



STATE OF NEBRASKA  
**Office of the Attorney General**

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**MIKE HILGERS**  
ATTORNEY GENERAL

**LESLIE S. DONLEY**  
ASSISTANT ATTORNEY GENERAL

August 25, 2023

Julie Engelbart  
[REDACTED]

RE: *File No. 22-M-165; Village of Inman; Julie Engelbart, Complainant*

Dear Ms. Engelbart:

This letter is in response to your complaint emailed to this office on December 7, 2022, in which you alleged violations of the Open Meetings Act ("Act"), Neb. Rev. Stat. §§ 84-1407 to 84-1414 (2014, Cum. Supp. 2022), by the then chairperson of the Village of Inman Board of Trustees, Deborah Morsbach. We forwarded your complaint to Ms. Morsbach requesting a response, which we received on January 17, 2023. We have now completed our review of your complaint and Ms. Morsbach's response. Our findings in this matter are set forth below.

### **YOUR COMPLAINT**

Your complaint involves a meeting of the Board of Trustees ("Board") conducted on December 5, 2022. You were a member of the Board on December 5, and attended the meeting at issue. Your complaint states in its entirety:

Deb Marshbaugh [sic] violated the Open Meeting [sic] Act by conducting a board meeting with only 2 Board of Trustees at the meeting, it says in the village ordinance that there must be 3 present. She approved the minutes that have been downloaded. Had 2 New members say their Oath and put them in position to motion and vote. Which is not suppose [sic] to be done until Jan. There are still 3 members currently on the board. Then hired 2 individuals for Village Maintance [sic] and hired a new clerk. All in what supposed to be a Closed meeting, that I was told the day before was an open meeting but nothing was published.

In her response, Ms. Morsbach indicates that the meeting on December 5, 2022, was a “Closed Emergency meeting.” She indicates that she received resignations for two Board members, Jacque Murray and Deb Fisher, and the village clerk on November 28. Notice for the meeting was not posted but the two remaining Board members—you and Sherryl Sawyer—were informed about the meeting. She states that the “meeting was to take care of urgent business and that only.” You and Ms. Morsbach attended the meeting; Ms. Sawyer did not attend due to illness. According to the meeting minutes,<sup>1</sup> Nicole Campbell and Kyle Campbell were sworn in and took the oath of office following the Board’s acceptance of the Murray and Fisher resignations. The Board then took formal action with respect to hiring a clerk, paying invoices, and hiring two individuals to provide temporary maintenance.

## DISCUSSION

The threshold question in resolving your complaint is determining whether a legally constituted board convened the meeting on December 5, 2022. In the absence of a legal board, there can be no violation of the Act. This determination would require us to consider specific statutes outside of the Act dealing with village boards, quorums, oaths and meetings. However, our enforcement authority over the Village of Inman is limited to enforcing the Act and the Nebraska Public Records Statutes, Neb. Rev. Stat. §§ 84-712 through 84-712.09 (2014, Cum. Supp. 2022). Except for those specific acts, we do not enforce statutes pertaining to villages.<sup>2</sup> Consequently, we must decline to determine the propriety of swearing in Nicole and Kyle Campbell at the December 5 meeting.<sup>3</sup>

While we make no finding whether the Board was legally constituted on December 5, we point out that there is nothing in the Act that allows a *closed* emergency meeting. Public bodies can convene emergency meetings without reasonable advance notice in accordance with § 84-1411(5).<sup>4</sup> Public bodies can also close their meetings when it “is

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<sup>1</sup> See December 5, 2022, meeting minutes, published in the Holt County Independent on January 19, 2023, attached.

<sup>2</sup> This office also has concurrent jurisdiction, along with the state’s county attorneys, to prosecute criminal matters.

<sup>3</sup> We note that Neb. Rev. Stat. § 17-204 (2022) authorizes village boards to organize at the first regular meeting in December following an election (“All trustees elected to office shall qualify and meet on the first regular meeting of the village board of trustees in December thereafter, organize, elect a chairperson of the board of trustees, and appoint the officers required by law.”).

<sup>4</sup> This statute states that “[w]hen it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section [notice to the media] shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.”

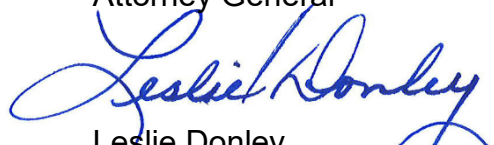
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clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting.” Neb. Rev. Stat. § 84-1410(1). Public bodies must meet several other requirements in order to convene a closed session. See *id.* No public meeting, regardless of its designation, i.e., regular, special or emergency, can be “closed” under the Act.

Since we decline to review the merits of your complaint, we are closing this file. If you disagree with our conclusion, you may wish to discuss this matter with your private attorney to determine what additional remedies, if any, are available to you under the Open Meetings Act.

Sincerely,

MIKE HILGERS  
Attorney General



Leslie Donley  
Assistant Attorney General

Attachment  
c: Deborah Morsbach

49-3307-30

**Holt County Independent**

**Village of Inman  
Proceedings**

**Emergency/Closed Meeting  
December 5, 2022**

Deb Morshbaugh called meeting to order at 7 p.m.

The open meetings poster was pointed out on the wall.

Deb Morshbaugh also accepted the resignation of:

Deb Fisher (Effective 11-6-2022)

Jacque Murray (Effective 11-29-2022)

Sheila Carr (Effective 11-29-2022)

Due to the board member resignations, Nicole Campbell and Kyle Campbell were sworn in and each took the oath of office.

Due to the village clerk resignation, the Village of Inman advertised this position. One application was received by Brenda Harrison. Nicole Campbell made a motion, seconded by Julie Engelbart-Adams to hire Brenda Harrison as the new clerk. Aye: Nicole Campbell, Julie Engelbart-Adams and Kyle Campbell. Motion carried.

Kyle Campbell made a motion - seconded by Nicole Campbell to pay invoices as presented. Aye: Kyle Campbell, Nicole Campbell and Julie Engelbart-Adams. Nay: None. Motion carried.

Kyle Campbell made a motion, seconded by Nicole Campbell to hire Dave Morshbaugh and Randy Keil as temporary maintenance at a rate of \$25.00 per hour. Aye: Kyle Campbell, Nicole Campbell and Julie Engelbart-Adams. Nay: None. Motion carried.

Meeting adjourned at 7 p.m.

Brenda Harrison  
Village Clerk