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May 2, 2018

Via U.S. Mail

H. Philip Marks
[REDACTED]

**Re: Enterprise Town Advisory Board - Open Meeting
Law Complaint, O.A.G. File No. 13897-255**

Dear Mr. Marks:

The Office of the Attorney General (OAG) is in receipt of your November 2017 complaint and February 2018 supplement (collectively "Complaint") alleging violations of the Open Meeting Law (OML) by the Enterprise Town Advisory Board (Board) regarding the Board's decision making and agendas.

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. In response to the Complaint, the OAG reviewed the Complaint and attachments.

FACTUAL BACKGROUND

The Board is a "public body" as defined in NRS 241.015(4), subject to the OML. The Complaint alleges that the Board has failed to place matters on its agendas as requested by Mr. Marks and failed to obtain sufficient information to make decisions with respect to the Board's September 13, September 27, and October 11, 2017, meetings.¹

¹ The Complaint makes additional allegations involving the Board's alleged failure to provide explanations regarding the selection of Board representatives and the performance of the Board's Chair. The allegations fall outside of the OAG's authority on OML matters. Those allegations are not discussed herein.

DISCUSSION AND LEGAL ANALYSIS

Chapter 241 of the Nevada Revised Statutes requires the actions of public bodies “be taken openly and that their deliberations be conducted openly.” NRS 241.010(1); *McKay v. Bd. of Supervisors*, 102 Nev. 644, 651 (1986). Public bodies working on behalf of Nevada citizens must conform to statutory requirements in open meetings under an agenda that provides full notice and disclosure of discussion topics and any possible action. *Sandoval v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003).


NRS 241.020(2)(d)(1) requires that an agenda must include a “clear and complete statement of the topics scheduled to be considered during the meeting.” See *Sandoval*, 119 Nev. at 154. The agenda requirements in the OML provide that a public body must include items raised by the public on a future agenda before the public body can deliberate or take action on them, but the OML does not require public bodies to add every item to their agenda requested by members of the public. Thus, the Board did not violate the OML.

To facilitate open government, the OML requires that agendas and supporting material for public meetings be made available to the public at the same time as sent to members of the public body. NRS 241.020(6). The OML does not require that supporting material be provided for an agenda item or that a public body receive a specified amount of information prior to taking action on an item. Rather, it only requires that supporting material be made available to the public *if* it is provided to the members of the public body. Here, there is no allegation that the Board received supporting material that was not also provided to the public. Thus, the Board did not violate the OML.

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,



Rosalie Bördelove
Deputy Attorney General

RMB:arz

cc: Steven Sweikert, Clark County Deputy District Attorney
David Chestnut, Sr., Chair, Enterprise Town Advisory Board