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April 22, 2024

SENT VIA CERTIFIED AND ELECTRIC MAIL

Kristen Settlemire
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GEORGIA DEPARTMENT OF LAW
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Email: ksettlemire@law.ga.gov

RE: College Park, Georgia's Response to the Concerned Citizens' Open Meetings Act Complaint

Ms. Settlemire:

As you know, Denmark Ashby LLC ("Denmark Ashby") represents the City of College Park, Georgia ("College Park" or "City"). Denmark Ashby received correspondence, dated April 4, 2024 ("Letter"), wherein the Office of the Attorney General requested that the City respond to an Open Meetings Act Complaint from Betsey Eastman, Thomas Coleman, and Sherry Godfrey (collectively "Concerned Citizens") concerning allegations that there was a quorum of the city council present at a meeting on March 28, 2024 to discuss grant benefits, that was not properly noticed. ("Meeting"). Please consider this correspondence as the City's response concerning those allegations.

Georgia's Open Meetings Act ("Act") defines a "meeting" as: (1) the gathering of a quorum of the members of the governing body of an agency at which any official business, policy, or public matter of the agency is formulated, presented, discussed, or voted upon, or (2) the gathering of a quorum of any committee of the members of the governing body of an agency or a quorum of any committee created by the governing body at which official business, policy, or public matter of the committee is formulated, presented, discussed, or voted upon. O.C.G.A. § 50-14-1(a)(3). The purpose of the Act is to protect the public from "closed door" politics, as well as the potential abuse of individuals and the misuse of power such policies entail. College Park v. Martin, 304 Ga. 488, 489, 818 S.E.2d 620 (2018).

On March 18, 2024, the City held a properly noticed and open City Council meeting. At that start of meeting, under Item No. 2 of the posted agenda, the City Manager addressed the Mayor and Council regarding the addition of three items ("Items") to the agenda. March 18, 2024 City Council Meeting Agenda. Specifically, the City Manager



sought to add the following items: (1) renewal of a motion to rezone a property considered at the August 7, 2023 city council meeting and (2) the acceptance of an economic grant. March 18, 2024 City Council Meeting Minutes. After a motion was made and seconded, the City Council unanimously voted to add the Items to the agenda for the Meeting. Id. Thereafter, the City Clerk announced each Item for consideration and the City Council voted on the same. ¹ For the rezoning, council approved the rezoning in a 3-1 vote count. For the acceptance of the grant, the council approved the measure in a 4-0 vote count. Id.

Turning now to the Grant Benefits Community Meeting (“Meeting”) that occurred on March 28, 2024; the City’s position is that notice was given to the public. After the conducting of official business and vote to approve the receiving of an economic grant at the March 18, 2024 City Council meeting, City officials gave notice to the City’s media department that an information session would be held to discuss the economic grant that was previously approved. Notice was published through various media platforms, including the City’s main website and Facebook regarding the March 28, 2024 community meeting.² Furthermore, there was a public comment section during the Meeting wherein many residents were provided with an opportunity to speak and did in fact make public comments.

The City fully appreciates and always aims to adhere to the Act’s literal tenets, and in this instance, the City substantially complied with the Act as the public received notice and was not prejudiced by any potential unintentional deviation. The distinction between the way the City actually advertised the meeting and the way the act requires advertising is a specious, technical distinction that elevates form over substance. Indeed, from a factual perspective, the public had every bit as much notice as it would have if the City had

¹ Ultimately, what constitutes “necessity” is a discretionary act requiring local bodies to exercise reasonable judgment to control the content of agendas to conduct important public matters. Williams v. DeKalb Cnty., 308 Ga. 265, 840 S.E.2d 423(2020). The City’s elected officials exercised reasonable judgment concerning the content of the City’s agenda at each meeting and it would be improper to substitute another’s judgment in the place of the local elected body.

² <https://www.instagram.com/p/C5CMQDkgE00/>

<https://www.facebook.com/cityofcollegepark/>

https://www.youtube.com/watch?v=_MuZUbe1fz4

https://www.google.com/search?q=college+park%2C+ga+march+28%2C+2024+meeting&sca_esv=09379ecd0b6efd91&rlz=1C1GCEA_enUS1070US1070&ei=CrkmZp3KCfGNwbkPn6ulqAM&ved=0ahUKEwid9znxdaFAxXxRjABHZ8VAjUQ4dUDCBE&uact=5&oq=college+park%2C+ga+march+28%2C+2024+meeting&gs_lp=Egxnd3Mtd2l6LXNlcniAiJ2NvbGx1Z2UgcGFyaywgZ2EgbWFyY2ggMjgsIDlwMjQgbWVldGluZzIEEAAYRzIEEAAYRzIEEAAYRzIEEAAYRzIEEAAYR0j1CFCvBVivB_XABeAKQAQCYAQCgAQCqAQC4AQPIAQD4AQGYAgKgAgrCAgoQABiwAxjWBBhHmAMA4gMFEgExIECIBgQOBgWSBwEyoAcA&scient=gws-wiz-serp



advertised the meeting in the particular manner prescribed by the Act. Therefore, the facts do not support a finding of a violation.

The City's actions also demonstrate that the City acted in good faith and consistent with the open government policies that animate the Act. In summary, the intent of this Meeting was not to conduct any official business, nor was any official action taken. Rather, the intent of the meeting was to provide the public with more information and context regarding decisions made at a prior open and public meeting. The City advertised the Meeting to the public, it was open to the public, and the public appeared and attended the meeting. Again, this constitutes substantial compliance with the Act, and a finding of a violation is not warranted on these facts.

Should the Attorney General require additional information concerning this matter, please contact Denmark Ashby. Thank you in advance for your time and consideration.

Sincerely,

Winston A. Denmark

*City Attorney for College Park, Georgia,
Managing Partner of Denmark Ashby LLC*