

AG's office said Holyoke City Council violated Open Meeting Law

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HOLYOKE — When the City Council went into a closed-door session in February, the meeting notice listed the topic for discussion as “litigation update.”

That was insufficient, the Massachusetts Attorney General’s Office recently determined.

The City Council breached Open Meeting Law by not specifying the subject to be discussed at a Feb. 6 meeting, Elizabeth Carnes Flynn, an assistant attorney general, said in a July 19 letter sent to city officials.

Carnes Flynn directed the City Council to comply with the Open Meeting Law immediately and in the future, warning that similar infractions could be seen as evidence of an intent to violate the law.

Because of the council’s failure to give proper public notice, the state told the City Council to disclose the topics of the executive session at its upcoming public meeting and to make the minutes available to the public within 30 days of receiving the letter.

Carnes Flynn said that attorney-client privilege is among the exemptions in the state public records laws that might permit the City Council to withhold minutes, either in whole or in part, from public disclosure. However, they must provide a justification for such withholding if it is challenged.

Stephen R. Superba filed the original complaint about the Feb. 6 meeting.

The meeting took place two weeks after a different executive session on Jan. 22 that was identified similarly.

“It is unknown if the two are related,” Superba said in the complaint.

The litigation warrants public scrutiny as it might involve the use of taxpayer money, Superba said.

Furthermore, he said litigation might be connected to the conduct of members in city government.

During a public meeting on March 19, the Holyoke City Council decided to refer Superba’s initial complaint to the office of City Solicitor Kathleen Degnan.

Degnan said that before the vote to enter a closed session, Tessa R. Murphy-Romboletti, City Council president, said the executive session was convened to deliberate on a matter currently under litigation.

Citing case law, Degnan said that to comply with the law, the city is only required to disclose the date, time and location of the executive session. She argued the notice was adequate.

In an April 11 letter, Superba appealed to the Attorney General’s Office to review his original complaint along with Degnan’s response.

The Open Meeting Law was enacted to ensure transparency in the deliberations and decisions that underpin public policy. It requires that the agenda for executive sessions be clearly outlined in the meeting notice and declared in an open session in as much detail as possible without compromising the reasons for which the executive session was called.

In previous decisions, the Attorney General’s Office required that public entities reveal the name along with a description of the litigation matter being discussed, Carnes Flynn wrote.

The Holyoke City Council failed to show how revealing the litigation matter would undermine the executive session’s intent, Carnes Flynn wrote.

Superba said in an interview Tuesday that he wants to know what litigation was discussed Feb. 6. “I don’t know of any particular lawsuit. You’d have to ask the city, but they haven’t revealed what it’s about. This is my first step in trying to uncover that,” he said.

“I don’t know what the circumstances are, but certainly if they’re doing things behind closed doors, there’s the potential for abuse. It’s not open to the light of day, so who knows what or where it could go other than not in a good place,” he said.

He said that the complaint regarding the Open Meeting Law violation stems from his conviction that executive sessions should be public.

A public body is permitted to convene in an executive or closed session for a number of specific purposes outlined in the Open Meeting Law. A valid reason to enter executive session is to deliberate strategies related to collective bargaining or litigation when an open meeting could negatively affect the public body’s position. Another reason is to discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual.

A statement addressing the Open Meeting Law violation will be presented at the upcoming council meeting on Aug. 6. Superba encouraged his fellow city residents to watch the proceedings.

In a statement on Wednesday, Degan announced that the city is reviewing the violation and will respond appropriately to safeguard the interests of all parties involved.

Murphy-Romboletti and Mayor Joshua Garcia have not yet responded to requests for comment.