

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

December 2, 2020

VIA ELECTRONIC MAIL ONLY

City of Las Vegas
Scott G. Aaron, City Attorney
1700 N. Grand Ave
Las Vegas, NM 87701
Email: saaron@lasvegasnm.gov

Re: Open Meetings Act Complaints – Lee Einer

Dear Mr. Aaron:

The Office of the Attorney General, Open Government Division (“OGD”) has received three complaints from Mr. Lee Einer alleging violations of the Open Meetings Act, NMSA 1978, Sections 10-15-1 to -4 (2013) (“OMA”), by the City of Las Vegas Lodgers Tax Advisory Board and the Las Vegas City Council. The OGD is charged with enforcement of the OMA and in that capacity has reviewed the facts and allegations in Mr. Einer’s complaints. *See* NMSA 1978, § 10-15-3(B) (authorizing the Office of the Attorney General to enforce all provisions of the Open Meetings Act).

The Open Meetings Act is intended to provide the public with access to “the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them.” Section 10-15-1(A). As part of this public policy, OMA specifically requires that the minutes from any meeting be “approved, amended or disapproved *at the next meeting where a quorum is present.*” Section 10-15-1(G) (emphasis added). This provision does not discriminate between regular and special meetings; even a special meeting subject to lesser notice requirements is still subject to OMA’s minutes requirement. *See* N.M. Atty. Gen. Letter to Christina J. Aspaas, at 2, fn. 1 (Aug. 30, 2019) (explaining that “[s]pecial meetings are not exempt” from OMA’s requirement that all meeting minutes be considered at the next meeting where a quorum is present).

Here, Mr. Einer has alleged that the City of Las Vegas Lodgers Tax Advisory Board and the Las Vegas City Council failed to approve, amend, or disapprove meeting minutes at three meetings held on June 30, 2020, August 4, 2020, and August 12, 2020. It appears that Mr. Einer is largely correct as to these allegations. Although we do not intend to belabor this point, our Office has repeatedly found the City's boards and commissions deficient in their compliance with this specific OMA requirement. *See* N.M. Atty. Gen. Letter to Tonita Gurule-Giron, Mayor, at 2-3 (Jan. 6, 2020) (concluding that the Las Vegas City Council had violated OMA by failing to "consider the minutes from its previous meeting" and adding that "this is not the first time that we have observed the Council failing to follow this provision") and N.M. Att'y Gen. Letter to Esther Garduño Montoya, p. 2 (Jan. 6, 2020) ("Suffice it to say that Mr. Einer is correct that these minutes should not have accumulated through five meetings until they were approved at the next 'meeting where a quorum is present,' and that the Council did violate the statute by repeatedly failing to abide by Section 10-15-1(G)."). We strongly encourage the City to take steps to ensure that all of its boards and commissions subject to OMA abide by the statute's minutes requirements.

For your reference, a copy of the OMA Guide is available on the website of the Office of the Attorney General at www.nmag.gov. If you have any questions regarding this determination or OMA in general, please let me know.

Sincerely,



John Kreienkamp
Assistant Attorney General

Enclosure

cc: Lee Einer