



New Mexico Foundation for Open Government

Nov. 20, 2009

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Bill Standley
Mayor, City of Farmington
800 Municipal Dr.
Farmington, NM 87401

Cc: Councilors Dan Darnell, Mary Fischer, George Sharpe and Jason Sandel; City Manager Rob Mayes.

Dear Mayor Standley,

I am writing to you because I was quoted in *The Daily Times* this week raising concerns about an e-mail exchange involving yourself, two councilors, city staff and a private entity with dealings before the Council. I would like to elaborate on the Foundation's position and urge you to use this opportunity to examine the city's communications policy. Failure to deal with these issues certainly opens public bodies up to allegations of violating the Open Meetings Act, and it also harms the public's perception of and trust in its elected officials.

Issues surrounding quorum and intra-governmental communications have certainly become more complicated with the advent of constant e-mail, text messaging and cell-phone use. It may be hard to tell when a casual e-mail exchange becomes an inappropriate discussion of public business. In fact, this issue came up at a recent Attorney General sunshine seminar in Sunland Park. Someone asked, can we keep councilors apprised of relevant information in advance of a meeting? Our advice is simple but strict: information can flow outward from city staff (typically from one point of contact) to all councilors, but the communication should end there. "Reply to all" will inevitably get you in trouble. If an individual councilor has questions or needs more information, those follow-up discussions must be limited to one-on-one communications between the councilor and the staff person. That may seem restrictive, but it is in keeping with the principle that any and all discussions involving a quorum of the public body should be held in an open, public forum.

Cities, counties and school boards throughout the state are dealing with these same issues. In most cases, policies simply need to catch up to technological reality. I believe that a bright line, formulated in policy, ultimately serves the interests of both public officials and their constituents. Thank you for your time, and I would be happy to discuss this matter further if you so wish.

Sincerely,

Sarah Welsh
Executive Director