



STATE OF NEBRASKA
Office of the Attorney General

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MIKE HILGERS
ATTORNEY GENERAL

LESLIE S. DONLEY
ASSISTANT ATTORNEY GENERAL

January 30, 2023

Robert Jon Howard
[REDACTED]

RE: *Your Complaint Against the Greeley County Board of Commissioners and
Greeley County Attorney*
Our File No. 20231007

Dear Mr. Howard:

This letter is in response to your complaint received by this office on January 10, 2023, in which you allege violations of the Open Meetings Act ("Act"), Neb. Rev. Stat. §§ 84-1407 through 84-1414 (2014, Cum. Supp. 2022), by the Greeley County Board of Commissioners ("Board") and the Greeley County Attorney ("County Attorney").¹ You state in your complaint that "[d]uring the past year, there have been numerous violations of the open meetings act by this board, with the encouragement of the County Attorney." You specifically allege that you have been slandered during open meetings, that two Board members hold meetings with the County Attorney following the public meetings, and that you were on the Board's January 10, 2023, meeting agenda, but were not "told of this meeting or invited to attend."

Based on our preliminary review, the only possible open meeting violation alleged involves the two Board members meeting with the County Attorney after public meetings. You indicate in your complaint that a former commissioner could attest that these meetings took place. However, a violation is not established absent evidence that there was (1) a quorum of Board members and (2) they were discussing *county business*. Consequently, before we send your complaint to Greeley County officials for a response,

¹ Please note that only the members of the public body are subject to the Act's civil and criminal sanctions set out in Neb. Rev. Stat. § 84-1414 (2014).

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please provide us evidence to support your allegation. Absent evidence to support both elements, a violation of the Act cannot be established.

With respect to your allegation that you have been slandered during public meetings, such conduct does not constitute a violation of the Act. This is a private cause of action that you will have to pursue on your own. The Nebraska Department of Justice does not represent private citizens with respect to private claims.

Finally, you have alleged that the Board violated the Act by failing to provide you notice that you were the subject of two agenda items² discussed at the January 10, 2023, meeting. Neb. Rev. Stat. § 84-1411(1)(a) requires “[e]ach public body [to] give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.” (Emphasis added.) Additional notice and agenda provisions are set out in § 84-1411(1)(b)–(e). There is no provision in the Act that requires public bodies to provide specific notice to individuals who may be placed on a public meeting agenda. Thus, so long as the Board complied with the notice provisions referenced above, lack of individual notice to you does not constitute a violation of the Open Meetings Act.

Sincerely,

MIKE HILGERS
Attorney General


Leslie S. Donley
Assistant Attorney General

49-3148-30

² Those agenda items include: “8. Discuss & take necessary action: Jon Howard resignation (received 12/27/22) effective December 23, 2022.” and “9. Discuss and take necessary action: Jon Howard claim – 717.5 vacation/312.75 holiday = 1030.25 hours.”