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August 1, 2018

Mr. Danny L. Cleous

**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-269
Washoe County Planning Commission**

Dear Mr. Cleous:

The Office of the Attorney General (OAG) is in receipt of your Complaint alleging a violation of the Open Meeting Law (OML) by the Washoe County Planning Commission (Commission) alleging that the Commission failed to provide you with adequate time to speak during the public comment periods of its March 6, 2018 meeting, and that the Commission took action on a matter on its March 6, 2018 agenda before the public meeting.

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. Nevada Revised Statutes (NRS) 241.037; NRS 241.039; NRS 241.040. In response to the Complaint, the OAG reviewed the Complaint (no attachments were presented); the response to the Complaint from the Commission's counsel, Nathan J. Edwards, Washoe County Deputy District Attorney; and, the agenda and video recording for the Commission's March 6, 2018, meeting.

FACTUAL BACKGROUND

The Commission's agenda for its March 6, 2018, meeting limited public comments to three (3) minutes. During its March 6, 2018, meeting, the Commission had two (2) public comment periods on its agenda during which you spoke. Your Complaint does not allege an OML violation with regard to the first public comment period during which you spoke.

When you spoke during the second public comment period, it appears the three (3) minute timer used by the Commission for public comments was inadvertently set for one (1) minute and forty-five seconds instead of three (3) minutes. Based on the erroneous timer setting, the Commission interrupted you approximately two (2)

Mr. Danny Cleous
Page 2
August 21, 2018

minutes into your comments. You informed the Commission of its error and continued speaking. The Commission interrupted you again approximately three (3) and one half (1/2) minutes after you started your public comments. You finished your public comments approximately four (4)-minutes after you began your public comments.

Your Complaint alleges a developer stated before the meeting started that the project was already approved before the vote. You did not provide any evidence of this allegation with your Complaint. The Commission considered presentations concerning the project, asked questions, and discussed the project as listed on its agenda for close to two hours. The deliberations and motions of the Commission concerning the project lasted for over twenty (20) minutes and included a failed motion to deny the project.

DISCUSSION AND LEGAL ANALYSIS

Chapter 241 of the NRS requires the actions of public bodies "be taken openly and that their deliberations be conducted openly." NRS 241.010(1); *see McKay v. Bd. Of Supervisors*, 102 Nev. 644, 651 (1986). The Commission is a "public body" as defined in NRS 241.015(4) and subject to the OML.

Your Complaint alleges the Commission violated the OML because it interrupted your comments during the second public comment period. The Commission is required to give the public the opportunity to speak during its meetings. NRS 241.020(2)(d)(3). The Commission may place time restrictions on public comments. NRS 241.020(2)(d)(7). The Commission's agenda limited public comments to three (3) minutes. During your comments in the second public comment period, you experienced two (2), brief interruptions. You addressed these interruptions by stating the timer was set wrong. The Commission allowed you to continue speaking. You ended up speaking approximately four (4) minutes. The interruptions and your responses thereto lasted less than one (1) minute. Thus, you were allowed to comment during this public comment period in accordance with the OML.

Your Complaint alleges the Commission violated the OML because a developer stated the project was approved before the vote. If the Commission had approved the project before the vote, that would constitute taking action in a meeting that is not public and violate the OML. *See* NRS 241.015(3) and NRS 241.020. However, you did not offer any evidence concerning this allegation. The evidence available for review by the OAG was that the Commission spent a significant amount of time considering the project in a public meeting. Thus, the evidence indicates that the Commission deliberated and took actions concerning the project in compliance with the requirements of the OML.

Mr. Danny Cleous
Page 3
August 21, 2018

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,

ADAM PAUL LAXALT
Attorney General

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