

AARON D. FORD
Attorney General

KYLE 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 22, 2020

Via U.S. Mail

**Re: Open Meeting Law Complaints, O.A.G. File No. 13897-324
White Pine County Fire District Board of Commissioners**

Dear Complainants:

The Office of the Attorney General (OAG) received eight complaints (Complaints) alleging violations of the Nevada Open Meeting Law (OML) by the White Pine County Fire District Board of Commissioners (Board). The Complaints allege that the Board violated the OML by failing to provide supporting material for agenda items 1.C.1. and 1.A.3. of the Board's March 27, 2019 and April 10, 2019 meetings, respectively, and by canceling a town hall meeting scheduled for April 18, 2019.¹

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. The investigation of the Complaint included OAG review of the Complaints and supporting material, response to the Complaints from the White Pine County District Attorney with attachments, and the agendas and minutes for the March 27, 2019 and April 10, 2019 meetings.

FACTUAL BACKGROUND

On March 27, 2019, the Board agendaized and voted to approve a counter offer of general terms to the City of Ely for an interlocal agreement to provide fire protection services. The supporting material for the agenda item was first provided to both the Board and the public at the time the agenda item was called. The Board then agendaized entering into the interlocal agreement for its April 10, 2019, meeting and scheduled a town hall meeting on the same issue for April 18, 2019. Copies of the proposed interlocal agreement were first provided to both the public and the Board during the April 10, 2019, meeting. At the meeting, the public urged the Board to table the item regarding the interlocal agreement until after the town hall meeting so the Board could hear additional public input. The Board voted not to table the item and further voted to approve the agreement. The April 18 town hall meeting was later canceled.

¹ To the extent the Complaint makes allegations regarding ethics issues, those do not fall within the purview of the OML and will not be addressed in this opinion.

DISCUSSION AND LEGAL ANALYSIS

The Board is a “public body” as defined in NRS 241.015(4) and is subject to the OML. The legislative intent of the OML is that actions of public bodies be taken openly, and that their deliberations be conducted openly. NRS 241.010(1). A copy of supporting material must be provided upon request to the public at no charge. NRS 241.020(6). If the supporting material is provided to the members of the public body at the meeting, it must be made available to the public at the same time it is provided to the members of the public body. NRS 241.020(7)(b). Public bodies must devote time during their meetings to comments by the general public on items on the agenda and generally on items within the public body’s jurisdiction and control. NRS 241.020(2)(d)(3).

Despite complaints from both the public and Board members, for both the March 27 and April 10 meetings, the supporting materials for the agenda items at issue were provided to the public at the same time as they were provided to the members of the public body. The Board placed the interlocal agreement on its April 10 agenda as an action item. While there was a town hall meeting scheduled for additional public discussion on the issue, the OAG does not possess evidence that any individuals were prevented from making public comment on any issue at the April 10 meeting. Public disagreement with the decision of a public body or belief that the public body did not take enough information into consideration does not constitute an OML violation.

CONCLUSION

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

Sincerely,

AARON D. FORD
Attorney General

/s/ Rosalie Bordelove
ROSALIE BORDELOVE
Chief Deputy Attorney General

cc: Michael A. Wheable, White Pine County District Attorney

