



MARK BRNOVICH
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL
SOLICITOR GENERAL'S OFFICE
GOVERNMENT ACCOUNTABILITY UNIT

KATHERINE JESSEN
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PHONE No.: (602) 542-3333
OMLETINFO@AZAG.GOV

August 6, 2021

By First-Class U.S. Mail

Jeffrey Burgess
7650 S. McClintock Dr., Ste. 103-248
Tempe, AZ 85284

Re: Open Meeting Law Complaint and Arizona Natural Resource Conservation Districts

Mr. Burgess:

The Attorney General's Office has concluded its review of your May 26, 2020 complaint alleging Open Meeting Law violations by three Arizona Natural Resource Conservation Districts. Enclosed are copies of the letters that were sent to the three Arizona Natural Resource Conservation Districts regarding the resolution of your complaint. This matter is now considered closed.

The Open Meeting Law Enforcement Team reviews and investigates only those allegations that pertain to the Open Meeting Law. Any allegations made that fall outside of the scope of the Open Meeting Law are not included in the disposition of this complaint.

Thank you for your interest in open government.

Katherine Jessen
Assistant Attorney General
Open Meeting Law Enforcement Team

Enclosures



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August 6, 2021

By Certified Mail, Return Receipt Requested

Apache Natural Resource Conservation District
P.O. Box 329
Springerville, AZ 85938
Sharon Fisher, sharon.fisher@az.nacdnet.net

Re: Open Meeting Law and the Apache Natural Resource Conservation District

Board Members:

As you know, the Office of the Attorney General (the "Office") received a complaint alleging that the Apache Natural Resource Conservation District (the "Board") violated Arizona's Open Meeting Law. The Office has concluded its review of the allegation and has determined that there was an Open Meeting Law violation. The facts recited in this letter serve as a basis for this conclusion, but are not administrative findings of fact and are not made for purposes other than those set forth in A.R.S. § 38-431 *et seq.*

Violation

The complaint alleged that the Board did not have or maintain a website where it posts Board meeting notices, agendas, and minutes. Specifically, the complaint alleged that the Board is required to have and maintain a website.

The Open Meeting Law requires that all public bodies post their notices and agendas in accordance with the specific provisions listed under A.R.S. § 38-431.02(A). Because Natural Resource Conservation Districts are considered political subdivisions of the state, *see* A.R.S. § 37-1001 *et seq.*, these districts are public bodies of the state and thus fall within the notice provisions of § 38-431.02(A)(1). Subsection (A)(1) requires that public bodies of the state maintain a website and post their notices and agendas on a website.

Here, the Board's response stated that the Board does not have its own website as the Board is not required to have or maintain one. However, as a public body of the state, *see* A.R.S. § 38-431.02(A)(1), the Board is required to post its meeting notices and agendas on its website, and it does not have a website where meeting notices or agendas are posted, the Office has determined that the Board violated the Open Meeting Law.

Remedy

To remedy this violation, the Office considered the readily available records documenting whether the Board has had any recent open meeting violations and the Board's response.

Having weighed these factors, and in order to resolve this matter, the Office requires that the Board post its notices and agendas online in accordance with the Open Meeting Law for all future meetings. The Office also requires that within thirty (30) days of the date of this letter, the Board provide written verification of the website where the Board intends to post its notices and agendas. The Office has noted this occurrence as a violation, which will be considered in determining the response to any further Open Meeting Law violations by the Board and its current members.

This letter relates solely to the disposition of the aforementioned Open Meeting Law complaint; it is not a formal opinion of the Attorney General's Office and should not be cited as authority in other matters.

A handwritten signature in black ink, reading "Katherine Jessen". The signature is written in a cursive, flowing style.

Katherine Jessen
Assistant Attorney General
Open Meeting Law Enforcement Team



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August 6, 2021

Via Email & By Certified Mail, Return Receipt Requested

Chino Winds Natural Resource Conservation District
c/o Wendy Chavey, District Clerk
8841 E. Florentine Rd., Suite C
Prescott Valley, AZ 86314
wendy.districts@gmail.com

Re: Open Meeting Law and the Chino Winds Natural Resource Conservation District

Board Members:

As you know, the Office of the Attorney General (the "Office") received a complaint alleging that the Chino Winds Natural Resource Conservation District (the "Board") violated Arizona's Open Meeting Law. The Office has concluded its review of the allegation and has determined that there was an Open Meeting Law violation. The facts recited in this letter serve as a basis for this conclusion, but are not administrative findings of fact and are not made for purposes other than those set forth in A.R.S. § 38-431 *et seq.*

Violation

The complaint alleged that the Board did not have or maintain a website where it posts notices, agendas, and minutes for Board meetings. Specifically, the complaint alleged that the Board is required to have and maintain a website.

The Open Meeting Law requires that all public bodies post their notices and agendas in accordance with the specific provisions listed under A.R.S. § 38-431.02(A). Because Natural Resource Conservation Districts are considered political subdivisions of the state, *see* A.R.S. § 37-1001 *et seq.*, these districts fall within the notice provisions of § 38-431.02(A)(1). Subsection (A)(1) requires that public bodies of the state maintain a website and post their notices and agendas on a website.

Here, while the Board's response stated that the Board does have its own website, the Office was unable to locate the conspicuous statement where the Board physically and

electronically posts its meeting notices, and the Office was unable to find any record of notices or agendas for Board meetings. Because the Board is required to post its meeting notices and agendas on its website, and it does not appear that the Board posted these meeting documents, the Office has determined that the Board violated the Open Meeting Law.

Remedy

To remedy this violation, the Office considered the readily available records documenting whether the Board has had any recent open meeting violations and the Board's response.

Having weighed these factors, and in order to resolve this matter, the Office requires that the Board post its notices and agendas online in accordance with the Open Meeting Law for all future meetings. The Office also requires that within thirty (30) days of the date of this letter, the Board provide written verification of the website where the Board intends to post its notices and agendas. The Office has noted this occurrence as a violation, which will be considered in determining the response to any further Open Meeting Law violations by the Board and its current members.

This letter relates solely to the disposition of the aforementioned Open Meeting Law complaint; it is not a formal opinion of the Attorney General's Office and should not be cited as authority in other matters.



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August 6, 2021

By Certified Mail, Return Receipt Requested

Whitewater Draw Natural Resource Conservation District
P.O. Box 94
McNeal, AZ 85617
whitewaterdraw@gmail.com

Re: Open Meeting Law and the Whitewater Draw Natural Resource Conservation District

Board Members:

As you know, the Office of the Attorney General (the "Office") received a complaint alleging that the Whitewater Draw Natural Resource Conservation District (the "Board") violated Arizona's Open Meeting Law. The Office has concluded its review of the allegation and has determined that there was an Open Meeting Law violation. The facts recited in this letter serve as a basis for this conclusion, but are not administrative findings of fact and are not made for purposes other than those set forth in A.R.S. § 38-431 *et seq.*

Violation

The complaint alleged that the Board did not have or maintain a website where it posts Board meeting notices, agendas, and minutes. Specifically, the complaint alleged that the Board is required to have and maintain a website.

The Open Meeting Law requires that all public bodies post their notices and agendas in accordance with the specific provisions listed under A.R.S. § 38-431.02(A). Because Natural Resource Conservation Districts are considered political subdivisions of the state, *see* A.R.S. § 37-1001 *et seq.*, these districts are public bodies of the state and thus fall within the notice provisions of § 38-431.02(A)(1). Subsection (A)(1) requires that public bodies of the state maintain a website and post their notices and agendas on a website.

Here, the Board's response stated that the Board does not have its own website as the Board is not required to have or maintain one. However, as a public body of the state, *see* A.R.S. § 38-431.02(A)(1), the Board is required to post its meeting notices and agendas on its website.

and it does not have a website where meeting notices or agendas are posted, the Office has determined that the Board violated the Open Meeting Law.

Remedy

To remedy this violation, the Office considered the readily available records documenting whether the Board has had any recent open meeting violations and the Board's response.

Having weighed these factors, and in order to resolve this matter, the Office requires that the Board post its notices and agendas online in accordance with the Open Meeting Law for all future meetings. The Office also requires that within thirty (30) days of the date of this letter, the Board provide written verification of the website where the Board intends to post its notices and agendas. The Office has noted this occurrence as a violation, which will be considered in determining the response to any further Open Meeting Law violations by the Board and its current members.

This letter relates solely to the disposition of the aforementioned Open Meeting Law complaint; it is not a formal opinion of the Attorney General's Office and should not be cited as authority in other matters.



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