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SOLICITOR GENERAL'S OFFICE
GOVERNMENT ACCOUNTABILITY UNIT

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Via Email & By Certified Mail, Return Receipt Requested

Blue Ridge Domestic Water Improvement District
c/o Riley Snow, Board Attorney
Snow Law
2036 N. Gilbert Rd., Ste. 2-264
Mesa, AZ 85203

Re: Open Meeting Law and the Blue Ridge Domestic Water Improvement District

Board Members and Mr. Snow:

As you know, the Office of the Attorney General (the "Office") received a complaint alleging that the Blue Ridge Domestic Water Improvement District Governing Board (the "Board") violated Arizona's Open Meeting Law. The Office has concluded its review of the allegations and determined that there was an Open Meeting Law violation in connection with the Board's October 16, 2021, and October 19, 2021 meetings. 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 related to the Board's October 16, 2021 and October 19, 2021 meetings. First, the complaint alleged that the Board amended its October 16, 2021 meeting agenda less than 24 hours prior to the meeting. Specifically, the complaint alleged that the Board's amended agenda added four executive session items less than 24 hours prior to the meeting and this did not provide adequate public notice that the Board would enter into executive session on these matters. Additionally, the complaint alleged that the October 16, 2021 executive session agenda items did not contain sufficient information to reasonably inform the public what the Board intended to discuss during the executive sessions, and that the language of the executive session agenda items suggested that the Board intended to take legal action during the executive session.

Second, the complaint alleges that the Board re-scheduled the same executive sessions for a meeting on October 19, 2021 due to the October 16, 2021 agenda not being posted in accordance with the Open Meeting Law, and that these executive session agenda items do not

contain sufficient information to reasonably inform the public what the Board intended to discuss during the executive sessions, and that the language of the executive session agenda items suggested that the Board intended to take legal action during the executive session. Additionally, the complaint alleged that the notice for the Board's October 19, 2021 meeting included the certification that it was posted by Board Member Ritter at 9AM on October 16, 2021, even though this was not possible as the Board had not yet met for its October 16, 2021 meeting, and been notified about the amended agenda issue.

Finally, after reviewing copies of the October 16, 2021 and October 19, 2021 agendas submitted by the complainant, the Office noted that both meetings' executive session agenda items cite generally to A.R.S. § 38-431.03(A), and do not list the specific subsection under A.R.S. § 38-431.03(A) that authorize the executive session for the listed matters.

After reviewing the Board's October 16, 2021 and October 19, 2021 agendas, the Board's response, and enclosed response documents, including executive session materials, the Office has determined that all of the above allegations are substantiated. Because executive sessions are the only permissible time a quorum of a public body may meet to discuss limited topics outside of public view, the Open Meeting Law contains specific provisions to ensure that the public is provided notice of the executive session and is reasonably informed of what the executive session is about. *See generally* A.R.S. § 38-431.02(B), (I). A critical part of providing that notice is to "state the provision of law authorizing the executive session." A.R.S. § 38-431.02(B). While executive session agenda items need not contain information that "would defeat the purpose of the executive session," A.R.S. § 38-431.02(I), the description must reasonably inform the public of what matters the public body will discuss. A.R.S. § 38-431.09(A).

Here, the Board's October 16, 2021 and October 19, 2021 executive session agenda items failed to meet these requirements. These agenda items did not cite to the specific subsection under A.R.S. § 38-431.03(A) that authorized each executive session, and the motion also failed to state which specific subsection the Board intended to enter into executive session for. Accordingly, 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 and supporting documentation.

Having weighed these factors, and in order to resolve this matter, the Office now requires that all Board members and pertinent employees attend an Open Meeting Law training conducted by the Arizona Ombudsman-Citizens' Aide, another pre-approved organization, or a pre-approved attorney within sixty days of receipt of this letter. Evidence of completion of such training shall be provided to the Office within seven days after the training to be kept on file.

Further, the Office has determined that the Board must share the contents of this violation letter with the public at the next practicable public meeting the Board must share the contents of

this violation letter with the public at the next practicable public meeting, and a copy of this letter must be posted on the Board's website for at least one year from the date of this letter. 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.



Michael S. Catlett
Deputy Solicitor General
Open Meeting Law Enforcement Team