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December 13, 2017

via U.S. Mail

Denis Dehne

**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-231
Washoe County Board of County Commissioners**

Dear Mr. Dehne:

The Office of the Attorney General (OAG) is in receipt of your complaint (Complaint) alleging a violation of the Open Meeting Law (OML) by the Washoe County Board of County Commissioners (Board). The Complaint alleges that the Board violated the OML during its May 16, 2017 meeting by failing to allow for public comment following discussion of Agenda Item #4.

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. In response to the Complaint, the OAG reviewed the Complaint and Addendum to Complaint; the Response to the Complaint from the Washoe County District Attorney's Office; the Board's agendas and minutes from its May 16, 2017 and June 13, 2017 meetings; and the video recording of the Board's May 16, 2017 meeting.

FACTUAL BACKGROUND

On May 16, 2017, the Board conducted a public meeting. Agenda Item #3 of the Board's May 16, 2017 meeting allowed for public comment. The Board recognized Mr. Dehne for public comment and Mr. Dehne provided his public comment to the Board for his allotted three (3) minute period.

Agenda Item #4 of the Board's May 16, 2017 meeting included the description, "Introduction of New Washoe County Employees. Human Resources." During discussion of Agenda Item #4, County Manager John Slaughter asked nine (9) new employees of Washoe County to introduce themselves to the Board. Following the introductions of the new employees, Board Chair Bob Lucey welcomed the employees to Washoe County. Chair Lucey attempted to proceed to Agenda Item #5 when Mr. Dehne requested the ability to issue public comment on Agenda Item #4. Chair Lucey denied Mr. Dehne's request. Agenda Item #4 was not designated for possible action by the Board. The Board did not allow public comment during the discussion of Agenda Item #4. The Board did not take action related to Agenda Item #4.

Agenda Item #11 of the Board's May 16, 2017 meeting allowed for public comment. During Agenda Item #11, the Board received public comment from several members of the public.

DISCUSSION AND LEGAL ANALYSIS

The Board is a "public body" as defined in NRS 241.015(4), and is therefore subject to the OML. The Nevada Legislature intends that 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 OML exists to ensure that the public is able to meaningfully participate in government. *See* NRS 241.010. As such, public bodies must allot time to allow comments from the general public either "at the beginning of the meeting before any items on which action may be taken are heard by the public body and again before the adjournment of the meeting" or "after each item on the agenda *on which action may be taken* is discussed by the public body, but before the public body takes action on the item." NRS 241.020(2)(d)(3) (*emphasis added*). Public bodies may take public comments by the public in addition to the periods required pursuant to NRS 241.020(2)(d)(3)(I-II). NRS 241.030(2)(d)(3).

Here, the Board did not violate the OML by precluding Mr. Dehne from presenting public comment after the Board's discussion of Agenda Item #4 because the item was not one on which the Board may have taken action. Rather, the purpose of Agenda Item #4 was for County Manager Slaughter to introduce new county employees to the Board members. The Board did not accept public comment from any members of the public during the discussion of Agenda Item #4. Although the Board may have taken public comment on Agenda Item #4, pursuant to NRS 241.030, it was not required to do so pursuant to the OML. Moreover, the Board allowed for public comment periods at the beginning of its May 16, 2017 meeting and

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before adjournment of the meeting. Therefore, the Board fulfilled its public comment requirements pursuant to the OML.

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred because the Board provided sufficient public comment periods for its May 16, 2017 meeting. The OAG will close the file regarding this matter.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: 
CAROLINE BATEMAN
Chief Deputy Attorney General
Boards and Open Government Division

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cc: Paul Lipparelli, Assistant District Attorney
Washoe County District Attorney's Office
Washoe County Board of Commissioners