

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

June 28, 2018

Anna Phillips
P.O. Box 2405
Springer, NM 87747
Email: maphillips7@hotmail.com

Re: Open Meetings Act Complaint

Dear Ms. Phillips:

On January 24, 2017, the Office of the Attorney General Open Government Division ("OGD") received your complaint alleging that the Town of Springer ("Town") violated the Open Meeting Act ("OMA"), NMSA 1978, Section 10-15-1(G) (2013), when it neither provided the draft minutes for the November 1, 2016 Special Meeting within ten business days, nor placed it on the Agenda for approval at the next meeting where there was a quorum.

The OGD received correspondence from the Town on May 18, 2017, stating that the draft minutes for the November 1, 2016 Special Meeting were in fact prepared by November 15, 2016, putting them within the allotted 10 day requirement.

Under NMSA 1978, Section 10-15-1(G), "[d]raft minutes shall be prepared within ten working days after the meeting and shall be approved at the next meeting where a quorum is present." As such, we do not find the Town in violation of OMA.

The Town's reply acknowledges their oversight of not placing the November 1st draft minutes on the agenda for the following meeting. The Town further acknowledges this oversight continued until contact from the OGD May 4, 2017, and as such added the November 1st draft minutes to the May 16, 2017 agenda in order to rectify such oversight. Follow-up contact from you confirms the draft minutes in question were, in fact, approved at the May 16th meeting.

The OGD believes that the Town has cured any potential violation, as described above, by adding the November 1, 2016 draft minutes to the May 16, 2017 agenda and approving them at said meeting. Therefore, the Town is now in substantial compliance with the OMA.

See, Gutierrez v. City of Albuquerque, 1981-NMSC-061, 96 N.M. 398, 631 P.2D 304 (S.Ct. 1981) (finding that substantial compliance has occurred when a statute has been sufficiently followed so as to carry out its intent). As such, we consider this matter closed.

Thank you for affording our office this opportunity to be of assistance.

Sincerely,



Marylou Poli
Assistant Attorney General

Cc: Charles Rennick, Attorney for Town of Springer

RECEIVED
JAN 24 2017
NM ATTORNEY
GENERALS OFFICE



**New Mexico
Office of the Attorney General**

HECTOR H. BALDERAS
Attorney General

ELIZABETH A. GLENN
Deputy Attorney General

OPEN MEETING ACT COMPLAINT FORM

Under the Open Meetings Act ("OMA"), the Office of the Attorney General ("OAG") has the discretion and authority to enforce the OMA's provisions. NMSA 1978, § 10-15-3(B). Generally, the Office investigates and issues determinations regarding whether public agencies have violated the OMA. All OMA complaints submitted to the OAG, including any attached materials and any correspondence regarding those complaints, are public records subject to public inspection. Additionally, OMA complaints and determinations from the OAG may be posted on our website.

All complaints submitted to the Office of the Attorney General will be reviewed for potential OMA violations. The OAG may dismiss those complaints that fall outside OMA's purview and those for which no remedy is available under OMA, or forward OMA complaints to another appropriate agency for resolution. Please note that the OAG does not represent complainants in suits against public bodies.

OPEN MEETING ACT ("OMA") COMPLAINT FORM
New Mexico Office of the Attorney General
Open Government Division

Your Contact Information:

First Name: Anna Last Name: Phillips

Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip Code: [REDACTED]

Phone Number: [REDACTED]

Email: [REDACTED] _____

Name of Public Body that is the Subject of this Complaint (including city/town, district, county or region, if applicable): Town of Springer

Specific date(s) of OMA violation(s): _____

ALLEGED VIOLATIONS OF THE OMA BY THE PUBLIC BODY: Please select from the following list the violations you allege the public body committed. Check all that apply.

DEFICIENCIES IN NOTICE OF THE MEETING

- Notice did not comply with the deadlines or procedures for meeting notices adopted by the public body, or with the reasonable notice requirement in the OMA
- Notice did not include date, time, and/or location of the meeting
- Notice was not published or posted in a place and manner accessible to the public
- Notice did not include an agenda or information on how the public may obtain a copy of the agenda
- A meeting was reconvened by the public body, but notice of the date, time, and place of the reconvened meeting was not placed on or near the door of the place where the original meeting was held or in at least one other location appropriate to provide public notice

AGENDA

- Agenda was not available seventy-two (72) hours prior to the meeting
- Agenda did not include a list of specific items the public body intended to discuss or transact at the meeting or the items listed and acted upon were not listed with reasonable specificity
- Public body took action on items that were not listed on the agenda
- In a reconvened meeting, the public body discussed or took action on items not appearing on the agenda of the original meeting

MINUTES

- The minutes did not contain the date, time, and/or place of meeting, the name of all members of the public body attending the meeting and those absent

- The minutes did not contain a description of the substance of all proposals considered during the meeting or a record of any decisions made and votes taken
- A draft copy of the minutes was not available within ten (10) working days of the meeting
- The minutes were not approved, amended, or disapproved at the next meeting where a quorum of the public body was present

CLOSED MEETINGS

- The public body did not follow the required closing procedures to close a meeting (e.g., did not list the items they were going to discuss in the motion to close, or the motion to close did not contain the provision of law permitting the closing of the meeting)
- The public body closed the meeting to discuss an issue not covered by one of OMA's exceptions
- Matters not stated in the motion to close were discussed in the closed session.
- Final action was taken by the public body in the closed meeting

CONDUCTING/DISCUSSING BUSINESS OUTSIDE OF AN OPEN MEETING

- A quorum of the public body formulated policy, discussed public business, or took action outside of an open meeting
- A "rolling quorum" was used to discuss public business (i.e., a quorum may exist even when the members are not physically present at the same place, such as discussing public business in a series of telephone or email conversations)
- A committee was created by the public body that constitutes a policymaking body that formulated recommendations that were binding on the public body or otherwise established policy for the public body, outside of an open meeting

DETAILED EXPLANATION OF ALLEGED OMA VIOLATIONS: Please provide a description of the actions taken by the public body that violated the OMA, including specific dates and times, and why you believe the OMA has been violated.

NOV 1, 2016 - Special Meeting called

NOV 17, 2016 - (12) working days - received
draft minutes

Dec 20, 2016 - no mention for approval
on minutes of special meeting NOV 1, 2016

JAN 17, 2017 - no mention for
approval on minutes of special meeting
NOV 1, 2016

ADDITIONAL INFORMATION: Please attach any documentation or evidence you have regarding the alleged OMA violation.

Minutes

sjeffrey@bacavalley.com

Thu 11/17/2016 1:44 PM

To: Anna Phillips <maphillips7@hotmail.com>; Bo Lopez <diamondarrowranch@yahoo.com>; Fernando Garcia <mayorgarcia1@gmail.com>; Rebecca Ramirez <ramirezrebecca34@gmail.com>; Tim Trujillo <trujillotim@yahoo.com>;

Cc: Sam <sblea@bacavalley.com>;

1 attachments (54 KB)

11-1-16 Special Minutes.doc;

Good afternoon all-

I have attached the minutes from the Special meeting of November 1, 2016 for your review and correction- with the Audit and everything going I did not get these sent out. They will be on the next agenda for possible approval.

Thank You,

Shawn Jeffrey, MMC
Clerk-Treasurer
Town of Springer
[PO Box 488](#)
[Springer, NM 87747](#)
575-483-2682

Town of Springer
P.O. Box 488 – 606 Colbert Ave.
Springer, NM 87747
(575) 483-2682

Minutes
Special Meeting
November ¹, 2016 5:00
p.m.

1. **Call to Order:** *Mayor Fernando Garcia called meeting to order at 5:00pm.*
2. **Roll Call: PRESENT:** *Mayor Fernando Garcia*
Mayor Pro-Tem Boe Lopez-Telephonic
Trustee Rebecca Ramirez
Trustee Tim Trujillo- Absent
Trustee Anna Phillips
3. **Pledge of Allegiance to the Flag:** *Mayor Fernando Garcia*
4. **Opening Prayer:** *Led by Mayor Fernando Garcia*
5. **Approve Agenda With or Without Additions, Deletions or Corrections:** *Trustee Anna Phillips made a motion to approve Agenda. Trustee Rebecca Ramirez seconded. Approved 3-0.*
6. **Discuss/Approve/Disapprove Minutes of Special Meeting of September 20, 2016** *Trustee Anna Phillips made the motion to approve the corrected minutes of Special meeting September 20, 2016. Trustee Rebecca Ramirez seconded. Approved 3-0*
7. **Public Input:** *Ms. Mary Garcia asked if the Town could fix the electric wiring problem at the school. Ms. Mary Garcia explained the electric wires on Miranda are hanging to low causing the delivery truck drivers who deliver food to the school to take an alternative route through residential areas. She asked if the Town could have these wires lifted so traffic does not have to be deterred. Mayor Garcia responded that he will have a Work order generated for Springer Electric to fix this issue.*
8. **Council Comments**
Mayor Garcia reported that Field Supervisor Mark Phillips turned in his resignation for the Field Supervisor position to be effective November 11, 2016.
9. **Discuss/Approve/Disapprove Resolution 2016-41 NMDOT TAP Springer Roadway Project- Amended**
Clerk Shawn Jeffrey explained the original scope of this NMDOT project was not the entire two blocks of sidewalks and she would like to apply for the federal funds for both blocks thus increasing the Federal share to \$170,000 and Town match from \$19,500 to \$25,500 for a total of \$195,500. This request is being presented with the expectation the project can be completed with the total funding requested. Trustee Anna Phillips moved to approve as amended Resolution 2016-41 NMDOT TAP Roadway Project match funding increase from \$19,500 to \$25,500. Trustee Rebecca Ramirez seconded. Approved 3-0

10. Discuss/Approve/Disapprove Repair of Heater System for Museum

Mayor Fernando Garcia reported that Tru Degree of Raton, NM has presented a proposal to fix the heating system at the Museum in the amount of \$3,564.37. He explained the reasoning for this request is to fix the heating system in the Museum so the Museum could be open longer and the pipes would not freeze. He also added he would like to have the facility open for nine months instead of the current six months. Trustee Anna Phillips announced the Night at the Museum is still scheduled for Halloween weekend.

Trustee Rebecca Ramirez moved to approve the repair of the Museum heating system by Tru Degree in the amount of \$3,564.37. Trustee Anna Phillips seconded. Approved 3-0

11. Adjourn

Trustee Rebecca Ramirez moved to adjourn the meeting. Trustee Anna Phillips seconded. Approved 3-0

APPROVED THIS ____ DAY of December 2016

Fernando Garcia, Mayor

Attest:

Shawn Jeffrey, Clerk-Treasurer

Town of Springer
P.O. Box 488 – 606 Colbert Ave.
Springer, NM 87747
(575) 483-2682

Agenda
Regular Meeting
December 20, 2016
5:00 p.m.

1. Call to Order:
2. Roll Call:
3. Pledge of Allegiance to the Flag:
4. Opening Prayer:
5. Approve Agenda with or without Additions, Deletions or Corrections:
6. Discuss/Approve/Disapprove Minutes of Special Meeting of November 16, 2016:
7. Public Input: Please sign in if you would like to participate (Limited to 3 minutes per person):
8. Council Comments:
9. Presentation Raheel Hirji, George K. Baum & Company- Refinancing Bond Debt
10. Discuss/Approve/Disapprove 2017 Capital Outlay Requests
11. Update by Forsgren Associates with updates on Water Projects:
12. Discuss/Approve/Disapprove Outstanding Bill for Public Records Request:
13. Discuss/Approve/Disapprove Maintenance Museum Park Trees
14. Discuss/Approve/Disapprove Handi Way Property Clean up as per NM State Statue 3-18-5
15. Discuss/Approve/Disapprove NMDOT Title VI Plan
16. Discuss/Approve/Disapprove Drinking Water State Revolving Loan Fund- Water Projects
17. Discuss/Approve/Disapprove Resolution 2016-45 Vehicle Policy
18. Discuss/Approve/Disapprove Resolution 2016-46 General Phone and Cell Phone Policy
19. Discuss/Approve/Disapprove Resolution 2016-47 Personnel Policy

~~20. Discuss/Approve/Disapprove Cemetery Designation and/or Land Purchase:~~

~~21. Discuss/Approve/Disapprove Payment to Robles, Rael & Anaya in the Amount of \$ 25.76 for November 2016:~~

22. Discuss French Tract Penalty Arrears:

23. Staff Reports:

- ~~a. Mayor:~~
- ~~b. Clerk-Treasurer:~~
- ~~c. Field Supervisor:~~
- ~~d. Water Superintendent:~~
- ~~e. Police Dept.:~~
- ~~f. Fire Dept.:~~
- ~~g. Ambulance:~~
- ~~h. Housing Authority:~~
- ~~i. Library:~~
- ~~j. Museum:~~
- ~~k. Chamber of Commerce:~~
- ~~l. Economic Development:~~
- ~~m. Lodgers Tax Committee:~~
- ~~n. Rec Center:~~
- ~~o. Cemetery:~~

~~24. ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND LIMITED PERSONNEL MATTERS AS PER NEW MEXICO OPEN MEETINGS ACT 10-15-1 SECTION H SUBSECTIONS 2 & 7:~~

- Limited Personnel Matters
- FY16 Audit Update
- Hire Full Time Officer- Colonel Jack Jones
- Hire Field Supervisor

~~25. RETURN TO OPEN SESSION:~~

~~26. Discuss/Approve/Disapprove Hire Full Time Officer- Colonel Jack Jones~~

~~27. Discuss/Approve/Disapprove Hire Field Supervisor~~

28. Set Agenda Requests for next meeting: 1/17/16

29. Set Date, Time and Place for next meeting: 1/17/16

30. Adjourn:

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting. Please contact the Springer Clerk Office at 575-483-2682 at least one week prior to the meeting or as soon as possible.

Town of Springer
P.O. Box 488 – 606 Colbert Ave.
Springer, NM 87747
(575) 483-2682

Agenda
Regular Meeting
January 17, 2017
5:00 p.m.

1. **Call to Order:**
2. **Roll Call:**
3. **Pledge of Allegiance to the Flag:**
4. **Opening Prayer:**
5. **Approve Agenda with or without Additions, Deletions or Corrections:**
6. **Discuss/Approve/Disapprove Minutes of Special Meeting of December 20, 2016:**
7. **Public Input: Please sign in if you would like to participate (Limited to 3 minutes per person):**
8. **Council Comments:**
9. **Update by Forsgren Associates with updates on Water Projects:**
10. **Discuss/Approve/Disapprove George K. Baum Engagement:**
11. **Discuss/Approve/Disapprove Bond Counsel- Modrall Sperling Law Firm:**
12. **Discuss/Approve/Disapprove Resolution 2017-01 NMFA Application for Bond Re-Finance:**
13. **Discuss/Approve/Disapprove 2017 Employee Holiday Schedule:**
14. **Discuss/Approve/Disapprove Resolution 2017-02 Open Meetings Act:**
15. **Discuss/Approve/Disapprove Resolution 2017-03 NMFA Loan to Town of Springer- Ambulance:**
16. **Discuss/Approve/Disapprove Resolution 2017-04 NMFA Loan Law Enforcement Repeater & Radios:**
17. **Discuss/Approve/Disapprove Resolution 2017-05 NMDOT Hardship Auction:**
18. **Discuss/Approve/Disapprove Load Forecast Plan - T&D Consultants:**
19. **Discuss/Approve/Disapprove Cemetery Designation and/or Land Purchase:**

20. Discuss/Approve/Disapprove Town of Springer Annual Festival:
21. Discuss/Approve/Disapprove Recreation Center Improvements- Heating:
22. Discuss/Approve/Disapprove Peggy Jo Price for Fred Macaron Library Board Member:
23. Discuss/Approve/Disapprove Colfax County Reception Sponsorship:
24. Discuss/Approve/Disapprove Payment to Robles, Rael & Anaya in the Amount of \$1,274.87 for December 2016:
25. Discuss French Tract Penalty Arrears:
26. Staff Reports:
 - a. Mayor:
 - b. Clerk-Treasurer:
 - c. Field Supervisor:
 - d. Water Superintendent:
 - e. Police Dept.:
 - f. Fire Dept.:
 - g. Ambulance:
 - h. Housing Authority:
 - i. Library:
 - j. Museum:
 - k. Chamber of Commerce:
 - l. Economic Development:
 - m. Lodgers Tax Committee:
 - n. Rec Center:
 - o. Cemetery:
27. ADJOURN TO EXECUTIVE SESSION TO DISCUSS LITIGATION AND LIMITED PERSONNEL MATTERS AS PER NEW MEXICO OPEN MEETINGS ACT 10-15-1 SECTION H SUBSECTIONS 2 & 7:
Limited Personnel Matters-
28. RETURN TO OPEN SESSION:
29. Set Agenda Requests for next meeting:
30. Set Date, Time and Place for next meeting:
31. Adjourn:

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