

THOMAS A. DONAN
ATTORNEY AT LAW

205 E. STEPHEN FOSTER AVE.
POST OFFICE BOX 307
BARDSTOWN, KENTUCKY 40004

TELEPHONE:
(502) 348-7041
FACSIMILE: (502) 348-7609

April 10, 2012

**VIA U.S. MAIL AND
FACSIMILE TO 502-564-2698**

Hon. Michelle Harrison
Attorney General's Office
700 Capitol Avenue
Frankfort, Ky 40601

Re: City of Bardstown Response to Open Meetings Appeal Filed by Kevin Brumley
Date April 2, 2012 filed on April 3, 2012: Log Number 2012-00115

Dear Ms. Harrison:

I am submitting the following information in response to the Open Meetings Appeal of Kevin Brumley dated April 2, 2012 which was received by your office on April 3, 2012:

BACKGROUND

There are two (2) different entities referenced in this Appeal. One entity is the Bardstown Fire Department which is operated under by the City of Bardstown. The other entity is the Bardstown-Nelson County Volunteer Fire Department, Inc. It is a non-profit corporation which serves an unincorporated area of Nelson County, Kentucky. The two entities share equipment, facilities and volunteers. Both entities are supported by volunteer firefighters who volunteer to fight fires in both geographic locations. The paid firefighters are considered City employees and the non-profit corporation pays money to the City toward some of the firefighters' salaries pursuant to a contract.

INTRODUCTION

On March 19, 2012, Mr. Brumley set forth five complaints of violations of the Open Meeting Act at the March 6, 2012 Special Meeting of the Bardstown City Council. On March 23, 2012 the City Attorney responded to Mr. Brumley's complaints. He then filed this Appeal. It should be noted that initially, I was not provided with the CD's marked as Exhibits 3, 6 and 8 by Mr. Brumley. At my request, the three (3) CD's were copied and provided to me by the Attorney General. The Attorney General allowed me until April 10, 2012 to respond. I received the CD's on April 9, 2012. Each of the complaints are addressed below.

RESPONSE

1. **VIOLATION OF THE MINIMUM 24 HOUR NOTICE PROVISIONS OF THE OPEN MEETINGS ACT:** The undersigned interpreted Mr. Brumley's original Complaint to relate to the Media Notice. For that reason, the City disagreed with his Complaint. The written notice was properly transmitted to media organizations on March 5, 2012 at 3:14 p.m.(1514) hours in compliance with KRS 61.823 (4) (a) and (b). See the attached copy of electronic mail sent by the City Clerk to the media. To the extent that his Complaint relates to the failure to post the Notice of the Special Meeting at City Hall, it is addressed below.

2. **VIOLATION OF THE POSTING REQUIREMENTS FOR A SPECIAL MEETING:** The City agrees that it failed to post the Notice of the Special Meeting at City Hall as required by the statute. The City did post the Notice of Special Meeting at the City Council Chambers. In Exhibit 3, Mr. Brumley indicates that he was looking at that Notice before coming to City Hall. 4:18 - 4:51. While at City Hall in response to his question about the Special Meeting Agenda, he was directed to the office of the City Clerk, Bobbe Blincoe. She advised him that there was both a Special Meeting and a Working Session and provided him with a copy of the notices. There were some portions of the CD which would not play. See attached printout.

3. **SUBJECT OF THE SPECIAL MEETING AGENDA:** As noted in the City's March 23 Response, the City agrees that the Notice of the Special Meeting was defective in that it did not properly reference the approval of the appointment of the City of Bardstown Fire Chief. Therefore, no action could be taken at the Special Meeting. The minutes of the Special Meeting for March 6, 2012 at 5:00 p.m. and the CDs reflect that no action was taken by the City Council on that or any other matter. Therefore, there was no violation of the Open Meetings Act. The only discussion at the meeting was an explanation by the Mayor that he was not going forward with the Special Meeting and his reasoning in not going forward. One member of the public made a comment about the selection of a fire chief. The motion to adjourn was an appropriate motion for a Special Meeting and did not need to be on the Agenda.

4. **OTHER MATTERS:** The City agrees that the minutes of the Special Meeting need to be corrected. It should be noted that these minutes were approved at a subsequent meeting when both the Mayor and City Attorney were absent.

5. **OTHER CORRECTIVE ACTIONS:** The City of Attorney and City Clerk have reviewed the Statute and procedures relating to Special Meetings of the City Council and the coordination of Notices of Special Meetings in order to avoid future violations of the Open Meetings Act.

Respectfully submitted,

Thomas A. Donan

THOMAS A. DONAN
ATTORNEY FOR CITY OF BARDSTOWN

Enclosure

cc: Mr. Kevin Brumley
Ms. Bobbe Blincoe, City Clerk