



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

2115 STATE CAPITOL BUILDING  
LINCOLN, NE 68509-8920  
(402) 471-2682  
TDD (402) 471-2682  
FAX (402) 471-3297 or (402) 471-4725

**DOUGLAS J. PETERSON**  
ATTORNEY GENERAL

**LAURA A. NIGRO**  
ASSISTANT ATTORNEY GENERAL

July 16, 2018

Judy Glassburner



RE: *File No. 18-M-118; Geneva City Council; Judy Glassburner, Complainant*

Dear Ms. Glassburner:

This letter is in response to your correspondence in which you requested that this office investigate alleged violations by the Geneva City Council (the "Council") of the Nebraska Open Meetings Act, Neb. Rev. Stat. §§ 84-1407 through 84-1414 (2014, Cum. Supp. 2016, Supp. 2017) ("Act"). In accordance with our normal procedures, we requested a response from the Council after we received your complaint and we subsequently received a response from Eric Kamler, President of the Geneva City Council. We have now had an opportunity to review your allegations and the Council's response, and our conclusions are set out below.

#### **ALLEGED VIOLATION AND RELEVANT FACTS**

In your complaint, you allege the Council violated the Open Meetings Act by holding a meeting on April 25, 2018 that was not noticed to the public. In its response, the Council generally denies that any violation of the Open Meetings Act occurred. It states that on April 25, 2018, there was an event hosted by the City of Geneva's engineering firm, JEO Consulting, at the Geneva City Library. The event consisted of a presentation by JEO Consulting followed by breakout sessions in which the public participated. The Council states this event was not a meeting under the Act because (1) there was never a quorum of councilmembers present, and (2) there was no discussion of policymaking at the event. Specifically, it states that at no one point in time was there a quorum present because councilmembers arrived and departed at various times. Accordingly, there was never a time where four councilmembers were present. The Council states that for the first 40-50 minutes of the event, councilmembers Josh Turner, Jim Donovan, and Eric Kamler were in attendance. At 6:30, councilmembers Josh Turner and Jim Donovan departed the event and at 7:00 councilmember Jean Engle arrived at the event.

## ANALYSIS

Your complaint alleges that a meeting was held by the Council on April 25, 2018 that was not noticed to the public. The issue then becomes whether a meeting within the definition of the Open Meetings Act occurred which would require a notice to be published. In our enforcement capacity over the Act, this office has indicated on multiple occasions what constitutes a “meeting” subject to the Open Meetings Act. See Op. Att’y Gen. No. 17-004 (June 5, 2017). In this regard, we have stated that two things must be present for a meeting to occur under the Act. *Id.* at 3. First, a quorum of a public body must be present. *Id.* Second, the public body must engage in at least one of the activities included in the definition of a “meeting” set out in Neb. Rev. Stat. § 84-1409(2). *Id.* In the absence of either element, we have concluded that no “meeting” of a public body occurred. *Id.*

Based upon Mr. Kamler’s representations, there was never a quorum present at the April 25, 2018 event. For a quorum to exist, a majority of the members of the public body must be present. The Geneva City Council consists of six members. Accordingly, four members must be present for a quorum to exist. Mr. Kamler has represented to this office that at no time were there more than three members present at the event. Because a quorum was not present, a meeting within the definition of the Act did not occur. As such, the Council was not required to provide notice to the public.

## CONCLUSION

For the reasons stated above, we do not believe that the Council violated the Open Meetings Act with respect to the issue raised in your complaint. If you disagree with the analysis we have set out above, you may wish to contact your private attorney to determine what additional remedies, if any, are available to you under the Open Meetings Act.

Sincerely,

DOUGLAS J. PETERSON  
Attorney General

  
Laura A. Nigro  
Assistant Attorney General

cc: Eric Kamler