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April 16, 2024

Via U.S Mail and Email

Jarrold A. Stewart



**Re: Open Meeting Law Complaint, OAG File No. 13897-478  
City of Sparks Citizens Advisory Committee**

Dear Mr. Stewart:

The Office of the Attorney General (“OAG”) is in receipt of your complaint (“Complaint”) alleging violations of the Open Meeting Law (“OML”) by the City of Sparks Citizens Advisory Committee (“Committee”) regarding its April 13, 2023, 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, the Response on behalf of the Committee and attachments, and the agenda and minutes for the Committee’s April 13, 2023, meeting. After investigating the Complaint, the OAG determines that there is insufficient evidence of an OML violation.

**FACTUAL BACKGROUND**

The Committee held a public meeting on April 13, 2023. The public notice agenda for the meeting contained the following public comment statement:

**Restrictions on Public Comments** – All public comment remarks shall be addressed to the SCAC as a whole and not to any member thereof. No person, other than members of the SCAC and

the person having the floor shall be permitted to enter into any discussion. No questions shall be asked of the SCAC except through the presiding officer.

During the first public comment period, the Complainant commented regarding issues at the Sparks Fire Department and requested a future agenda item for the labor union to give a presentation to the Committee. A Committee member asked the Assistant City Manager for input and if it was possible to put such an item on the agenda. The Assistant City Manager responded that he felt it was an unusual request and he had concerns with going outside of the collective bargaining process. The Complainant made similar comments during the second public comment period at the end of the meeting.

The Committee attempted to record the meeting at issue, but due to a mechanical failure with the recording device or data transfer system, the Committee did not retain a recording of the meeting.

Complainant filed the instant complaint alleging the Committee violated the OML by (1) allowing the Assistant City Manager to speak regarding Complainant's agenda item request without the Assistant City Manager being on the agenda, and (2) by stating or being told that the Committee is not allowed to ask questions of public commenters.

### LEGAL ANALYSIS

The City of Sparks Citizens Advisory Committee, as a subcommittee of the Sparks City Council, is a public body as defined in NRS 241.015 and is subject to the OML.

An agenda for a meeting of a public body must include a "clear and complete statement of the topics to be considered during the meeting." NRS 241.020(3)(d)(1). The OML "seeks to give the public clear notice of the topics to be discussed at public meetings so that the public can attend a meeting when an issue of interest will be discussed." *Sandoval v. Board of Regents of Univ.*, 119 Nev. 148, 155 (2003).

The agenda for a meeting must also list periods devoted to "comments by the general public . . . **and discussion of those comments.**" NRS 241.020(3)(d)(3) (emphasis added). A public body may not inform the public that it is legally prohibited from discussing matters with the general public. *In re Clark County School District Board of Trustees*, OMLO 10-037 at 8 (Oct. 2010). However, no deliberation may occur on an item raised during public

comment unless that item is otherwise listed on the agenda as an action item.  
*In re Nye County Commissioners*, OMLO 13897-325 at 3 (Oct. 2019).

During the meeting at issue, the evidence indicates that the Complainant requested a future agenda item during his public comment and a member of the body entered into a discussion with a staff member regarding Complainant's request. The evidence indicates that only one member of the body entered into this discussion, it did not rise to the level of deliberation and thus did not violate the OML by not being on the agenda. Further, the OAG does not possess evidence that the Committee was informed that it could not legally discuss matters with members of the public. In fact, the public comment statement on the agenda specifically authorizes discussion with the public and one member of the body did engage in discussion regarding Complainant's public comment, albeit with a staff member. As such, the OAG does not have sufficient evidence to find a violation of the OML in this instance.

### **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

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