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February 25, 2011

Ms. Denise Crofutt
P.O. Box 19
Long Pine, NE 69217

Dear Ms. Crofutt:

This letter is in response to your correspondence dated January 14, 2011, which we received on February 10, 2011. You stated that your letter was "to protest the violation of the open meetings laws by the Long Pine City Council meetings, 2 of which were held January 4 and January 13, 2011." Therefore, we considered your letter to be a complaint under the Nebraska Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 through 84-1414 (2008, Cum. Supp. 2010). Our response to your complaint is set out below.

After careful review, it appears that the substance of your complaint regarding meetings of the Long Pine City Council (the "Council") is that the Council met and conducted city business without a quorum of that body being present. You contend that such actions by the Council violate the Open Meetings Act.

The Nebraska Open Meetings Act is a statutory commitment to openness in government. *Wasikowski v. The Nebraska Quality Jobs Board*, 264 Neb. 403, 648 N.W.2d 756 (2002); *Steenblock v. Elkhorn Township Board*, 245 Neb. 722, 515 N.W.2d 128 (1994). Its purpose is to ensure that public policy is formulated at open meetings of the bodies to which the law is applicable. *Dossett v. First State Bank, Loomis, NE*, 261 Neb. 959, 627 N.W.2d 131 (2001). However, for the Act to apply, there must be a meeting of the public body at issue. Absent a meeting of the public body, there can be no Open Meetings violation.

Over time, we have consistently taken the position that two things are required for a meeting of a public body to occur. First, a quorum of the public body must be

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present.[1] Second, the quorum of the public body must engage in any of the activities included in the definition of "meeting" contained in § 84-1409 (2), i.e., briefing, discussion of public business, formation of tentative policy, or the taking of any action. Absent either of those two elements, no meeting of the public body has occurred.

In the present instance, your complaint is that the Council acted on a number of occasions without a quorum being present. Therefore, by definition, none of those gatherings involved a meeting of the Long Pine City Council. As a result, the Open Meetings Act does not apply to the actions of the Council of which you complain, and your complaint does not implicate an Open Meetings violation.

Apart from Open Meetings issues, your complaint involves a *governance* issue for the City of Long Pine and the Council. That is, your complaint raises issues regarding the propriety of how the Council chooses to operate and govern itself in the context of applicable statutes and ordinances. In that regard, we have explained repeatedly to a number of individuals in the Long Pine area over the last several years that this office does not have general supervisory authority with respect to all governmental subdivisions in the state. In other words, we have no general authority or standing to ensure that all governmental subdivisions in Nebraska, including cities, are operating properly. That task is left to city attorneys, city officers, members of the public and local political processes.

For the reasons stated above, your complaint does not involve an Open Meetings issue, and we plan no further action in regard to this matter.

Sincerely,

JON BRUNING
Attorney General

Dale A. Comer
Assistant Attorney General
Chief, Legal Services Bureau

05-247-30

[1] The Nebraska Supreme Court has indicated on at least two occasions that gatherings of portions of a public body which involve less than a quorum of that public body do not constitute meetings of the body. *Schauer v. Grooms*, 280 Neb. 426, 786 N.W. 2d 909 (2010); *City of Elkhorn v. City of Omaha*, 272 Neb. 867, 725 N.W.2d 792 (2007).