

1 OFFICE OF THE ATTORNEY GENERAL

2 STATE OF NEVADA

3
4 In the Matter of:

A.G. FILE NO.:13897-421

5 PAHRUMP COMMUNITY LIBRARY
6 DISTRICT BOARD OF TRUSTEES.

7 **FINDINGS OF FACT**
8 **AND CONCLUSIONS OF LAW**

9 On or about June 28, 2021, Amy L. Bruno filed a Complaint with the Office of the
10 Attorney General (OAG) pursuant to Nevada Revised Statutes (NRS) 241.039 alleging
11 violations of the Nevada Open Meeting Law (OML) by the Pahrump Community Library
12 District Board of Trustees (Board) during its June 18, 2021 and June 22, 2021 Board
13 meetings. On or about November 26, 2021, Christy Stevens filed a complaint alleging
14 similar violations of the OML by the Board.¹ The Complaints allege the Board violated the
15 OML as follows:

16 **ALLEGATION ONE:** The Board failed to provide notice to Library Director Susan
17 Wonderly that her character, misconduct and/or professional competence would be
18 considered at the June 18, 2021 meeting.

19 **ALLEGATION TWO:** The Board failed to specify on the June 18, 2021 meeting
20 agenda the nature of the business to be considered in closed session.

21 **ALLEGATION THREE:** The Board discussed, deliberated and by motion voted to
22 place Director Wonderly on Administrative leave during a closed session.

23 ...

24 _____
25 ¹ The OAG notes that Ms. Steven's Complaint was filed more than 120 days after the alleged violations
26 but less than one (1) year. Accordingly, as to Ms. Steven's complaint, this opinion will only address alleged
violations that were not discoverable at the time, specifically any allegations regarding the June 22, 2021
meeting. NRS 241.039(1)(c)(1)(2).

27 The OAG further notes that the Response filed on behalf of the Board addresses additional alleged
violations during the June 18, 2021 meeting not mentioned in Amy Bruno's Complaint, including: the officer
elections and the Board's alleged failure to provide Director Wonderly an opportunity to have counsel present,
28 present evidence and to waive closure of the meeting. As these issues are outside the scope of Ms. Bruno's
Complaint, the OAG will not opine on these issues.

1 Vice-Chair, Trustee Ochenreider seconded. The motion passed. Also, by motion, Trustee
2 Newyear became Secretary.

3 4. Pursuant to agenda item No. 11, the Board by motion entered into closed session.
4 Chair Shewalter asked for anyone who was not a board member to leave the room. Director
5 Wonderly was asked to exit the room as well. During the closed session, Chair Shewalter
6 moved to place Director Wonderly on administrative leave with pay until July 1, 2021, for
7 allegedly violating NRS 379.025 and NRS 241. Vice Chair Shoemake seconded the motion. A
8 roll call vote was taken. Trustees Shoemake, Ochenreider and Shewalter voted yay; Trustees
9 Newyear and Painter voted nay. Following the vote, former Director Susan Wonderly was
10 asked to enter the room. She was notified that she would be placed on administrative leave
11 until July 1, 2021 and exited the room.

12 5. Prior to reopening the meeting to the public, Trustees Janice Painter and Bill Newyear
13 announced their resignation from the Board. After opening the meeting to the public, the
14 Board by motion appointed Assistant Library Director Shana Gibbons as Interim Director
15 until a new director was hired.

16 6. Ms. Wonderly entered the room and asked for paperwork regarding her leave. She
17 was informed by the Board that she would receive her paperwork at a later time. Prior to
18 recessing the meeting, the Board by motion continued agenda items Nos. 12 and 13 to June
19 22, 2021.

20 7. Prior to meeting on June 22, 2021, the Board did not publish a meeting agenda for
21 continued agenda items Nos. 12 and 13. Moreover, the Board did not publish a
22 videoconference link or telephone number for the June 22, 2021 board meeting.

23 8. On June 22, 2021, the Board held its meeting. Trustees Shoemake, Ochenreider and
24 Shewalter were present. Interim Director Shana Gibbons was also present. Members of the
25 public were not present. During the meeting, Interim Director Gibbons urged the Board to
26 hire a director as soon as possible because she was not trained to be a director. By motion, the
27 Board hired candidate Manda Smith-Collins with a starting salary of \$48,000.

1 9. On July 16, 2021, the Board by motion reopened the Library Director search in an
2 effort to comply with all applicable statutes and policies for appointment. A subcommittee
3 was formed to review Director applications and select candidates for final interviews before
4 the Board. By October 2021, Kameron Mitchell and Dee Mounts were appointed as Trustees.

5 10. Prior to holding its Board meeting on January 10, 2022, the Board published its
6 agenda with following items listed for corrective action:

7 **“7. For Possible Corrective Action:** Discussion and deliberation to rescind
8 action taken by the Board on June 18, 2021 regarding the election of John
9 Shewalter as Chair, Brian Shoemake as Vice-Chair and Bill Newyear as
10 Secretary...”

11 ...

12 **9. For Possible Corrective Action:** Discussion and deliberation to rescind
13 action on agenda item #11 on the agenda on June 18, 2021 regarding action taken
14 by the Board to close meeting, pursuant to NRS 288.220 purposes of board
15 deliberation on personnel matters.

16 **10. For Possible Corrective Action:** Discussion and deliberation to rescind
17 action taken in closed meeting on June 18, 2021 by the Board placing Susan
18 Wonderly on leave with pay until July 1, 2021.

19 **11. For Possible Corrective Action:** Discussion and deliberation to rescind
20 action taken on June 18, 2021 by the Board at the Pahrump Library District
21 Board of Trustees meeting of appointing Shana Gibbons as acting Director.

22 ...

23 **13. For Possible Corrective Action:** Discussion and deliberation to rescind
24 action agenda item #12 on the agenda on June 18, 2021 regarding action taken
25 by the Board to interview candidates for Director’s Position and rescind the
26 interview of Manda Smith-Collins.

27 **14. For Possible Corrective Action:** Discussion and deliberation to rescind
28 action taken by the Board on June 22, 2021 discussing and deliberation the
hiring of candidate for the position of Library Director.

15. For Possible Corrective Action: Discussion and deliberation to rescind
action taken by the Board on June 22, 2021 including 1) discussion regarding
hiring Manda Smith-Collins; 2) hire Manda Smith-Collins; 3) discussion of salary

1 for Manda Smith-Collins; 4) set salary to start at \$45,000; and 5) set salary at
2 \$48,000.”

3 11. During the January 10, 2022 Board meeting, the Board by motion took the following
4 actions, allowing members of the public to comment on each agenda item before voting:

5 (1) pursuant to approving agenda item No.7, the Board underwent new officer
6 elections;

7 (2) the Board approved agenda item No. 9;

8 (3) the Board approved agenda item No. 10, with an acknowledgment that mistakes
9 were made by the Board due to lack of knowledge;

10 (4) pursuant to approving agenda item No.11, the Board reinstated Shana Gibbons
11 as the Interim Director;

12 (5) the Board approved agenda item No. 13;

13 (6) the Board approved agenda item No. 14; and

14 (7) the Board approved agenda item No. 15.

15 **LEGAL STANDARDS AND CONCLUSION OF LAW**

16 The Pahrump Community Library District Board of Trustees is a “public body” as
17 defined in NRS 241.015(4); therefore the Board is subject to the OML.

18 **1. The OAG will not opine as to whether adequate notice was provided to**
19 **someone other than the Complainant.**

20 Complainants do not have standing to challenge whether another person was provided
21 adequate notice under the OML. The OML requires specific notice to be given to individuals
22 whose character, alleged misconduct, or physical or mental health will be discussed during
23 the meeting. NRS 241.033. In addition, the OML requires specific notice to be given to
24 individuals if the public body intends to take administrative action against them. NRS
25 241.034. The OAG has previously opined that the subject of a meeting may waive this
26 statutory right to notice. *In re Douglas County Board of Commissioners*, Open Meeting Law
27 Opinion No. 13897-312 (Oct. 2, 2019).

1 The question of standing concerns whether the party seeking relief has a sufficient
2 interest in the matter. *Nevada Policy Research Institute, Inc. v. Cannizzaro*, 507 P.3d 1203,
3 1207, 138 Nev. Adv. Op. 28 (2022). To establish standing, a complainant must have suffered
4 some actual or threatened injury resulting from the challenged activity. *Valley Forge*
5 *Christian College v. Americans United for Separation of Church and State, Inc.*, 454 U.S. 464,
6 472 (1982). To sue in a district court to have an action of a public body declared void or require
7 compliance with or prevent violations of the OML, a person must have been denied a right
8 conferred by the OML. NRS 241.037(2).

9 Here, the Complainants, Amy Bruno and Christy Stevens allege that former Director
10 Susan Wonderly, the subject of the agenda item, was not provided any written notice that
11 during the June 18, 2021 meeting, her character, alleged misconduct or professional
12 misconduct would be discussed. The notice requirements in the OML are specific to the
13 individual person whose character will be discussed or against whom administrative action
14 will be taken. *See Stockmeier v. Nevada Department of Corrections Psychological Review*
15 *Panel*, 122 Nev. 385, 396, 135 P.3d 220 (2006), overruled on other grounds by *Buzz Stew, LLC*
16 *v. City of N. Las Vegas*, 124 Nev. 224, 228 n.6, 181 P.3d 670, 672 n.6 (2008). Thus, the ability
17 to claim the notice was insufficient resides only with the person entitled to the notice.
18 Accordingly, the OAG finds that Complainants, Amy Bruno, and Christy Stevens do not have
19 standing to challenge the sufficiency of notice to former Director Susan Wonderly and will not
20 opine further on the matter.

21 **2. The Board violated the OML in its June 18, 2021 meeting agenda (item**
22 **No. 11) by failing to sufficiently describe the nature of the business to be**
23 **considered, specifically former Director Susan Wonderly’s possible**
24 **placement on administrative leave.**

25 Closed sessions are authorized only for discussion of the matters specifically listed in
26 NRS 241.030 or in another specific statute elsewhere in the NRS. Importantly, the agenda
27 description must specifically state the nature of the business to be considered and the
28 statutory authority authorizing the closed session. If a person’s character, professional

1 competence, alleged misconduct, or physical or mental health is the topic of the discussion,
2 the person's name must appear on the agenda. NRS 241.020(2)(d)(4).

3 Here, the OAG notes that the June 18, 2021 meeting agenda item No. 11 did not have
4 former Director Susan Wonderly's name listed. Additionally, this agenda item did not provide
5 any description that the Board would discuss Ms. Wonderly's possible placement on
6 administrative leave. Accordingly, the OAG finds that the insufficient description of agenda
7 item No.11 was in violation of the OML.

8 While the Board violated the OML at its June 18, 2021, meeting, the OAG finds that
9 the Board's actions were not willful. The OAG further notes the Board's attempts at corrective
10 action during the July 16, 2021 and January 11, 2022 board meetings. The OAG cautions the
11 Board moving forward that corrective action within 30 days after an alleged violation
12 complies with the OML. NRS 241.0365(1).

13 **3. The Board violated the OML during its June 18, 2021 meeting by placing**
14 **former Director Susan Wonderly on administrative leave during a closed**
15 **session.**

16 The OML prohibits a public body from holding closed meeting for general "personnel
17 sessions." Closed sessions are authorized only for discussion of the matters specifically
18 listed in NRS 241.030 or in another specific statute elsewhere in the NRS. Moreover, the
19 OML explicitly prohibits a public body during closed session to consider "the character,
20 alleged misconduct, or professional competence of an elected member of a public body, or a
21 person who is an appointed public officer or who serves at the pleasure of a public body as
22 a chief executive or administrative officer or in a comparable position" NRS 241.031(1)(b).

23 Here, the OAG finds that Ms. Wonderly's role as Library Director categorizes her as
24 a person who serves at the pleasure of this Board as chief executive. Any discussions and
25 possible action pertaining to her role as Library Director and whether to place her on
26 administrative were only appropriate during a public meeting, not in a closed session as
27 done by the Board. The OAG notes that the Board in its response and supplemental
28 responses confirmed these requirements were not met, pertaining to Ms. Wonderly.

1 Accordingly, the OAG finds that the placement of former Director Susan Wonderly on
2 administrative during a closed session was in violation of the OML.³

3 While the Board violated the OML at its June 18, 2021, meeting, the OAG finds that
4 the Board's actions were not willful. The OAG further notes the Board's attempts at corrective
5 action during the July 16, 2021 and January 11, 2022 board meetings. The OAG cautions the
6 Board moving forward that corrective action within 30 days after an alleged violation
7 complies with the OML. NRS 241.0365(1).

8 **4. The Board violated the OML by (1) failing to publish an agenda for its**
9 **June 22, 2021 board meeting and (2) failing to ensure the June 22, 2021**
10 **board meeting was open to the public.**

11 For non-emergency meetings, the OML requires written notice of all meetings at least
12 three (3) business days prior to the meeting, containing the time, place, and location of the
13 meeting. NRS 241.020(3)(a)-(d). This includes instructions on how the public can gain access
14 to a meeting being held via remote technology or telephone. NRS 241.020(3)(a)(1)(2).
15 Furthermore, during the duration of the meeting, public bodies are required to ensure that
16 the meetings are accessible to the public. NRS 241.020(1).

17 Here, an agenda containing item Nos. 12 and 13 continued from the June 18, 2021
18 board meeting to June 22, 2021 board meeting was not published by the Board. Additionally,
19 agenda items 12 and 13 were not emergency items, so the three-day notice requirement
20 should have been met prior to any discussion, deliberation, or action by the Board. Following
21 review of the Complaints and responses, the OAG notes that no efforts were made by the
22 Board during the June 22, 2021 board meeting to ensure that the public had access.
23 Accordingly, the Board violated the OML.

24 **SUMMARY**

25 Upon investigating the present Complaints, the OAG makes findings of fact and
26 conclusions of law that the Pahrump Community Library District Board of Trustees
27 violated the OML as described above. While the OAG finds that OML violations occurred,

28 ³ The OAG notes that the Board's agenda listed NRS 288.220 as the reason for closure of that portion of the meeting. The Board does not argue this exception in its response and the exception does not appear to apply to this situation.

1 it is the OAG's position that the violations were not willful, and that action was taken by
2 the Board to mitigate the severity of the violations. Accordingly, the OAG determines that
3 foregoing prosecution would be in the best interests of the public.

4 Dated: October 31, 2023.

5
6 AARON FORD
Attorney General

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8 By: /s/ Chricy E. Harris

9 Chricy E. Harris
10 Deputy Attorney General
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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on the 5th day of January 2024, I served the foregoing
3 **FINDINGS OF FACT AND CONCLUSIONS OF LAW** by depositing a copy of the same
4 in the United States mail, properly addressed, postage prepaid, **CERTIFIED MAIL**
5 addressed as follows:

6
7 Amy L. Bruno

8 [REDACTED]
9 [REDACTED] [REDACTED]

10
11 Christy J. Stevens

12 [REDACTED]
13 [REDACTED] [REDACTED]

14 Pahrump Community Library District Board of Trustees
15 c/o Marla Zlotek, Esq.
16 Nye County Office of the District Attorney
17 P.O. Box 39
18 Pahrump, Nevada 89041
19 **Certified Mail No.:** 7020 0640 0000 7651 9111

20 /s/ Debra Turman
21 An employee of the Office of the
22 Nevada Attorney General
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