



February 18, 2020

Mr. Jeff Burgess
7650 S. McClintock Dr. #103-248
Tempe, AZ 85285

Dear Mr. Burgess:

I have reviewed your letter of January 26, 2020, alleging the state and local Habitat Partnership Committees (HPCs) are subject to Arizona's open meeting law (OML). As you understand, Arizona's OML meeting law requires a "public body" comply with requirements that meetings be open to the public with timely notices and agendas for the meetings. A public body is typically a multi-member board or commission established by law and serves as a governing body. A public body may include standing, special or advisory committees that are established or appointed by the public body. These standing, special or advisory committees are established by a motion of a public body and whose members are appointed for the purpose of either making a recommendation concerning a decision to be made by the public body, or the members are appointed by the public body or are authorized to act for the public body.

The state HPC is regarded as a public body as the Arizona Game and Fish Commission previously established the committee, and one member of the Commission serves as the chair of the state HPC. The state HPC has adhered to the OML law by posting notices and agendas, allowing the public to attend and keeping and distributing meeting minutes. It appears with the meeting in January, there was miscommunication whether the state HPC is subject to the OML, and you experienced difficulty locating a timely notice and agenda for the meeting, and may have been advised of a different start time. I apologize for this, and we will endeavor to make corrections to avoid any future issues. If you would like personally to receive notification of future meetings, please contact HPC@azgfd.gov, and the Department will add you to the list to receive a meeting notice and agenda for the state HPC meeting.

As for the local HPCs, these groups are not subject to the OML as they were never established by law or an official action of a public body as a standing, special or advisory committee. Neither do they serve in any advisory capacity to a public body nor given authority to act on behalf of a public body. Instead, the Department informally organized these groups to help develop and submit grant proposals to a Department-led evaluation team that scores and ranks the proposals. The evaluation team submits the recommendations to the Department who then decides to award grants. Neither the local HPCs nor the evaluation team serve as an advisory committee under the OML because their

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GOVERNOR: DOUGLAS A. DUCEY **COMMISSIONERS:** CHAIRMAN, ERIC S. SPARKS, TUCSON | KURT R. DAVIS, PHOENIX
LELAND S. "BILL" BRAKE, ELGIN | JAMES E. GOUGHNOUR, PAYSON | JAMES S. ZIELER, ST. JOHNS **DIRECTOR:** TY E. GRAY **DEPUTY DIRECTOR:** TOM P. FINLEY

recommendations are made not to a public body, but to a public agency with a director as a single agency head.

While the local HPCs are not subject to the OML, these meetings are open to the public, and we can provide you contact information if you would like to attend these meetings.

Thank you for taking the time to send your letter and raise your concerns. We have noted areas where we will work to avoid future issues with the notice to the state HPC meetings and access to meeting minutes. We will also offer assistance, if you request, to facilitate your attendance at the local HPC meetings.

Best Regards,

A handwritten signature in black ink, appearing to read "Ty E. Gray", written over the typed name and title.

Ty E. Gray
Director