

Formas, Stephanie

From: Nolte, Dan R
Sent: Thursday, June 14, 2018 11:46 AM
To: Formas, Stephanie
Subject: OPMA Letter
Attachments: OPMA Letter - June 14.pdf

Please see the attached letter from City Attorney Holmes to Mayor Durkan. As we heard from Mayor Durkan this morning, she has waived privilege with respect to this letter only; there is no privilege waiver beyond the attached letter or to the underlying subject matter.

Best regards,



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June 14, 2018

Dear Mayor Durkan,

This letter addresses the question of whether notice requirements under the Open Public Meetings Act (OPMA) were met for the special meeting of the City Council that occurred on June 12, 2018.

We believe that it is likely that the courts would hold that the notice requirements of the OPMA were met.

RCW 42.56.080 requires that notice of a special meeting be (a) delivered to each local newspaper of general circulation and local radio or television station that has on file with the governing body a written request to be notified of such special meeting or of all special meetings; (b) posted on the agency's web site, and (c) prominently displayed at the main entrance of the agency's principal location and the meeting site. "Such notice must be delivered or posted, as applicable, at least twenty-four hours before the time of such meeting as specified in the notice." *Id.*

Notice of the June 12, 2018 noon meeting was physically posted at the main entrance to the Council chambers on June 11, 2018 at 11:57 am. The notice was also transmitted to the City Council's web service contractor, Legistar, at 11:55 am. Finally, an email to certain media organizations was sent at 12:10 pm.

We note that a search of City Clerk records, including City Archives, has not uncovered any written requests by media organization to be notified of City Council special meetings, as required under RCW 42.56.080(2)(a). However, the City, as a practice sends email notification of Council Special Meetings to certain media organizations including KIRO, KOMO, KING5, the Seattle Times, the P-I, and others. In this case, as previously stated, the email was sent at 12:10 pm. Although the email to the media was sent ten minutes past noon on June 11, there is ample evidence that members of the media were almost immediately aware of the meeting shortly after the 12:10 pm email. For example, at 12:12 pm on June 11 Seattle Times reporter Daniel Beekman posted a social media post on Twitter describing separate press releases from the Council President and the Mayor, respectively, announcing the special meeting.

At the meeting itself, several news media organization were present, taking video and audio recordings of the proceedings. Video taken by the Seattle Channel shows that the chambers were full of members of the public. The Council took public comment for more than an hour from members of the public who spoke on all sides of the issue, and in fact, after the initial 20 minutes allotted for public comment, the Council President extended the time for public comment for another half-hour. Ultimately the public comment period lasted for an hour and ten minutes.

Social media posts on Twitter also show that a Seattle Times reporter was present at the meeting and made more than 75 public tweets conveying the progress of the meeting.

RCW 42.30.010 sets forth the intent of the OPMA which is that actions and deliberations of governing bodies of public agencies be taken and conducted openly. In this case the intent of the OPMA was fully met:

The legislature finds and declares that all public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state and subdivisions thereof exist to aid in the conduct of the people's business. It is the intent of this chapter that their actions be taken openly and that their deliberations be conducted openly. The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

Here, both the public and news media, and the Council itself, were all fully engaged in an open public process that included public comments, reporting by the media, comments from all nine Councilmembers, and a public vote held before a live audience and broadcast live to the public. We therefore believe that the courts would hold that the requirement of the Open Public Meetings Act were fully met.



PETER S. HOLMES
Seattle City Attorney