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**OPINION NO. 96-03**

**TO:** Janice L. Graziano, City Clerk  
**FROM:** Stephen M. Kemp, City Attorney  
**DATE:** April 30, 1996  
**SUBJECT:** Application of the Arizona Open Meetings Act to Council and City Committees.

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**QUESTION:**

Which City committees and Council subcommittees, if any, are subject to the Arizona Open Meetings Act.

**OPINION:**

For purposes of background, the City operates the following types of committees, defined as follows: (1) Staff committees, that are committees made up of staff members from various disciplines and departments who make recommendations to management or to the City Council; (2) Temporary Council subcommittee, generally designated as "Ad Hoc" subcommittees, that are committees made up of not more than three Council members to review and report back on a matter that will be subsequently discussed by the entire Council; (3) Permanent Council subcommittee's of not more than three Council members that are created by ordinance or resolution and have defined jurisdiction over a variety of matters that may be discussed by the entire Council; and (4) Temporary citizen committees also known as "Ad Hoc" committees, that are appointed by the Mayor and consist of citizens to review and recommend a

matter to the City Council.

All local "governing bodies" are subject to the provisions of the Arizona Open Meetings Act ("The Act") contained in A.R.S. §38-431, et.seq. The scope of the act includes "instrumentalities of the state or political subdivisions." The Act requires notice of each meeting must be posted in three designated public places not less than 24 hours in advance. An agenda must be posted containing the items to be discussed. Finally, minutes must be kept and the meeting must be opened to the public, except for certain defined exceptions.

The question becomes whether the types of committees outlined above are subject to the Act. A permanent Council subcommittee created by ordinance or resolution would be subject to the Act. This type of committee is a delegation by the Council of some of its authority to another governing body. Just as the Council as a local governing body is subject to the Act, a permanent Council subcommittee is subject to it. See, Ariz. Atty. Gen. Op. I79-126 (1979).

Staff committees are formal groups of staff generally designated by the City Manager or his designee to review a matter and make recommendations to management or Council. Such committees exercise no legal authority and their recommendations have no legal status. Such a committee is simply a formal mechanism to complete the administrative actions staff performs informally every day. Since the Staff committee has no established legal authority and makes no policy decisions, it is our opinion that such Staff committees are not governing bodies and need not comply with the Act. See, Washington School Dist. No. 6 v. Superior Court, 112 Ariz. 335, 541 P.2d 1137 (1975)

Temporary Council committees consisting of Council members designated by the Mayor are designed to review a matter and bring back additional information for Council discussion. These Temporary committees are limited to a single issue. The committee is not authorized to take any legal action. Their authority is limited to reviewing the single matter assigned and summarizing the facts for further Council action. See, Ariz. Atty. Gen. Op. I92-007 (1992)<sup>1</sup>.

Provided that the authority of a Temporary Council Committee is limited to review and reporting of information to the City Council for further discussion and action, the committee is not subject to

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<sup>1</sup>The position expressed by the Attorney General in this opinion is directly in conflict with the position expressed in Ariz. Atty. Gen. Op. I90-013 (1990). As a result, it is unclear to what extent advisory committees to advise a single elected official are covered under the Act.

Opinion No. 96-03  
May 9, 1996  
Page 3

the Act. In the event that the committee is assigned specific duties by the Council, it would be required to comply with the Act. Additionally, if the Temporary Council Committee is appointed by a Council action, than by the Mayor, it could become subject to the Act.

Temporary citizen committees consist of citizen members appointed by the Mayor with the acknowledgement of the Council. Their duty is to make a recommendation to the City Council on a single matter. These committees may exercise certain delegated powers from the Council concerning a single subject. As such, they would appear to be an instrumentality of the City for a limited purpose. Therefore it would be our opinion that such committees must comply with the Act. See, Ariz. Atty. Gen. Op I83-025 (1983)

I believe that this answers your questions in this matter. If you should have any questions, please do not hesitate to contact me.

cc: Honorable Mayor and Council