notice is given, pursuant to my judgment, that the STATE OF EMERGENCY no longer exists.

Given in Boston on 3:20 PM this 10th day of March two thousand and twenty.

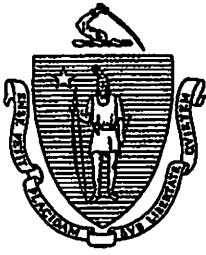
Office of Governor Charlie Baker and Lt. Governor Karyn Polito

(/orgs/office-of-the-governor)

Governor Charlie Baker, Lt. Governor Karyn Polito and the Baker-Polito Administration are committed to serving the people of Massachusetts and making the Commonwealth a great place to live, work and raise a family.

More (/orgs/office-of-the-governor)

EXHIBIT 3



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19"); and

WHEREAS, many important functions of State and Local Government are executed by "public bodies," as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention ("CDC") and the Massachusetts Department of Public Health ("DPH") have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

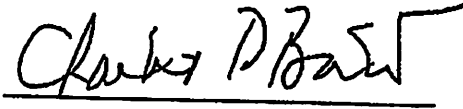
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 6:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in dark ink, appearing to read "Charles D. Baker", written over a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts

EXHIBIT 4



www.cityofmalden.org

Gary Christenson, Mayor

**CITY OF MALDEN
DECLARATION OF EMERGENCY
EFFECTIVE Wednesday, March 18, 2020**

WHEREAS, the 2019 novel Coronavirus (COVID-19) has been declared a Public Health Emergency of international concern by the World Health organization; and

WHEREAS, on March 10, 2020, the Governor of the Commonwealth of Massachusetts has declared a State of Emergency to respond to COVID-19 and has determined that immediate public action is needed to prevent, minimize, or mitigate damage to public health, safety or general welfare of people of the Commonwealth; and,

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency due to the evolving COVID-19 situation and has directed the agencies of the national government to take appropriate actions; and

WHEREAS, the ongoing transmission of COVID-19 can be expected to greatly impact the health and welfare of residents of the City of Malden; and,

WHEREAS, the Mayor of the City of Malden, in consultation with the City's Health Department and Emergency Management Director, has determined that COVID-19 poses a present, reasonable and imminent danger to public health, safety, or general welfare of the people of Malden so that it has become necessary for the Mayor, with such assistance and staff as he deems necessary, to utilize and coordinate the services, equipment, supplies, and facilities of existing departments, offices, and agencies or the community, both locally, regionally, statewide and nationally, if necessary, including the taking of ordinary and extraordinary actions for the purposes of emergency management and emergency functions to protect the public; and,

WHEREAS, immediate action is needed to prepare for, respond to and minimize or mitigate damage to public health, safety, or general welfare of the people of the City of Malden; and,

WHEREAS, a Declaration of Emergency will create a mechanism to facilitate and expediate the use of resources to protect from the impacts of the spread of COVID-19, including but not

City of Malden, MA

Declaration of State of Emergency
Page 2

limited to emergency expenditures pursuant to M.G.L. c. 44, §31 and will allow for the ability to obtain whatever resources may become available to the City of Malden to address the public health and safety crisis; and,

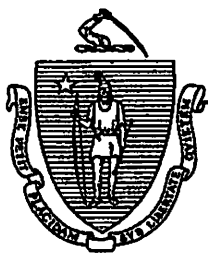
NOW THEREFORE, I, Mayor Gary Christenson, hereby declare that as of Wednesday, March 18th, 2020 a State of Emergency is declared to exist in the City of Malden. This Declaration of Emergency shall remain in effect until notice is given that the conditions leading to this State of Emergency no longer exist.



GARY CHRISTENSON
Mayor, City of Malden

DATED: March 18, 2020

EXHIBIT 5



OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER ASSURING CONTINUED OPERATION OF ESSENTIAL SERVICES
IN THE COMMONWEALTH, CLOSING CERTAIN WORKPLACES,
AND PROHIBITING GATHERINGS OF MORE THAN 10 PEOPLE**

COVID-19 Order No. 13

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19");

WHEREAS, on March 11, 2020, the COVID-19 outbreak was characterized as a pandemic by the World Health Organization;

WHEREAS, the number of presumptive positive and confirmed cases of COVID-19 continues to rise exponentially in the Commonwealth. As of March 22, 2020, the Department of Public Health had reported 646 cases of COVID-19, including 5 deaths, with 13 of the 14 counties in the Commonwealth impacted;

WHEREAS, the Department of Public Health is urging all residents of the Commonwealth to limit activities outside of the home and to practice social distancing at all times, both inside and outside of the home to limit the spread of this highly contagious and potentially deadly virus;

WHEREAS, on March 19, 2020, the Federal Cybersecurity and Infrastructure Security Agency issued guidance to assist States that identifies 14 critical infrastructure sectors whose workers provide services and functions that are essential to maintain in order to support a strong response to the COVID-19 pandemic;

WHEREAS, as Governor, I have identified additional services and functions that likewise are essential to promote the public health and welfare of the Commonwealth, and

therefore it is imperative to ensure that workers providing critical services and functions in these State and Federally designated sectors may continue to work to ensure community resilience and continuity of response efforts; and

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise any and all authority over persons and property necessary or expedient for meeting a state of emergency, including but not limited to authority over public assemblages in order to protect the health and safety of persons, regulating the sale of articles of food and household articles, and policing, protection, and preservation of public and private property;

NOW, THEREFORE, in order to minimize all unnecessary activities outside of the home during the state of emergency, I hereby order the following:

1. **Maintaining Operation of COVID-19 Essential Services and Workforces**

The production and service sectors identified in Exhibit A are hereby designated as “COVID-19 Essential Services.” The workforces engaged and working in these production and service sectors are hereby designated as “COVID-19 Essential Workforces.” I shall amend and publish updates to Exhibit A as I determine necessary in response to conditions as they develop.

Businesses and other organizations that provide the services and functions identified as COVID-19 Essential Services in Exhibit A are urged to continue operations during the state of emergency, but to do so with allowance for social distancing protocols consistent with guidance provided by the Department of Public Health.

Restaurants, bars, and other retail establishments that sell food and beverage products to the public provide COVID-19 Essential Services and are designated as such in Exhibit A. These establishments are therefore encouraged to continue to offer food and beverages for take-out and by delivery provided that they follow the social distancing protocols set forth in Department of Public Health guidance. Restaurants, bars, or other establishments that offer food or beverages to the public shall not permit on-premises consumption of food or beverages.

2. **Temporary Closing of Other Businesses and Organizations**

All businesses and other organizations that do not provide COVID-19 Essential Services shall close their physical workplaces and facilities (“brick-and-mortar premises”) to workers, customers, and the public as of 12:00 noon on March 24, 2020 and shall not re-open to workers, customers, or the public before 12:00 noon on April 7, 2020. Churches, temples, mosques, and other places of worship shall not be required to close their brick and mortar premises to workers or the public; provided, however, that such institutions shall be required to comply with all limitations on gatherings established in section 3 below.

Businesses and other organizations that do not provide COVID-19 Essential Services are encouraged to continue operations where they are able to operate through remote means that do not require workers, customers, or the public to enter or appear at the brick-and-mortar premises closed by this Order.

3. Limitations on Gatherings

Gatherings of more than 10 people are prohibited throughout the Commonwealth. Gatherings subject to this Order include, without limitation, community, civic, public, leisure, faith-based, or sporting events, concerts, conferences, conventions, fundraisers, parades, fairs, festivals, weddings, funerals, and any similar event or activity that brings together more than 10 persons in any confined indoor or outdoor space. This limitation shall not apply to the operations or activities of any business or organization in its provision or delivery of COVID-19 Essential Services.

This Order does not prohibit gatherings of more than 10 people in an unenclosed, outdoor space such as a park, athletic field, or parking lot.

Athletic and recreational activities that bring participants into close, physical contact are prohibited even when involving 10 or fewer people and regardless of where conducted.

4. Exceptions

(a) This Order shall not apply to any municipal legislative body or to the General Court or to the Judiciary.

(b) This Order shall not apply to residential schools for special needs students. This Order also does not apply to public and private elementary and secondary (K-12) schools in the Commonwealth, which are subject to the March 15, 2020 Order Temporarily Closing All Public and Private Elementary and Secondary Schools, as may be subsequently amended, which suspended all normal, in-person instruction.

(c) This Order does not apply to the operation of child care programs in the Commonwealth, which are subject to the March 18, 2020 Order Temporarily Closing All Child Care Programs and Authorizing the Temporary Creation and Operation of Emergency Child Care Programs, as may be subsequently amended.

5. Implementing Guidance and Enforcement

The Commissioner of Public Health is directed to issue guidance ("DPH Guidance"), subject to my approval, to implement the terms of this Order. The DPH Guidance shall include a requirement that grocery stores and other retailers with substantial retail grocery sales establish special limited access hours during which elderly and other vulnerable populations may have exclusive access to make grocery purchases.

The Department of Public Health, along with any board of health or authorized agent pursuant to G. L. c. 111, § 30, shall enforce this Order and if necessary may do so with the assistance of State or municipal police. Violation of the terms of this Order or the DPH Guidance may result in a criminal penalty pursuant to Section 8 of Chapter 639 of the Acts of 1950 or a civil fine of up to \$300 per violation, in the manner provided for non-criminal disposition of violations of municipal by-law, ordinance, rule, or regulation pursuant to G. L. c. 40, § 21D. A criminal complaint for violation of or a motion for an injunction to enforce this Order or the DPH Guidance shall be filed in the district court with jurisdiction for the municipality in which the violation has been charged.

In addition, I hereby direct the Commissioner of Public Health to act under the authority of G. L. c. 17, § 2A and G. L. c. 111, § 6 or any other appropriate authority to supplement the terms of this Order in the event she determines additional measures are required to ensure that the terms of this Order are observed.

This Order supersedes and makes inoperative any order or rule issued by a municipality that will or might in any way impede or interfere with the achievement of the objectives of this Order. With respect to work and travel in particular, any order or rule issued by a municipality is hereby made inoperative to the extent: (1) such municipal order or rule will or might interfere with provisions of this Order ensuring the continued operation of COVID-19 Essential Services; or (2) such municipal order or rule will or might interfere with the free travel anywhere within the Commonwealth of any person who is a member of any COVID-19 Essential Workforce where such travel is made in connection with the ongoing operation of COVID-19 Essential Services.

This Order rescinds and revokes the Order Prohibiting Gatherings of More than 25 People and On-Premises Consumption of Food or Drink, issued March 15, 2020.

If any provision of this Order or the application thereof to any person or entity or circumstance is determined to be invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Order or the application thereof to other persons, entities, and circumstances.

This Order shall be effective at 12:00 noon March 24, 2020 and shall remain in effect through 12:00 noon on April 7, 2020 unless further extended.

Given in Boston at 9:15 AM this 23rd day
of March, two thousand and twenty

A handwritten signature in black ink, appearing to read "Charles D. Baker", written over a horizontal line.

CHARLES D. BAKER

GOVERNOR

Commonwealth of Massachusetts