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December 29, 2011

Audra Hamaker
3 Lakeshore East
Lewellen, NE 69147-2137

Re: *File No. 11-M-138; Ogallala Public Schools Board of Education; Complainants Audra Hamaker and Jerry Quick*

Dear Ms. Hamaker:

This letter is in response to your correspondence in which you requested an investigation by this office into alleged violations by the Ogallala Public Schools Board of Education (the "Board") of the Nebraska Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 through 84-1414 (2008, Cum. Supp. 2010, Supp. 2011). We also received a copy of the same newspaper clipping from Jerry Quick as those sent by you in support of your complaint. Mr. Quick has been copied on this response letter. In accordance with our normal procedures, we requested a response from the Board after we received your complaint and that of Mr. Quick, and we subsequently received a response from Steve Williams, attorney for the Board. We have now had an opportunity to review your allegations and the Board's response in detail, and our conclusions are set out below.

FACTS

Our understanding of the facts in this case is based upon your correspondence, the newspaper article sent by you and Mr. Quick, and the response from the Board. Your Open Meetings Act concerns relate to retreats of the Board on February 9, 2011 and October 3, 2011. You allege that the Board failed to prepare minutes of the retreats, and instead used the retreat agenda as the minutes.

ANALYSIS

The Open Meetings Act, Neb. Rev. Stat. § 84-1413 (2009) states:

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

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(5) Minutes shall be written and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

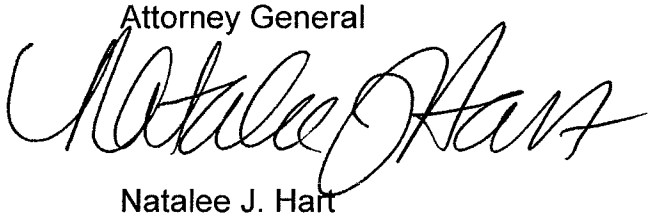
The Board has admitted that it did not prepare minutes of the retreats on February 9 or October 3, 2011 "in its customary manner" following those meetings, as required by the Open Meetings Act. It states that it instead used the agenda for the meetings as the minutes, which it now understands is not permissible. See Att'y Gen. Op. No. 116 (August 29, 1975). The Board has subsequently prepared minutes for each of the retreats, which were approved on December 19, 2011. Thus, the Board has cured its violation of the Open Meetings Act, and this situation does not require further inquiry or action by this office. *Pokorny v. City of Schuyler*, 202 Neb. 334, 275 N.W.2d 281 (1979).

CONCLUSION

For the reasons stated above, we believe that the Board did not comply with the Open Meetings Act in preparing minutes for its retreat meetings held February 9, 2011 or October 3, 2011. However, this oversight was cured in December, 2011 and no further action is necessary by this office. 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,

JON BRUNING
Attorney General



Natalee J. Hart
Assistant Attorney General

Cc: Steve Williams

Jerry Quick
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Keystone, NE 69144