

OFFICE OF THE
STATE AUDITOR

July 27, 2017

Tina Cannon, Council Chair
Morgan County
48 West Young Street
Morgan, UT 84050

RE: Possible Open and Public Meetings Act Violation

Dear Council Chair Cannon:

The Office of the State Auditor (Office) noticed that the Morgan County Council (Council) may have violated the Utah Open Public Meetings Act (OPMA). The possible violation includes failing to provide public notice of an action item that took place at a Council meeting held July 18, 2017 and taking final action on a topic at a board meeting that was not listed as an agenda item.

Utah Code Section 52-4-202(6)(a) states that public notice of an open meeting “shall provide reasonable specificity to notify the public as to the topics to be considered at the meeting. Each topic shall be listed under an agenda item on the meeting agenda.” Additionally, Utah Code Section 52-4-202(6)(c) states that “a public body may not take final action on a topic in an open meeting unless the topic is: (i) listed under an agenda item and required by Subsection (6)(a); and (ii) included with the advance public notice required by this section.”

The audio recording of the July 18, 2017 board meeting indicates that a motion was made to remove Council Member Tina Cannon as Council Chair. It appears that the Council voted on the motion and the motion passed. The Office could not find any reference in the posted agenda that would give required public notice on the topic of the removal of the existing Council Chair nor appointment of a new Council Chair. The Office will refer this possible OPMA violation to the Civil Review Committee of the Utah Office of the Attorney General which is tasked with enforcing OPMA.

In addition, we note the Council’s failure to address a significant control deficiency identified by its independent auditor. This deficiency has been brought to the attention of the Council for multiple years, but has not been resolved. The lack of corrective action creates a heightened risk of fraud or noncompliance. Further, we express concern about the “tone at the top” set by the Council as it fails to address significant control failures. As such, the Office will be conducting an audit of Morgan County’s financial oversight practices and procedures and its internal controls. Please address any questions to Jeremy Walker, Local Government Manager, at jeremywalker@utah.gov or 801-538-1040.

Sincerely,

John Dougall
State Auditor

cc: Ned Mecham, Morgan County Council Vice Chair
Jann Farris, Morgan County Attorney
Stacy Netz Clark, Morgan County Clerk/Auditor



Morgan County Attorney's Office

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John Dougall
State Auditor
Utah State Capitol Complex
East Office Bld, Suite E310
Salt Lake City, Utah 84114-2310

July 31, 2017

Dear Mr. Dougall:

I am writing to acknowledge receipt of your letter dated July 27, 2017 regarding a possible Open and Public Meetings Act violation occurring at the July 18th, 2017 meeting of the Morgan County Council. (*Copy Attached*) Your letter ended with an additional paragraph stating that your office will be conducting an audit of Morgan County's financial oversight practices and procedures and its internal controls. You evidently made your conclusions after looking at a Facebook post.

I first want to let you know that my office is familiar with State Code regarding Open and Public Meetings. As the elected official tasked with enforcement of the Open Meetings Act, I agree with your concern regarding the lack of an agenda item regarding the change in county council chair. I believe that some members of the county council believed that to be a purely administrative action that did not merit public notice. I also think that some county council members believed that it was an emergency that needed to be addressed whether properly noticed on an agenda or not in order to protect the county. Regardless of those issues, I have asked the new council chair to place an item on the next regularly scheduled county council meeting to ratify the action previously taken in electing a new county council chair. Under State Code and available case law, this is an acceptable legal cure that assures that Morgan County has fully complied with the Open Meetings Act.

I would now like to address the final paragraph of your letter, which seems to me to be an over-reach of your statutory authority. It seems very premature for you to decide to audit Morgan County over your perception from what you "noticed"

may be a violation of the Open Meetings Act prior to reaching out to any elected official to verify your preconceived notions of wrongdoing. The threat of an audit by your office smacks of political activism and is not related to the Open Meetings Act in any way. It seems unprofessional and unethical to me.

I believe that you and council member Cannon are close personal friends. I believe she has actively worked on your campaigns and I believe you have a conflict of interest in auditing Morgan County due to your personal friendship and loyalty to member Cannon. I request that you recuse yourself from any future audit involving Morgan County where a complaint originates from council member Cannon.

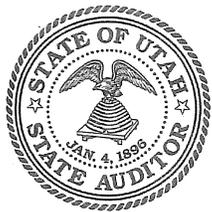
The Morgan County Clerk/Auditor and Treasurer welcome an outside independent audit at any time and plan to cooperate fully with any forthcoming audit. Please feel free to contact me personally if I may assist you in resolving any issue regarding Morgan County. At this date my office has not been advised of any financial wrongdoing by any elected official or other employee of Morgan County.

Best regards,



Jann L. Farris
Morgan County Attorney

cc: *Morgan County Council Chair, Ned Mecham*
Morgan County Council
Stacy Netz Clark, Morgan County Clerk/Auditor
Bonnie Thomson, Morgan County Treasurer
Sean Reyes, Utah Attorney General
Gary Herbert, Utah Governor



OFFICE OF THE
STATE AUDITOR

August 7, 2017

Jann Farris
Morgan County Attorney
P.O. Box 886
48 West Young Street
Morgan, UT 84050

Dear Mr. Farris,

Regarding a county's internal control structure, *Utah Code* 17-36-45 states:

(1) Each county legislative body shall, with the advice and assistance of the county auditor and county treasurer, implement an internal control structure to ensure, on a reasonable basis, that all valid financial transactions of the county are identified and recorded accurately and timely. The objectives of the internal control structure shall be to ensure:

- (a) the proper authorization of transactions and activities;
- (b) the appropriate segregation of:
 - (i) the duty to authorize transactions;
 - (ii) the duty to record transactions; and
 - (iii) the duty to maintain custody of assets;
- (c) the design and use of adequate documents and records to ensure the proper recording of events;
- (d) adequate safeguards over access to and use of assets and records; and
- (e) independent checks on performance and proper valuation of recorded amounts.

(2) The state auditor shall evaluate procedures implemented to effectuate this section and shall provide advice and consultation in approving and updating these procedures.

On July 21, 2017, I informed county auditors, in attendance at their summer conference, that the Office of the State Auditor would be reviewing the internal control structure of each county, as required by statute. I informed them that I anticipated these audits would take place over the next 12 months. The Morgan County (County) Clerk/Auditor was in attendance.

Regarding the County, I draw your attention to the Internal Control – Schedule of Findings from the County's recent audit (for the year ended December 31, 2015) which finds an inadequate segregation of duties within the Treasurer's Office. I also note other findings, particularly regarding financial oversight, within the audit reports of previous fiscal years as identified by the County's financial statement auditors. These findings identify control weaknesses within the County.

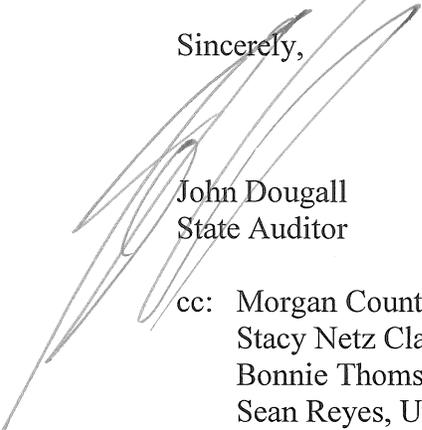
In addition, *Utah Code 67-3-1(13)* states:

The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

As such, our current audit of internal controls of the County is well within my authority and is, in fact, required by statute.

As noted in my letter of July 27, 2017, we are concerned with the “tone at the top” within Morgan County governance regarding the County Council’s failure to address control failures. The recent discussion during the County Council meeting of July 18, 2017, which was reviewed on July 26, 2017 as part of our risk assessment, highlights our concern. Your letter of July 31, 2017 simply reinforces that concern.

Sincerely,



John Dougall
State Auditor

cc: Morgan County Council
Stacy Netz Clark, Morgan County Clerk/Auditor
Bonnie Thomson, Morgan County Treasurer
Sean Reyes, Utah Attorney General
Gary Herbert, Governor of Utah