



Members

Shane Brooks, Chair
Fred Krampits, Vice Chair
George Balakier
Mary Beth Pniak-Costello
Derek Dobosz

MINUTES
August 22, 2022

The following are the minutes of a public hearing held Monday, August 8, 2022 at 6:30 PM held in the Auditorium, 2nd floor, City Hall, 17 Springfield Street, Chicopee, MA 01013 and via Zoom.

Members Present Brooks, Krampits, Pniak-Costello, Dobosz, Balakier

Not Present

Also Present Daniel Garvey (Associate City Solicitor), Councilor Laflamme, Councilor Zygarowski, Councilor Courchesne (zoom)

The meeting was called to order at 6:30 PM

In compliance with the Open Meeting Law the Chairman asked if anyone in the audience was recording the meeting. Hearing none the meeting continued.

BE IT ORDERED THAT the License Committee meet to discuss the Open Meeting Law Complaint filed by Lisa Bienvenue received on August 10, 2022.

Councilor Brooks entertained a motion to defer to our Council to explain what our purpose here is this evening.

Councilor Krampits motion to discuss the pending complaint – Councilor Brooks 2nd the motion – motion passed

Roll call vote:

Brooks Yes
Krampits Yes
Pniak-Costello Yes
Dobosz Yes
Balakier Yes

Attorney Garvey stated that the City of Chicopee received a complaint from a constituent and that complaint has to do with our August eight meeting. That meeting has to do with 357 Burnett Road, one was a gasoline service license and the second one was for the tanks. He stated we did call that meeting to order that nobody was participating remotely at that meeting. The chairperson from that meeting allowed the applicant a significant amount of time to present their case to the committee and once that portion was done, he allowed the representative of the opposing party to their Attorney and Traffic Engineer to present their version of events. He stated that once that was completed, we allowed the public to voice their concern and give them each three minutes to speak. Councilor allowed the Attorney and Engineer a period of rebuttal as well for the opponents. He stated that once that was taken as evident the public portion was closed and this committee did have some deliberations. At the conclusion of that deliberation was a motion made by one of the councilors and that motion was second it was on the floor for discussion. He stated that the License Committees purpose is to provide advise to the full council, so they provide a recommendation to the council who ultimately has the ability to pass those requested applications. He stated as part of that our rules require that we submit a committee report which has notes and restrictions, conditions and motions. The rules require that each committee member sign that committee report because that is what's transmitted to the full council at our next meeting. He stated the full City Council has a summary of what was discussed and specifically who voted where. He stated that the document is a public document that is available to the public and it was provided to the person who provided the complaint. He stated that the chairperson before both matters stated to the public that the committee did vote to send an unfavorable recommendation to the full council that would be transmitted and translated for our September meeting. Once he received the complaint from the constituent, he did call the Attorney Generals Office the enforcement authority and he explained to them the exact same thing and he stated that once the chairperson did receive that back, he did state that on both motions that they would be referred unfavorably to the full council. He stated the Attorney General did not see that as a secret vote and the fact that it was a public document available to the public. He stated that the constituent also had a complaint with Councilor Laflamme walking around and this typically does not happen. He stated that on August 8, 2022 these mics on this particular table were not working so that required that we go to the mics that were working and those were in front of everyone's seat. He stated that the public mics were working. Typically, we wouldn't have to shuffle the paperwork around, we simply sit at this table in front of the public and sign that form. He stated that Councilor Laflamme was going place to place which may have been confusing to the public only because these mics were not working, and we had to transmit the document from one person to the other. He stated that when a complaint is filed with the public body that public body must act within fourteen business days after receiving a complaint. He stated that the purpose of the meeting is to authorize the Law Department to answer.

Attorney Garvey stated he hopes this explains the reason why we were walking around the table. He stated that it's for the ward to talk about and decide whether or not there should be a change to our process. He stated it will have to go to the rules committee but it's certainly something that we can talk about. He stated that we should not change the fact that we have to sign the document. It is a public document, and it becomes part of the public agenda when it gets to our next meeting.

Councilor Pniak-Costello stated she was at a meeting where she didn't get the form and it was documented in public record that I didn't sign the form. We have to be very careful, and Councilor Laflamme was careful that night that everybody signed that form. She suggested to do an oral roll call that way it's on record and people who are watching this can know who voted for what. She stated at that meeting the public did not know who voted favorably or unfavorably. She stated to have transparency they should know that and not have to come down here a get a written form. Her recommendation would be to have an oral roll call vote and if you want to go around with the committee report be careful that everyone gets to sign it.

Attorney Garvey stated unfortunately we have two set of separate rules depending upon whether someone is actually participating remotely or not. He stated prior to Covid the City of Chicopee had some preliminary discussions as to whether or not we wanted to allow remote participation. Prior to Covid and prior to Governor Baker's order if municipalities wanted to participate, the Chief Executive Office would have to put that in. He stated that the City of Chicopee was in the opinion that we should not allow remote participation, that we should require the chair and majority of the members to be physically present. The purpose of that was to provide transparency as well as for the public to come in to physically see and hear what was exactly going on. At the beginning of Covid it became almost impossible to do because everybody was unsure of what was happening. He stated as a result of that Governor Baker signed an executive order would allow municipalities to participate remotely. What I didn't do was to look at the rules that were promulgated by the Attorney General's office. If you allow for remote participation, there's certain things you have to do. If someone remotely participates you must identify that and all votes must be by roll call. If someone does not participate remotely, we're allowed to conduct business as we have for the last one hundred and thirty years which is, we're required to do roll calls for certain things but, certain ministerial things we are not. He stated if no one is participating remotely for example, all of our financial orders by our own orders have to be by roll call. As you accept a donation it must be done by roll call. If we consider a special permit or zone change it has to be done by roll call. He stated if we authorize a bond, law requires it be done by roll call. The ministerial ones do not. The City of Chicopee has been extremely transparent compared to other local communities. He stated that the City of Springfield just went from being fully remote, so in Springfield there wasn't an opportunity for the public to come to their meeting. For the past better part of eighteen months, we have been here, we've invited the public and encouraged them and we have had massive crowds here. He stated that we are transparent as we possibly can be.

Councilor Laflamme stated he will wait to call the Rules Committee meeting until the next complaints are heard. We will get all the information and if there is some other changes then he will set up a meeting.

Councilor Laflamme stated we have five members on License Committee that are all here tonight so we can vote without roll call.

Attorney Garvey stated that when you have these rules you can go down rabbit holes because there are all different scenarios. He stated does the Attorney General's rules require a roll call if one member is remotely participating, do they mean a voting member or any member of the Council. He stated we've had the chairperson in the seat at our committees and ten, eleven, and twelve members present. He stated the chair can recognize from the people here whether the vote carried and always declared what the vote was. He stated Councilor Courchesne is present but he's not a voting member. Regardless of what it is, it has to be by roll call until he gets that answer.

Councilor Laflamme stated he would like to add to the rules that all members must sit at the table. He stated that between this meeting and the next two meetings we will have good ideas and then we will set up the Rules Committee meeting.

Attorney Garvey stated that the document was a committee report that gets transmitted to the City Council and their the ones who have final authority on whether to approve or disapprove. He stated it wasn't a secret ballot and it's open to the public and she was given a copy when she came to our office. He stated it does become part of the public agenda.

Councilor Zygarowski stated that there was not a secret ballot taken at any time during that meeting.

Councilor Laflamme stated that two separate times he walked around for signature's because there were two applications to be signed by the committee and the chairman read both of them.

Councilor Krampits asked if there was any public input and there was none.

Councilor Pniak-Costello motion to refer to the Rules Committee practices in regard to all committee procedures – Councilor Brooks 2nd the motion – motion passed

Roll call vote:

Brooks	Yes
Krampits	Yes
Pniak-Costello	Yes
Dobosz	Yes
Balakier	Yes

Councilor Pniak-Costello motion to allow the City Law Department to respond to the complaint and place the matter on file – Councilor Brooks 2nd the motion – motion passed

Roll call vote:

Brooks	Yes
Krampits	Yes
Pniak-Costello	Yes
Dobosz	Yes
Balakier	Yes

Councilor Krampits motion to adjourn – Councilor Brooks 2nd the motion – motion passed

Roll call vote:

Brooks	Yes
Krampits	Yes
Pniak-Costello	Yes
Dobosz	Yes
Balakier	Yes

Meeting adjourned at 7:05 PM.



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: Lisa Last Name: Bienvenue

Address: 34 Everett Street

City: Chicopee State: MA Zip Code: 01020

Phone Number: 413-575-1855 Ext. _____

Email: gl34@charter.net

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): Chicopee City Council

Specific person(s), if any, you allege committed the violation: Shane Brooks chair Licensing committee

Date of alleged violation: 8/8/2022

RECEIVED
2022 AUG 10 PM 1:12
CITY COUNCIL
CHICOPEE MA

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 license committee met on 8/8/2022. The purpose of the meeting
* Application for Fuel Storage License located at 357 Burnett Road for 48,000 - (4) 12K tanks of aboveground storage and 40,000 underground storage (AST diesel, UST 20K reg gasoline, 8 K super gasoline and 12K DEF
Applicant/Address Chicopee Inn, Inc. 851 East Columbus Ave. Springfield, MA 01105

*Application for a Service Station License located at 357 Burnett Road
Applicant/Address Pilot Travel Centers, LLC 5508 Lonas Dr. Knoxville, TN 37909

Motions were made to vote on these licenses, a secret ballot was taken on these two motions. The Council Chair Frank Laflamme walked around the councilmen with a piece of paper having them write their vote for each of these motions

The chair Shane Brooks gave the "outcome" (whether or not approved) only of the votes. There was no roll call for the votes and the roll of votes was never read.

A audio/video recording is available at <https://vimeo.com/channels/chicopeegovernment/737961392>

There is dead silence as members were voting and then Mr. Brooks states the result.

I was in attendance at this meeting and was shocked when I realized the committee was having a secret ballot. It was not announced to the citizens at the meeting and never explained.

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.

Per MA Open Meeting Law Guidance it states no vote taken at an open session shall be by secret ballot. This public body should be adhering to the MA Open Meeting Laws. As a starting point the council needs training in the requirements of the opening meeting laws and a reminder that they serve for the people who elected them. The occurrence of August 8, 2022 with secret ballot undermines transparency in government and calls into question the procedures followed by this council. I'd like to think our elected officials have not forgotten that the City of Chicopee is part of a democratic republic.

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: Ken Beauvais

Date: August 10, 2022

For Use By Public Body
Date Received by Public Body:

For Use By AGO
Date Received by AGO: