

Jon Lipsky

From: Jon Lipsky <jon@jonlipsky.com>
Sent: Monday, September 05, 2016 7:22 PM
To: 'mmcgoff@arvada.org'; Lisa Morzel (lisamorzel@gmail.com); 'dgardner@bouldercounty.org'; 'lweinberg@cityofgolden.net'; 'mshelton@broomfieldcitycouncil.org'; 'DAllen@broomfield.org'; Libby Szabo (lszabo@heffco.us); 'jdowning@northglenn.org'; 'joec@superiorcolorado.gov'; 'jan.kulmann@cityofthornton.net'; Bruce Baker (bbaker@cityofwestminster.us); 'jmhillery915@comcast.net'; 'murphwid@gmail.com'; 'RFKohler@yahoo.com'; 'stevenfranks00@gmail.com'
Cc: 'dabelson'
Subject: FW: RF Stewardship Council Sept. 12th meeting packet and meeting notice

Greetings to the Rocky Flats Stewardship Council Board of Directors,

The purpose of this communication is to request that the 11:10a agenda item, Executive Session, on September 12, 2016 or at any time during the meeting should not be closed to the public. In the event a Board of Directors' suggestion to Mr. Abelson to open the Executive Session to the public is not fruitful, I am requesting the requisite Motions for a vote for public access to the Executive Session be conducted in the presence of the public.

As a reference, the article "Follow These Rules for a Proper Executive Session" posted by the Special District Association of Colorado (SDAC) was consulted at <http://www.sdaco.org/news/follow-these-rules-proper-executive-session>. Please note that the article references the Gumina case. (Gumina v. City of Sterling, Colorado Court of Appeals, No. 03CA1709). The SDCA outlines the Gumina decision emphasizing the importance to strictly follow steps to convene an executive session. One such step is to identify the employee relative to the Executive Session.

The notice emailed by Mr. David Abelson on September 1, 2016 specifically states "personnel contracts." Mr. Abelson did not disclose the name or names of the RFSC employees. The Rocky Flats Stewardship Council (RFSC) is without employees. Below is my September 1, 2016 follow-up email to Mr. Abelson confirming that the RFSC has no employees.

On September 2, 2016, email thread below, Mr. Abelson changed the nature of the Executive Session Notice from personnel to contracts and did not completely answer my questions of September 1, 2016. The September 1, 2016 Notice emailed by Mr. Abelson does not state that the Executive Session is closed to the public. Mr. Abelson's response of September 2, 2016: "The executive session is closed to the public as allowed under state law" is a sham. Mr. Abelson's new and different reason to call a closed RFSC Executive Session does not conform with CRS 24-6-402(4)(e). To wit: "positions" does not equate to contracts. (CRS 24-6-402(4)(e)).

The RFSC Executive Session is also to be documented with an audio recording all of which available for public inspection. In the past, Mr. Abelson has stated that neither he or the RFSC is equipped to record RFSC meetings.

I am also concerned that the RFSC could be exposed to IRS fines and penalties for not filing 1099 forms with the IRS in a timely manner. One of the questions that Mr. Abelson did not answer and I look forward to being assured that the RFSC is filing timely 1099 forms with the IRS to avoid needless fines and penalties. I am not interested in Personal Identifying Information only the assurance or evidence that RFSC 1099 forms have been filed in a timely manner.

I appreciate your time and consideration with my concerns.

Respectfully,

Jon Lipsky
949-452-0171.

From: David Abelson [mailto:dabelson@rockyflatssc.org]
Sent: Friday, September 02, 2016 1:46 PM
To: Jon Lipsky
Subject: RE: RF Stewardship Council Sept. 12th meeting packet and meeting notice

Jon –

CRS 24-6-402 is the applicable statutory provision. The executive session concerns contracts, not employee matters. Colorado law allows the Board to go into executive session to develop negotiating strategies. We use the term “personnel contracts” to provide additional guidance into the purpose of the session.

The executive session is closed to the public as allowed under state law.

David

David M. Abelson
Executive Director
Rocky Flats Stewardship Council
P.O. Box 17670
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(303) 412-1200

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dabelson@rockyflatssc.org

From: Jon Lipsky [<mailto:jon@jonlipsky.com>]

Sent: Thursday, September 1, 2016 7:28 PM

To: David Abelson <dabelson@rockyflatssc.org>

Subject: FW: RF Stewardship Council Sept. 12th meeting packet and meeting notice

Hello David,

Reference your RFSC Bd mtg packet for 9/12/2016.

On page 2 at 11:10 a.m. is an Executive Session announcement, to discuss personnel contracts for 2017.

Thanks for including a legal citation in the announcement.

I am interested in learning additional information concerning “[D]iscussion of Stewardship Council personnel contracts for 2017 ...”

By way of background: during the June 6, 2016 RFSC meeting your accountant in his December 31, 2015 ‘Notes to Financial Statements’ documented on page 7, “[T]he Council has no employees and all operations and administrative functions are contracted.” The exact same statement was documented in your accountant’s ‘Notes to Financial Statements’ dated December 31, 2014 during the June 1, 2015 RFSC meeting. The December 31, 2014 ‘Notes’ were accepted by the RFSC Board on 9/14/2015. It is anticipated that your accountant’s ‘Notes’ of December 31, 2015 will be accepted by the RFSC Board on 9/12/2016.

Will the scheduled Executive Session be closed to the public?

Since the RFSC operates without employees how does C.R.S. 24-6-402 (4)(e) apply in your announcement?

How have you complied with the issuance of IRS Form 1099 (Miscellaneous Income) to contractors being paid more than \$600? If so, please advise on the nature of the evidence. If not, please explain the reason(s) for not filing IRS Form 1099s.

What are the circumstances to cite C.R.S. 24-6-402 (4)(b) as a basis for the scheduled Executive Session? As you know, the mere presence or participation of an attorney at the executive session is not sufficient to satisfy the requirements.

Thanks, Jon.

From: David Abelson [<mailto:dabelson@rockyflatssc.org>]

Sent: Thursday, September 01, 2016 1:22 PM

Subject: RF Stewardship Council Sept. 12th meeting packet and meeting notice

Hello –

Attached is the Rocky Flats Stewardship Council's September 12th meeting packet and meeting notice.

Please let me know what questions you have.

Thanks,

David

David M. Abelson
Executive Director
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