

## Jan 23, 1014 email, Hartman to Harris

Roger Hartman <nmpops@gmail.com>

Jan 23 (4 days ago) ☆

to Don, Michael, Bill, Connie, Debbie, Dick, Gary, Geneva, James, Joe, John, Karen, Rita, Roger, Selva, Stuart, bcc: Don

Councilor Harris,

Having given more thought to the issue of the City's involvement in the planned development at 13001 E Central, I feel this issue needs further discussion. Your email to me on January 14 said (my understanding) that the City and the Council can't get involved in blocking or otherwise interfering with a legal (supported by in-place zoning) private transaction, in this case a land sale. Specifically, you mentioned that acting to change the zoning for the purpose of blocking a legal sale in opposition to the property owner's interest had been found to be unlawful or at least improper. I completely understand that. That, however, is not the issue here. The issue is using public monies for any purpose without it being done with full prior public notification and in full compliance with the law.

At the risk of being long-winded, here is an item by the NM Attorney General, "The Open Meetings Act Compliance Guide" available at <http://www.nmag.gov/consumer/publications/openmeetingsactcomplianceguide>

Dear Public Officials and Concerned Citizens:

Public access to the proceedings and decision-making processes of governmental boards, agencies and commissions is an essential element of a properly functioning democracy. In a comment applicable to open government, Justice Louis Brandeis once observed that "sunshine is the best disinfectant." I agree wholeheartedly. As former President Harry S. Truman later put it even more succinctly: "Secrecy and a free, democratic government don't mix."

Like you, I believe strongly in open government. Meetings held by public officials to discuss public business, particularly when conducted with the public taxpayers' money, are the taxpayers' business. The Open Meetings Act is one of New Mexico's "good government" laws, and it deserves the full support of all New Mexicans.

As Attorney General, I am charged by law with the responsibility to enforce the provisions of the New Mexico Open Meetings Act. I take that charge seriously. The publication of this Compliance Guide is one of the ways this office carries out its responsibility. We hope that it will serve as an effective resource for policymakers and the public alike.

Thank you for your interest and concern.

GARY K. KING  
Attorney General  
2010

The key point here is that when public officials meet to discuss public business, particularly when the taxpayers' money is involved, it's the taxpayers' business and it should all be done in full view ("sunshine is the best disinfectant").

That did not happen with regard to public funding for New Life Homes' development at 13001 East Central. The item was discussed publicly twice at City Council meetings. Regrettably, neither discussion was publicly advertised before Council discussed it at a public meeting and then voted to spend public funds. I have no way of knowing what was discussed in private. You could tell us. Again, neither discussion was advertised in advance. That's not subjective. The record is clear.

It was said either at the Council meeting or later that this had to be done quickly so that New Life Homes could meet a State deadline to apply for tax credits or other related to obtaining additional funding. Nothing in the Open Meetings Act provides an exemption when there's a claimed time crunch.

I attended your swearing-in ceremony. Your oath, the same oath taken by all the Councilors and the Mayor, included upholding The Constitution of the United States and the laws of the State of New Mexico. I believe that the City Council did not uphold the laws of the State of New Mexico when it acted to spend public monies to support a private endeavor (New Life Homes' project) without full compliance with at minimum the intent of the Open Meetings Act. Council's actions deliberately did this with at best minimal compliance (my opinion) by discussing it at a public meeting but without advertising it in advance as it easily could have done and properly should have done. That cannot be done accidentally.

Accordingly, I am asking you for two things, and I would very much appreciate your thoughts.

1. I believe Council should rescind its action to provide \$1.8 million of taxpayer funds for New Life Homes' development at 13001 E. Central. If council wishes to subsequently proceed again with this, do it in compliance with the requirements for public notification in the light of day.
2. I ask that you commit that in the future, all dealings with public monies be done in full compliance with both the letter and the spirit of the Open Meetings Act.

Thanks in advance.

Respectfully,  
Roger Hartman  
President, Four Hills Village Homeowners' Association