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TO: Lee County Board of Commissioners

FROM: Garris Neil Yarborough
County Attorney

CONFIDENTIAL

ATTORNEY/CLIENT PRIVILEGED

RE: Open Meetings Law

As you have probably discovered by now from the correspondence we have received from the Sanford Herald, there are certain inherent difficulties associated with having a public meeting in a private, gated community facility. As I understand it, to obtain access through the gate to get to the meeting facility, a citizen, who is not a resident of Carolina Trace, must either "be on the list" or have the gate guard contact a property owner for approval of access. (The HOA may simply develop an open gate policy for that night, but I doubt they are willing to do that.)

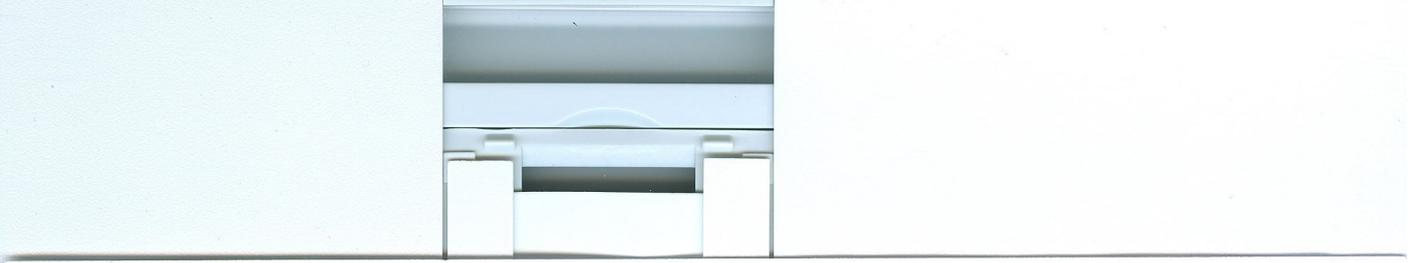
I have identified the following specific problems with this situation:

1. We do not have the authority to require people to pre-register to attend an **open meeting** under North Carolina's Open Meetings Law. Therefore, although citizen's getting pre-authorization to obtain admission may be helpful in expediting entrance it certainly can't be the only way, or even the primary way, for citizens who suddenly want to attend an open meeting to gain admission. Additionally, you have not published Lloyd Jennings telephone number or other contact information in the newspaper to facilitate this prior authorization.

2. Having citizens show up at the gate and then trying to get up with Lloyd Jennings by telephone is also not a foolproof and easy way of obtaining entrance to an open meeting. If there is a problem with the phone system or if too many people try to call at the same time, it will fail and it will be the County's problem. Additionally, Mr. Jennings may choose not to answer his phone if he wants to attend the meeting and that will be the County's problem.

Therefore, we must come up with a foolproof, convenient and expeditious means of our citizens obtaining free and easy access to the meeting. I would suggest the following:

Someone from the Homeowners Association with the authority to grant immediate access to anybody be stationed at the front gate along with the HOA's normal security person and a Lee County Deputy Sheriff to facilitate entrance for anyone who requests



admission for the purpose of attending the public meeting. If Mr. Jennings wants to handle this task before and during the meeting, that would be great. If he doesn't want to do it then someone else with the HOA can do it and he can be on telephone standby in case any problems arise.

The reason I suggest the Deputy Sheriff being there is to provide an enhanced sense of security and also to have a County representative present at the point of admission to make sure there are no delays or other problems related to admission. I do not want this critical point of our liability (under the Open Meetings Law) left in private hands without some public presence.

I have just learned of this meeting and the legal problems associated therewith. I hope this memo provides you with adequate guidance. If you have any questions or suggested alternatives please feel free to contact me.

cc: John Crumpton
Kerry Schmid
Gaynell Lee