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July 27, 2015

Michael P. Schmiedt
Crary Huff
1419 Dakota Avenue
South Sioux City, NE 68776

RE: Request for Criminal Prosecution of Alleged Open Meetings Law Violation.

Dear Mr. Schmiedt:

By letter dated July 24, 2015, you requested that the Nebraska Attorney General's Office investigate and institute criminal prosecution based on an alleged violation of the Nebraska Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 to 84-1414 (2014) [the "Act"] by the Decatur Village Board. As to criminal prosecution, Neb. Rev. Stat. § 84-1414(4) (2014) provides: "Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second of subsequent offense." Neb. Rev. Stat. § 84-1414(2) (2014) provides that "[t]he Attorney General and the county attorney of the county in which the public body meets shall enforce the" Act.

The legislative history of LB 325, the legislation enacted in 1975 establishing the current framework for the Act, indicates that the intent of the statute was to have the county attorney responsible for enforcement proceedings involving public bodies at the local level, with the Attorney General being responsible for enforcement against state entities. Floor Debate on LB 325, 84th Leg., 1st Sess., May 14, 1975 at 4620. As your request for investigation and prosecution relates to an alleged violation of the Act by members of the Decatur Village Board, we will defer any decision to investigate and

prosecute this matter to the Burt County Attorney. You provided a copy of your letter to the Burt County Attorney by email, and we are sending a copy of this response to the County Attorney to advise him of our criminal enforcement position.

Very truly yours,

DOUGLAS J. PETERSON
Attorney General

John R. Freudenberg
Assistant Attorney General
Chief, Criminal Bureau

cc Frances W. Barron III, Burt County Attorney

07-969-29