

Jeff Church Input for OML Brainstorming

*Because it is a brainstorming session I hope I will be allowed ongoing input. I am an elected official in Washoe and I run WatchdogJeff.com. Views are mine and do not represent any governmental agency.

OPEN MEETING LAW TASK FORCE PUBLIC MEETING NOTICE AND AGENDA Date and Time: April 3, 2024, 10:00 a.m. Location: Microsoft Teams Meeting ID: 293 721 569 445 Passcode: NPwTwn D3. Consideration of Potential Recommended Statutory Changes to NRS Chapter 241 and Related Issues (For discussion only - Brainstorm Session)

#1) Upon a complaint from a private party/ private attorney the defense is to bankrupt the complainant: depositions, discovery etc making it near impossible. The Task Force should make it more like an NRS239 Writ or other simplified manner.

#2) The A.G. is way behind on addressing complaints in a timely manner- 120 day statute is thus worthless.

Based on the two above facts, the OML law is worthless and unenforceable.

#3) The A.G. seems to lean 99% on side of local govt often appearing to spin or twist the facts to meet a no violation finding- often they do so but then issue a "caution" to the local government.

#4) Standing: Why can't a citizen challenge an OML issue when unknown persons are affected? Example: at a night time meeting the security/ custodian routinely locked the doors. The complainant was inside and later saw the issue but the local government argued that the complainant had access and attended the meeting. We will not know who was locked out.

#5) Use of internal committees: The use of Internal Committees to avoid public scrutiny is an issue. I can address specifics on request.

#6) Advisory Opinion: In some cases such as above there is an ongoing questionable practice that the A.G. should address with an advisory opinion or action without addressing a specific date or action. NCOE offers advisory opinions.

#7) Supplemental Material: I'm seeing an issue with Supplemental Material being used after the 3 business day time rule as it 'just became available' and was submitted to the Board/Committee at the same time when it seems a ploy not to play one's hand in advance.

#8) Impose greater penalties on privately funded matters up to \$10,000 for example on elected Boards/Commissions.

#9) BID: I have a specific concern with the Reno Business District aka DRP aka DMO (DowntownReno.org). They claim they are a non profit but don't meet the criteria.

Essentially how would a citizen challenge the OML aspect of this organization per NRS241? If I do so via a private attorney, they will bankrupt me.

The Nevada Dept of Taxation has determined that they are a local government pursuant to NRS 354.5965

“At a minimum, the Reno BID/DMO is subject to the jurisdiction of the Department pursuant to the Local Government Budget and Finance Act, pursuant to NRS 354.474(1). For instance, the creation of a special assessment/local improvement district pursuant to NRS 271 would appear to trigger budget reporting responsibilities for contracts associated with the expenditure of the special assessment levies pursuant to NRS 354.5965”

Under this NRS, the BID appears to be a Public Employer (PERS).

NRS 286.070“Public employer” defined.

1. “Public employer” means the State, one of its agencies or one of its political subdivisions, the System, irrigation districts created under the laws of the State of Nevada, a public or quasi-public organization or agency that is funded, at least in part, by public money, including a regional transportation commission, a governing body of a charter school and a council of governments created pursuant to the laws of the State of Nevada.

2. State agencies are those agencies subject to state control and supervision, including those whose employees are governed by chapter 284 of NRS, unless specifically exempted therefrom, and those which deposit money with the State Treasurer.

OPINION NO. 2018-07 December 21, 2018 General Counsel

“... an opinion from the Office of the Attorney General, pursuant to Nevada Revised Statute (NRS) 228.150, regarding the applicability of NRS 281.123 to fee-funded boards and commissions of the State of Nevada.

Fee-funded boards and commissions are "public employers" as defined by NRS 286.070, and are thus required to enroll their staffers in PERS in accordance with NRS 286.293.”

Under NRS 281: The Board would appear to be Public Officials as defined. They make actual decisions and are not advisory to the City Council.

The City listed the BID in its Budget documents as a part of the City.