

# New Mexico Foundation for Open Government

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April 13, 2011

David Fuqua  
City Manager  
City of Bloomfield  
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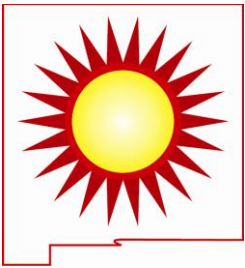
Dear Mr. Fuqua,

I am writing because after reading an April 6 article posted on *The Daily Times* website (enclosed), it would be reasonable to conclude that the City of Bloomfield has violated the New Mexico Open Meetings Act. Particularly concerning to me is a statement attributed to an e-mail from you to city staff, stating that “the council wants to meet alone in order to discuss freely the different options they have at their disposal.”

The Council may very well want to meet alone, but it cannot do so under the Open Meetings Act. Budget discussions among a quorum of a public body, no matter how controversial, do not fall under one of the ten exemptions in the Act. Such discussions must be public meetings.

Furthermore, the Act states that “all persons desiring shall be permitted to attend and listen to the deliberations and proceedings” of public meetings. (NMSA 1978 § 10-15-1.A) That means that city staff, including department heads, have the same right to attend public meetings as any member of the public or any news reporter. It’s a public meeting – anyone can attend. If a particular person or group of individuals is *singled out* for dis-invitation based on who they are or what they might say during a public comment period, such action violates the Act but also raises constitutional issues under the First Amendment.

Pursuant to NMSA 1978 § 10-15-3, violations can be addressed by convening another public meeting and summarizing the comments made at the meeting which violated the Act. Although the Act does not require a full re-discussion of the items considered, I believe that is the best way to repair the damage done to the public trust.



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Finally, although the article states that notice was posted in six locations around town, it does not state whether notice was posted at the City Clerk's Office, as required by your 2010 Open Meetings Act resolution; certainly it seems as though some city staff were caught off-guard. (The 2010 resolution is the only one I could find on your website, but I presume it is substantially similar to the 2011 version.) I believe that special meetings are particularly important to notice adequately because they deal with unforeseen or urgent issues, or in-depth discussions of complex and significant issues. I note that the City has a very impressive, user-friendly website, which provides great opportunities to post meeting notices online and even send alerts to citizens who wish to receive them. At present, it seems that only the Library Advisory Board is taking advantage of this resource. I would urge you to incorporate better notice mechanisms, both online and in the community, into future Open Meetings resolutions.

I know that citizens in your area are concerned about this issue, because our open-government hotline received calls in the wake of last week's meeting and subsequent article; that is how the situation came to my attention. I urge you to demonstrate your commitment to transparent government to the citizens of Bloomfield, and please don't hesitate to contact me if you would like to discuss this matter further.

Sincerely,

Sarah Welsh  
Executive Director

Cc: Mayor Scott Eckstein