



City of New Bedford
MASSACHUSETTS

OFFICE OF THE CITY CLERK
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DENNIS W. FARIAS
CITY CLERK

STEPHANIE MACOMBER
ASSISTANT CITY CLERK

SUSAN M. HENRIQUES
ASSISTANT COUNCIL CLERK

January 7, 2021

Mr. Patrick Higgins
PO Box 24
Swansea, MA 02777

Dear Mr. Higgins:

I am in receipt of your complaint, dated November 18, 2020, in which you allege that the City Council's Committee on Finance violated Open Meeting Law during its meeting of November 18, 2020. I apologize for my delayed response to your complaint, which was a regrettable oversight on my part.

In your complaint, you have raised the following issues:

1. "Chairman Joseph P. Lopes did not make the required announcement of who the members of the public body were that were participating remotely as required by the Open Meeting Law Determinations 2020-138 and 2020-98." (For this item, you refer to video of said meeting at the following link: <https://www.livestream.com/newbedfordnetwork/video?id=11295035303199>.)
2. "Chairman Lopes did not use the required roll call votes on all votes taken by the public body as required when any member of a public body participates remotely."

In response to these alleged violations of Open Meeting Law, please allow me to offer the following statements:

1. Upon reviewing the video via the link above, it is my understanding that on November 18, 2020, Chairman Lopes did recognize each attending member of the Committee on Finance. However, I may be misunderstanding your concern. If you feel that I am incorrect, please feel free to contact me directly at 508-979-1449.
2. With regards to your complaint that Chairman Lopes did not take roll calls on all matters during said meeting, you are absolutely correct. Instead, voice votes were taken and recorded for most, if not all, of the votes during that meeting. This error was due to the Council being unaware that roll calls are required for each and every vote while members participate in remote meetings. As a result of this information coming to light through your complaint, this practice has been corrected and all votes of the Council and its Committees are now being taken by roll call; and this shall be the practice for all future meetings in which members participate remotely.

On behalf of the entire City Council, I thank you for your time and attention to this response and wish you continued success in this new year.

With kind regards,

Dennis W. Farias
City Clerk / Clerk of the City Council

cc: Erica (Rickie) Warren, Paralegal, Division of Open Government, Massachusetts Attorney General
Joseph P. Lopes, City Council President, 2020
David Gerwatowski, Legal Counsel
File

IN CITY COUNCIL, January 14, 2021

Referred to the Committee on Finance.
a true copy attest:

Dennis W. Farias, City Clerk

City Clerk



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: Patrick Last Name: Higgins

Address: P O Box 24

City: Swansea State: MA Zip Code: 02777

Phone Number: 5086743140 Ext. _____

Email: patrick@patrickhiggins.co

Organization or Media Affiliation (if any): Patrick Higgins and Associates

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): New Bedford Finance Committee of city council

Specific person(s), if any, you allege committed the violation: Joseph. P Lopes

Date of alleged violation: 11/18/2020

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.

The New Bedford finance committee of the city council violated the open meeting law as follows:
1. Chairman Joseph. P Lopes did not make the required announcement of who the members of the public body were that were participating remotely as required by the Open Meeting Law Determinations 2020-138 and 2020-98. see video of meeting at <https://www.facebook.com/nbcablenetwork/videos/821296035303199>
2. Chairman Lopes did not use the required roll call votes on all votes taken by the public body as required when any member of a public body participates remotely.

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.

Learn and comply with the open meeting law.
The Chairman must comply with the Determination letters issued as 2020-138 and 2020-98.

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: 11/18/2020

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO: