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April 16, 2024

Via U.S Mail

H. William Brooks



**Re: Open Meeting Law Complaint, OAG File No. 13897-463  
Genoa Historic District Commission**

Dear Mr. Brooks:

The Office of the Attorney General (“OAG”) is in receipt of your complaint (“Complaint”) alleging violations of the Open Meeting Law (“OML”) by the Genoa Historic Commission (“Commission”) regarding its October 5, 2022, meeting.

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 OAG’s investigation of the Complaint included a review of the Complaint and attachments, the Response on behalf of the Commission, and the agenda and minutes for the Commission’s October 5, 2022, meeting. After investigating the Complaint, the OAG determines that the Commission did not violate the OML as alleged in the Complaint.

**FACTUAL BACKGROUND**

The Commission held public meetings on August 19 and September 28, 2020, April 28, June 30, and July 28, 2021, and October 5, 2022. Item #9 on the public notice agenda for the October 5, 2022, meeting read: “FOR POSSIBLE ACTION. DISCUSSION ABOUT ADOPTING A PAINT PALETTE FOR THE GENOA HISTORIC DISTRICT COMMISSION.” During the item, the Commission discussed the issue and decided not to proceed with adopting

a color palette at that time and instead to wait until after the county code had been changed.

During closing public comment for the meeting, Complainant requested he receive the agenda and all information distributed to the Commission members prior to each meeting via mail. Complainant was provided with a request form for agendas, which he filled out and submitted to the Commission. The form stated that supporting material for meetings is available online but would not be sent with agendas. The Commission began mailing agendas to Complainant for its December 2022 meetings.

Draft minutes for the October 5 meeting, submitted with the Complaint, list the first names of the members and do not list the location of the meeting. However, the final approved minutes, submitted by the Commission with its response, do include the location of the meeting and full names for all members present.

The Complaint, filed on October 31, 2022, contains the following allegations:

1. The Commission failed to provide requested copies of meeting notices, agendas and supporting material to complainant after he requested them.
2. The discussion and actions of the Commission under Item #9 at its October 5, 2022, meeting exceeded the scope of the agendized topic.
3. The Commission failed to provide minutes of meetings within 30 working days after adjournment of the meetings.
4. The Commission's minutes for its August 19 and September 28, 2020, April 28, June 30, and July 28, 2021, and October 5, 2022, meetings failed to include the place of the meetings and inadequately reflect the substance of matters proposed, discussed and decided.
5. The Commission has failed to provide adequate access to audio recordings of meetings.
6. The Commission's agenda request form fails to provide an option for supporting material to be mailed with agendas.

### **LEGAL ANALYSIS**

The Genoa Historic District Commission, created by the Douglas County Commission, is a public body as defined in NRS 241.015(4) and is subject to the OML.

As a preliminary matter, the OAG does not have jurisdiction to investigate allegations regarding meetings occurring in 2020 and 2021 as the Complaint was filed greater than 120 days after the alleged violations. NRS 241.039(2). Thus, those allegations will not be addressed in this opinion.

**1. The Commission began providing copies of agendas to Complainant after his request in October 2022.**

The OML requires public bodies to provide a copy of their public notice agenda to any person who has requested notices and allows for such a request to lapse after 6 months. NRS 241.020(4)(c). Complainant requested copies of the Commission's agendas to be mailed to him during public comment at the Commission's October 5 meeting and followed that up with filling out the Commission's request form. The Commission accepted this request and began mailing agendas to Complainant. Thus, the OAG does not find a violation of the OML.<sup>1</sup>

**2. Agenda Item #9 on the Commission's October 5, 2022, agenda clearly and completely described the action that took place.**

Complainant alleges that the Commission took action to amend the Douglas County Code during Item #9 of the October 5 meeting, which was not listed on the agenda. Public bodies must include clear and complete statements of the topics scheduled to be considered during their meetings on their public notice agenda. NRS 241.020(3)(d)(1). The evidence indicates that the Commission discussed the potential of adopting a paint palette, which was listed on the agenda, and ultimately decided not to. Instead, the action taken was to wait until after County Code revisions occurred to adopt a paint palette. The action was not to amend the Code itself. The OAG finds this action within the scope of the agendized item and does not find a violation of the OML.

**3. The Commission provided draft minutes for the October 5, 2022, meeting within 30 working days of adjournment.**

The OML requires minutes or an audio recording of a public meeting to be available for inspection by the public within 30 working days after adjournment of the meeting. NRS 241.035(2). This does not necessarily require the public body to include them in supporting material for a meeting within that time frame but does require they be made available to a member

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<sup>1</sup> The OAG notes that the allegation in the Complaint was not specific to any particular meeting or agenda request and Complainant included evidence regarding prior requests for agendas. Because those prior requests occurred more than a year before the complaint, the OAG did not consider them in this opinion.

of the public *upon request*. *Id.* Complainant did not allege that he requested minutes of a meeting and did not receive them. Indeed, Complainant included draft minutes of the October 5 meeting with his Complaint on October 31. The OAG does not find a violation of the OML in this respect.

**4. The minutes of the October 5, 2022, meeting include the location of the meeting.**

Complainant alleged that the Commission's meeting minutes do not contain the location of the meeting and inadequately reflect the substance of matters proposed, discussed and decided. The OML requires public bodies to keep written minutes of their meetings, including:

- (a) The date, time and place of the meeting.
- (b) Those members of the public body who were present, whether in person or by means of electronic communication, and those who were absent.
- (c) The substance of all matters proposed, discussed or decided and, at the request of any member, a record of each member's vote on any matter decided by vote.
- (d) The substance of remarks made by any member of the general public who addresses the public body if the member of the general public requests that the minutes reflect those remarks or, if the member of the general public has prepared written remarks, a copy of the prepared remarks of the member if the general public submits a copy for inclusion.

NRS 241.035(1). Complainant does not state what he believed to be missing from the October 5 minutes with the exception of the location of the meeting, which was not included in the draft minutes.<sup>2</sup> However, the approved minutes do include that information. Thus, the OAG does not find a violation of the OML.

**5. There is no evidence that the Commission has failed to provide access to audio recordings of meetings within the review period.**

This allegation appears to refer to statements during a meeting in September 2020. There were no allegations made or evidence reviewed by the OAG regarding a request to review the recording of a meeting within 120 days

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<sup>2</sup> The OAG notes that all minutes from prior years submitted by complainant did not include the location of the meeting and some were missing the members present. However, while these minutes may have been a partial reason for the allegations, they are not part of this opinion.

of the Complaint. As such, the OAG will not opine on whether there was a violation of the OML in 2020. NRS 241.039(2).

**6. The OML does not require the Commission to provide for standing requests for supporting materials.**

Complainant alleges that the language on the agenda request form stating that supporting material will not be sent with agendas violates the OML. The OML specifically requires public bodies to provide copies of public notice agendas to individuals who have requested them at least 3 working days prior to the meeting and allows for this to be a standing request. NRS 241.020(4)(c). The OML further requires public bodies to provide *upon request* at least one copy of supporting material for a meeting. NRS 241.020(7)(c). The OML's standing request language in NRS 241.020(4)(c) does not mention supporting material, meaning a public body is not required to allow standing requests for supporting material and can require that supporting material requests be made for each meeting individually. Thus, the OAG does not find a violation of the OML for the Commission's request form language.

**CONCLUSION**

Upon review of your Complaint and available evidence, the OAG has determined that no violation of the OML has occurred. The OAG will close its file regarding this matter.

Sincerely,

AARON D. FORD  
Attorney General

By: /s/ Rosalie Bordelove  
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Chief Deputy Attorney General

cc: Cynthea Gregory, Deputy District Attorney, Douglas County  
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