



AARON D. FORD
Attorney General

KYLE E. N. GEORGE
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General

JESSICA L. ADAIR
Chief of Staff

RACHEL J. ANDERSON
General Counsel

HEIDI PARRY STERN
Solicitor General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900
Las Vegas, Nevada 89101

July 29, 2020

Via U.S. Mail

Jeff D. Church
[REDACTED]
[REDACTED]
[REDACTED]

Paul D. White
[REDACTED]
[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint, OAG File No. 13897-331,
Reno City Council**

Mr. Church and Mr. White:

The Office of the Attorney General (“OAG”) has received your Complaints alleging the Reno City Council (hereafter “the City”) violated Nevada’s Open Meeting Law (“OML”) at public meetings held on June 12, 2019. Pursuant to Nevada statute, the Office of the Attorney General is authorized to investigate and prosecute violations of Open Meeting Law. *See* Nevada Revised Statutes (“NRS”) 241.037, 241.039, and 241.040.

Following its review of your Complaints; the City’s Response; video from the City’s June 12, 2019 meeting; Attorney General Open Meeting Law Opinion 13897-263; and relevant legal authorities; the OAG concludes the City did not violate Nevada’s Open Meeting Law.

FACTUAL BACKGROUND

The Reno City Council originally created a Neighborhood Improvement Project, named the Downtown Reno Business Improvement District (“District”) by Ordinance No. 6455 at its March 14, 2018 meeting. This District was created under the legal requirements laid out under Chapter 271 of the Nevada Revised Statutes.

Under NRS 271.332, the City entered into a Professional Services Agreement with the designated Downtown Management Organization identified as a nonprofit named the “Downtown Reno Business Improvement District” to carry out the management and operation of the District.

The District nonprofit is a recognized 501(c)(6) entity. The nonprofit chose to name itself the same name as the District. To clarify references made to the District versus the nonprofit contracted to operate it, the nonprofit registered for a Fictitious Firm Name (“dba”) under the business name: Downtown Reno Partnership on December 12, 2018. (Exhibit A).

During the general public comment period of the June 12, 2019 Reno City Council meeting, you spoke about agenda item C.22 as defined below:

C.22 - Staff Report (For Possible Action): Approval of Professional Services Agreement between the City of Reno and the designated Downtown Management Organization identified as the Downtown Reno Partnership.¹

In your Open Meeting Law Complaints, you advised and claimed that the City improperly referenced the “Downtown Reno Partnership,” citing Secretary of State records that state the Downtown Reno Partnership is a permanently revoked nonprofit. You further claim that the District website also improperly references the “Downtown Reno Partnership.”

As a remedy, you have requested that the City re-hear the item, with a corrected agenda, and that the Counsel refrain from references to the revoked entity.

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¹ The City Council approved agenda item C.22 during the June 12, 2019 meeting, but re-raised it on August 14, 2019.

DISCUSSION AND LEGAL ANALYSIS

In the Complaints, you primarily set forth that the City agenda item was deceptive by referring to the “Downtown Reno Partnership” which is also the name of a revoked non-profit entity.

The OAG has reviewed records submitted by the City of Reno Attorney’s Office in regard to this letter. The nonprofit, Downtown Reno Business Improvement District, has a registered and recognized dba of “Downtown Reno Partnership” obtained through Washoe County. The revoked entity that you have cited is a different entity entirely from the “Downtown Reno Business Improvement District.”

Therefore, the records support the conclusion that agenda item C.22 was a clear and complete statement of the topic scheduled to be considered during its June 12, 2019 Council meeting as contemplated by NRS 241.020(d)(1).²

However, the Attorney General’s Office generally recommends that when a violation of the Open Meeting Law is alleged, every effort should be made to immediately rectify the alleged violation. The City understands this position as well.

In accordance with this understanding and position, and without conceding a violation occurred, the City raised the agenda item C.22 again on the next available Reno City Council meeting on August 14, 2019.

By re-raising the agenda item, the City has resolved this matter in a manner consistent with NRS 241.0365:

NRS 241.0365 Action taken by public body to correct violation of chapter; timeliness of corrective action; effect.

1. Except as otherwise provided in subsection 4, if a public body, after providing the notice described in subsection 2, takes action in conformity with this chapter to correct an alleged violation of

² Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include: (d) An agenda consisting of: (1) A clear and complete statement of the topics scheduled to be considered during the meeting.

this chapter within 30 days after the alleged violation, the Attorney General may decide not to commence prosecution of the alleged violation if the Attorney General determines foregoing prosecution would be in the best interests of the public.

2. Except as otherwise provided in subsection 4, before taking any action to correct an alleged violation of this chapter, the public body must include an item on the agenda posted for the meeting at which the public body intends to take the corrective action in conformity with this chapter. The inclusion of an item on the agenda for a meeting of a public body pursuant to this subsection is not an admission of wrongdoing for the purposes of civil action, criminal prosecution or injunctive relief.

3. For purposes of subsection 1, the period of limitations set forth in subsection 3 of [NRS 241.037](#) by which the Attorney General may bring suit is tolled for 30 days.

4. The provisions of this section do not prohibit a public body from taking action in conformity with this chapter to correct an alleged violation of the provisions of this chapter before the adjournment of the meeting at which the alleged violation occurs.

5. Any action taken by a public body to correct an alleged violation of this chapter by the public body is effective prospectively.

(Added to NRS by [2013, 727](#))

The item was accordingly revised in substantive form to provide further clarity and completeness as to the agenda item topic. Specifically, on August 14, 2019, a Staff Report was raised for possible corrective action and an Amendment was made to the Professional Service Agreement to reference the “Downtown Reno Business Improvement District” as the “Association.”

Review of the minutes shows that you were present at this meeting and spoke to the same during the public comments section.

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CONCLUSION

Your contention that the original C.22 agenda could create confusion is understandable, given the similarity in name from the revoked entity. However, because the Downtown Reno Business Improvement District had a “dba” for “Downtown Reno Partnership” licensed with the City of Reno, the OAG does not believe the reference to be improper, nor does it find that the City provided factually incorrect or deceptive notice.

Therefore, the OAG concludes that there was no violation of Nevada’s Open Meeting Law, and appreciates that the City took immediate ameliorative action and to clarify the naming references.

Sincerely,

AARON D. FORD
Attorney General

By: Frank A. Toddre II
FRANK A. TODDRE II
Senior Deputy Attorney General

CERTIFICATE OF SERVICE

I certify that on the 17th day of August, 2020, I mailed the foregoing letter by depositing a copy of the same in the U.S. mail, properly addressed, postage prepaid, first class mail, to the following:

Jeff D. Church

[REDACTED]
[REDACTED]
[REDACTED]

Paul D. White

[REDACTED]
[REDACTED]
[REDACTED]

Karl S. Hall, City Attorney
Reno City Attorney's Office
1 East First St., 3rd Floor
Reno, NV 89595

/s/ Debra Turman
An employee of the State of Nevada
Office of the Attorney General