



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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May 28, 2013

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OML 2013-67

Michael C. Bloom
President
North Adams City Council
10 Main St.
North Adams, MA 01247

RE: Open Meeting Law Complaint

Dear President Bloom:

This office received a complaint from Mr. Robert Cardimino, dated April 9, 2012, alleging that the North Adams City Council (the "Council") violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. Specifically, the complaint alleges that at the Council's February 28, 2012 meeting, "I was recognized by the President Council [sic] Michael Bloom to speak [at] an open forum. I started to speak and was told by the Council President that I could not speak on that subject before he even knew what I was going to say...He told me to [sit] down because I was out of order, I did not comply. At that point Council President Bloom adjourned the meeting and went to call the police. Upon his return he did not close the open forum and called upon the mayor so he could speak...When the mayor finished speaking the meeting was adjourned." The complaint was filed with the Council on or about February 28, 2012. The Council did not respond directly to Mr. Cardimino. However, City Solicitor John DeRosa provided an opinion to the Council in response to the complaint, dated March 22, 2012.¹

Following our review, we find that the Council did not violate the Open Meeting Law. In reaching that determination, we reviewed the February 28, 2012 complaint filed with Council; the March 22, 2012 letter from the City Solicitor to the Council; and the April 9, 2012 complaint filed with our office. Additionally, we reviewed the Rules of the City Council; a written statement that was read aloud by President Bloom² at the Council's March 13, 2012 meeting; and a newspaper article titled *North Adams Council Denies Using Offensive Word*, dated February 15, 2012 and located at www.Berkshires.com.

¹ We remind the Council that within 14 business days after receiving an Open Meeting Law complaint, a public body shall review the complaint's allegations; take remedial action, if appropriate; and send to the Attorney General a copy of the complaint and a description of any remedial action taken. 940 CMR 29.05(4); G.L. c. 30A, § 23(b). The public body shall simultaneously notify the complainant that it has sent such materials to the Attorney General and shall provide the complainant with a copy of the description of any remedial action taken. 940 CMR 29.05(4).

² For purposes of clarity in this letter, we will refer to you in the third person.



FACTS

Mr. Cardimino attended a Council meeting on February 28, 2012, and attempted to address the Council during open forum. Council President Bloom refused to allow him to address the Council, apparently because he was concerned that Mr. Cardimino was going to discuss an issue raised during the Council's February 14, 2012 meeting that touched upon a topic that addressed "personalities, libelous remarks and innuendo" and was not, in his opinion, a matter of municipal interest.

DISCUSSION

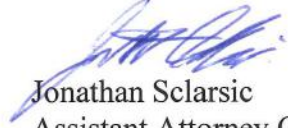
The Open Meeting Law does not require that a public body allow public participation. OML 2012-23.³ The law states that "[n]o person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent." G.L. c. 30A, § 20(f). Because the law permits the chair of a public body to determine who may address the public body during a meeting, the Council President, as the chair of the Council, had discretion to deny members of the public the opportunity to speak during the February 28, 2012 meeting. Although the chair of a public body determines who may address the public body at an open meeting, we encourage public bodies to allow public participation during meetings whenever reasonably possible. See OML 2012-23.

CONCLUSION

For the reasons stated above, we find that the Council did not violate the Open Meeting Law.

We appreciate the patience of the parties while we reviewed this complaint. We now consider this matter closed. Please contact our office at (617) 963-2540 if you have any questions regarding this letter.

Sincerely,



Jonathan Sclarsic
Assistant Attorney General
Division of Open Government

cc: Robert Cardimino
John DeRosa, North Adams City Solicitor

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by this order 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 this order.

³ Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.