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DAVID A. OLSON, CMC
Newton, MA 02459

ALAN L. KOVACS

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Admitted in MA and NY

January 21, 2020

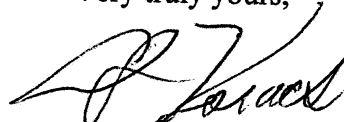
BY HAND

Mr. David Olson
Clerk, Newton City Council
Newton City Hall
1000 Commonwealth Ave.
Newton, MA 02459

Dear Mr. Olsen:

Enclosed please find an Open Meeting Law Complaint in regard to the City Council meeting held on Monday, January 6, 2020.

Very truly yours,



Alan L. Kovacs, Esq.

Enc.

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OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

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Kevin A. Gleason, Clerk
Newton, MA 02459

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Alan Last Name: Kovacs

Address: 257 Dedham Street

City: Newton State: MA Zip Code: 02461

Phone Number: +1 (617) 964-1177 Ext.

Email: alankovacs@yahoo.com

Organization or Media Affiliation (if any):

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): Newton City Council

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

Date of alleged violation: Jan 6, 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.

On Friday, Jan. 3, 2020 at 4:29pm, the Newton City Council Docket was revised for the Council meeting scheduled for 7:00pm on Monday, Jan. 6, 2020 by adding an item regarding discussion of the Referendum Petition requesting that the City Council repeal or rescind Council Order #425-18. The notice was not posted 48 business hours prior to the meeting, nor was it posted in a conspicuous manner.

This notice knowingly violated the Open Meeting Law, MGL c. 30A, section 20, which states, in pertinent part:

"(b)...a public body shall post notice of every meeting at least 48 hours prior to the meeting, excluding Saturdays, Sundays, and legal holidays....Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of the meeting and a listing of the topics that the chair reasonably anticipates will be discussed at the meeting.

(c) For a meeting of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located."

As a result of the Open meeting Law violation:

- * The public was deprived of the required 48 hours notice of the item under discussion.
- * The public was deprived of notice of the Council's Jan. 6 vote on whether to convene as a Committee of the Whole on Jan. 8 to discuss the Referendum Petition.
- * The Referendum Petition was and is of great importance to a large number of Newton registered voters, over 5,000 of whom signed the Referendum Petition.
- * The lack of notice deprived the public of the opportunity to hear the debate concerning whether the Council would repeal or rescind the action protested by the Referendum Petition and the debate concerning the date to hold the vote on a referendum in the event that the Council failed to repeal or rescind the Council Order protested in the Referendum Petition.

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.

Nullify the actions taken by the Council on Monday, Jan. 6, 2020 regarding the Referendum Petition and any related actions taken on Wednesday, Jan. 8, 2020;

Redocket the item in question 48 hours prior to a Council meeting and reconvene the Committee of the Whole to discuss the Referendum Petition and refer its recommendation to the Council;

Compel immediate and future compliance with the Open Meeting Law;

Compel attendance at a training session authorized by the Massachusetts Attorney General.

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: 1/20/2020

For Use By Public Body	For Use By AGO
Date Received by Public Body	Date Received by AGO