



STATE OF NEBRASKA
Office of the Attorney General

2115 STATE CAPITOL BUILDING
LINCOLN, NE 68509-8920
(402) 471-2682
TDD (402) 471-2682
FAX (402) 471-3297 or (402) 471-4725

DOUGLAS J. PETERSON
ATTORNEY GENERAL

LAURA A. NIGRO
ASSISTANT ATTORNEY GENERAL

August 6, 2020

Glen Bower
[REDACTED]
[REDACTED]

RE: *File No. 20-M-117; City of Stromsburg; Glen Bower; Complainant*

Dear Mr. Bower:

This letter is in response to your correspondence in which you requested that this office investigate alleged violations by the Stromsburg City Council and Stromsburg City Attorney of the Nebraska Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 through 84-1414 (2014, Cum. Supp. 2018, Supp. 2019) ("Act"). In accordance with our normal procedures, we requested a response from the City of Stromsburg ("City") after we received your complaint and we subsequently received a response from the City's attorney, James Papik, who responded on behalf of the City. We have now had an opportunity to review your allegations and the City's response, and our conclusions are set out below.

ALLEGED VIOLATIONS

Upon review of your complaint, we have identified two alleged violations of the Open Meetings Act, as follows:

1. The City is not giving sufficient notice of its meetings to the public; and
2. The meeting agendas are not sufficiently detailed regarding proposed ordinances.

The remainder of your allegations against the City are not related to the Open Meetings Act. The Attorney General does not have general supervisory authority over cities in Nebraska. Therefore, we will not address the remainder of your allegations. In its response to your complaint, the City generally denies any violations of the Open Meetings Act have occurred and has provided copies of a meeting agenda and meeting notice to support its position.

ANALYSIS

Notice of Meetings

Your complaint alleges that sufficient notice of meetings is not being given to the public. Specifically, you complain that the only notice given before a new ordinance is adopted is on the city council's agenda, which is posted on Friday afternoons, for ordinances that will be adopted on Monday. In its response, the City states that it publishes notices of its meetings in the *Polk County News*, a newspaper located in Stromsburg, Nebraska. Further, it advises that meeting notices are published on the Thursday prior to regularly scheduled meetings held the following Monday. The City provided a copy of a notice from its Monday, June 22, 2020, meeting published in the *Polk County News* as evidence. The Publisher's affidavit, which was provided along with the notice, states that the meeting notice was published in the *Polk County News* on Thursday, June 18, 2020.

Neb. Rev. Stat. § 84-1411(1) (Supp. 2019) provides that "[e]ach public body shall give reasonable advance publicized notice of the time and place of each meeting by a method designated by each public body and recorded in its minutes. Such notice shall be transmitted to all members of the public body and to the public." The City provided notice four days in advance of its meeting. The Act does not require more notice than this. Further, the evidence shows that the City did not just provide meeting notice through the agenda; it provided notice appropriately in the *Polk County News*. Because the *Polk County News* is a newspaper located and circulated in Stromsburg, Nebraska, this constitutes "reasonable" notice. Therefore, the City has not violated the Open Meetings Act regarding this portion of your complaint.

Meeting Agenda

Your next allegation is that the meeting agendas are not sufficiently descriptive. Specifically, you assert that proposed ordinances are not described on the agenda but merely referenced by ordinance number. In its response, the City provided a copy of the agenda from its May 11, 2020 meeting. The May 11, 2020, agenda item No. 12 states, "Approval of **Ordinance Number 1263** to Amend Section 702(b)6(f) of the Municipal Code to Change Maximum Height of Detached Garages and Accessory Buildings." Further, we accessed from its website all of the City's calendar year 2020 meetings that included an ordinance agenda item. The January 13, 2020, agenda contains the following ordinance items: "**Ordinance No. 1257** to Update Section 1-710: Petition; Write-in; and Other Candidates for General Election Ballot; Procedures," "**Ordinance No. 1258** to Update Section 1-720: Recall Procedure," "**Ordinance No. 1260** to Update Section 6-430 Abandoned Automobiles," and "Approve **Ordinance No. 1261** to Incorporate Sections into the Municipal Code." The June 8, 2020, agenda contains the following ordinance items: "Approve **Ordinance Number 1264** Regarding Building Permits for Swimming Pools and Fencing Requirements" and "Approve **Ordinance Number 1265** to Amend Municipal Code Pertaining to Parking and

Glen Bower
August 6, 2020
Page 3

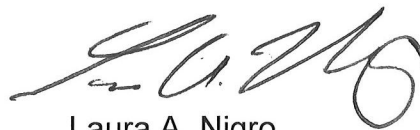
Recreational Vehicles.” Lastly, the July 13, 2020, agenda item No. 9 states, “Approve **Ordinance Number 1266** to Sell Lot 19 in the Elementary Park Subdivision to Stromsburg Home Builders LLC.” Neb. Rev. Stat. § 84-1411(1) (Supp. 2019) provides that “[a]genda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting.” The City’s meeting agendas do not lack sufficient detail. The agenda items regarding ordinances are descriptive enough that the public would have “reasonable” notice of the matters to be considered at the meeting. Therefore, the City has not violated the Open Meetings Act regarding this portion of your complaint.

CONCLUSION

For the reasons stated above, we do not believe that the City has violated the Open Meetings Act with respect to the issues raised in your complaint. If you disagree with the analysis we have set out above, you may wish to contact your private attorney to determine what additional remedies, if any, are available to you under the Open Meetings Act.

Sincerely,

DOUGLAS J. PETERSON
Attorney General



Laura A. Nigro
Assistant Attorney General

cc: James Papik

35-100-29