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June 27, 2012

**VIA U.S. MAIL AND  
FACSIMILE TO 502-564-6801**

Hon. James Herrick  
Attorney General's Office  
700 Capitol Avenue  
Frankfort, Ky 40601

Re: City of Bardstown Reply to Letter of Kevin Brumley dated June 25, 2012  
Original Open Meetings Appeal Filed by Kevin Brumley  
Dated June 11, 2012 filed on June 14, 2012: Log Number 2012-00222

Dear Mr. Herrick:

I am submitting the following Reply in response to the Open Meetings Appeal Response Letter of Kevin Brumley dated June 25, 2012 which was received by your office on June 25, 2012:

**REPLY**

1. As previously noted, the motion to go in to Closed Session on January 24 correctly quotes the statutory basis. It does not state "general personnel matters". Mr. Brumley insists that in order to go into Closed Session to discuss matters which might lead to the appointment, discipline or dismissal of an individual employee, the Council is limited to only one of the three alternative reasons. He further asserts that only one reason can be stated in the motion or it violates the statute. Why the Council should be so limited, given the statutory language and interpretation of the statutory language by the Attorney General is unclear. Mr. Brumley cites no legal authority for this interpretation except 97-OMD-110 which was cited by the City.

2. Mr. Brumley seems to think there has to be a discussion of matters in an Open Session in order for them to be brought up and discussed in a Closed Session. He cites KRS 61.815 (d). The point of the City of Bardstown's Response on June 21, 2012 was that the discussion of the language of the existing Ordinance had the effect of, or the potential effect of the appointment or dismissal of the Chief of the Bardstown Fire Department, a paid City employee. Without discussing this background, City Council Members would not have been aware of the whole picture which confronted them and the Mayor relating to appointment of one employee as Fire Chief and dismissal of the current Fire Chief. Mr. Brumley does not cite any legal authority for the proposition that there had to be some discussion of these matters in an Open Meeting before they can be discussed in a Closed Session.

3. Mr. Brumley also asserts that the Mayor improperly advised the press and public after coming out of the Closed Session that he intended to call a Special Meeting of the City Council to present for a first reading a proposed Ordinance regarding the selection, appointment or hiring of a Bardstown Fire Chief. Mr. Brumley cannot understand how there can be a "first reading" of an Ordinance if there are no records of ever having any discussion or vote regarding amending said Ordinance. In reality, what Mr. Brumley describes occurs on a frequent basis in any City Council. The Mayor sets the Agenda for the Meeting including any proposed Ordinances. The Mayor has no authority to introduce an Ordinance. Only a City Council Member may introduce an Ordinance by motion. No vote on a Ordinance after its first reading is required. OAG 83-404. A vote after the second reading requires an individual vote by each legislative body member. All statutory requirements were complied with.

4. Mr. Brumley claims that there was some type of final action taken by amending the Fire Chief Ordinance in Closed Session. He is in error and is ignoring the records of subsequent meetings when action was taken on the Ordinance in Open Session on January 26, 2012 (first reading) and February 14, 2012 (second reading). The minutes of the January 24, 2012 Meeting after coming out of Closing Session clearly reflect that "no official action was taken during the Executive Session."

5. Mr. Brumley also complains that the City did not respond to his Complaint within three days after receipt of the Complaint. The Mayor delegated the responsibility of responding to Mr. Brumley's complaint to administrative staff. Administrative staff did not respond within the three day period due to error. However, the City's failure to respond did not prejudice Mr. Brumley's Complaint since he has the right under the statute to appeal to the Kentucky General regardless of whether the City responded to his Complaint. KRS 61.846. In fact, Mr. Brumley filed his Complaint with the Attorney General only ten (10) days after delivering it to City Hall.

Respectfully submitted,



THOMAS A. DONAN  
ATTORNEY FOR CITY OF BARDSTOWN

Enclosures

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