



Community Redevelopment Authority (CRA)

**Wednesday, March 16, 2016
Regular Meeting**

Item X2

Discussion on executive session and property

Staff Contact: Chad Nabity

DUANE A. BURNS
SUSAN KOENIG
JEROM E. JANULEWICZ

LAW OFFICES OF
Mayer, Burns, Koenig & Janulewicz

308 NORTH LOCUST STREET, SUITE 306
P.O. BOX 2300
GRAND ISLAND, NEBRASKA
68802-2300
TELEPHONE 308-384-1120 FAX 308-384-3526

A.C. MAYER
(1920-2004)
EARL D. AHLSCHEDE
(1940-2004)

February 4, 2016

Chad Nability and Members of the
Community Redevelopment Authority
P. O. Box 1968
Grand Island, NE 68802

Dear Lady and Gentlemen:

You asked for guidance regarding action that may be taken by Members of the CRA when reconvening in open session after meeting in a closed session. This involves the statutory and case law provisions of the Nebraska Public Meetings Law.

Section 84-1410(2) R.R.S. 2014 provides in part as follows: "The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section." Subdivision (1)(a) refers to "Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation..."

In a case from the Nebraska Supreme Court in 1979 involving the City of Schuyler purchase of land for use in its wastewater treatment facility, the Court stated "the purpose of the open meetings law is to ensure that public policy is formulated at open meetings of the bodies to which the law is applicable. There is nothing in the law that requires negotiations for the purchase of land to be conducted at open meetings, but deliberations of the council as to whether an offer to purchase should be made is action that should be taken at an open meeting. "Pokorny vs. City of Schuyler 202 Neb. 334 at Page 339.

In a 1984 case from the Nebraska Supreme Court, the Court said "the prohibition against decisions or formal action in a closed session also proscribes 'crystallization of secret decisions to a point just short of ceremonial acceptance,' and rubberstamping or reenacting by a pro forma vote any decision reached during a closed session." Grein vs. Board of Education of the School District of Fremont 216 Neb. 158 at Page 168.

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From the above language, it is clear that members of the public body can give advice to legal counsel or other negotiators in closed session without requiring the contents of that advice to be disclosed after reconvening in open session.

In my opinion, after reconvening to open session after a closed session on a specific subject, the public body has three options:

1. Declare that no action will be taken and adjourn the meeting;
2. Move to put the subject on the Agenda for the next meeting; or
3. Discuss in open meeting the proposal to purchase/sell real estate assuming that the Agenda has an action item on it pertaining to the subject.

Very truly yours,



Duane A. Burns

DAB:ljr