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STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900  
Las Vegas, Nevada 89101

October 2, 2019

Via U.S. Mail

Neal Jones  
[REDACTED]

**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-318  
Nye County and Friends of the Belmont Courthouse**

Dear Mr. Jones:

You filed a complaint on February 15, 2019, (Complaint) with the Office of the Attorney General (OAG) alleging violations of the Nevada Open Meeting Law (OML) by Nye County (County) and the Friends of the Belmont Courthouse (FOTBCH). The Complaint alleges that the County and the FOTBCH violated the OML by failing to provide documents relating to meetings of the FOTBCH and failure of the FOTBCH to hold public meetings complying with the OML.

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 Complaint and supporting materials, responses to the Complaint from both the County and the FOTBCH, and attachments thereto.

As a preliminary note, the Complaint fails to state a claim against the County. Regardless of whether the FOTBCH is a public body, which the OAG finds that it is not, as discussed below, the County would not be required to maintain the FOTBCH's documents and make them available to the public. The requirements of the OML with regard to providing agendas and other materials to members of the public only extend to the public body who receives the request. NRS 241.020(3)(c).

To the extent that the Complaint also alleges the County violated the OML by failing to provide background documentation for an agenda item during its August 7, 2018, meeting, the Complaint also fails to state a claim. The OML does not require that public bodies have supporting material for any particular agenda item – only that public bodies provide supporting material to the public upon request when supporting material has been provided to members of the public body. NRS 241.020(6). The Complaint does not allege that any supporting material was provided to the County Commissioners and the evidence indicates that no such supporting material

existed, thus the Complaint does not allege a violation of the OML against the County.

### FACTUAL BACKGROUND

The FOTBCH is a nonprofit corporation organized under section 501(c)(3) of the Internal Revenue Code as a public charity. Created in 2011, its purpose is to preserve, restore, and protect the historic real and personal property of the courthouse at Belmont, Nye County, Nevada (Courthouse). At the time of the FOTBCH's creation, the Courthouse was owned by the State of Nevada. In 2013, the Courthouse was deeded to Nye County. The FOTBCH's main activities include fundraising for the needs of the Courthouse and making recommendations to governmental authorities regarding needed services, improvements and restorations to the Courthouse.

### DISCUSSION AND LEGAL ANALYSIS

The primary issue raised by the Complaint is whether the FOTBCH is a public body, and as such, required to comply with the OML. The Complaint alleges that due to the FOTBCH's advisory activities to the County regarding the Courthouse, it meets the definition of a public body in the OML either by itself or as an effort by the County to circumvent the spirit or letter of 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). NRS 241.015(4)(a) defines the term "public body" as including:

Any administrative, advisory, executive or legislative body of the State or a local government consisting of at least two persons which expends or disburses or is supported in whole or in part by tax revenue or which advises or makes recommendations to any entity which expends or disburses or is supported in whole or in part by tax revenue . . . if the administrative, advisory, executive or legislative body is created by:

- (1) The Constitution of this State;
- (2) Any statute of this State;
- (3) A city charter and any city ordinance which has been filed or recorded as required by the applicable law;
- (4) The Nevada Administrative Code;
- (5) A resolution or other formal designation by such a body created by a statute of this State or an ordinance of a local government;
- (6) An executive order issued by the Governor; or
- (7) A resolution or an action by the governing body of a political subdivision of this State . . . .

The exceptions provided in the OML "must not be used to circumvent the spirit or the letter of [the] chapter to deliberate or act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers." NRS 241.016(4).

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The FOTBCH was created by private citizens in an effort to perform a charitable function. It was not created by any governmental action meeting the requirements of NRS 241.015(4)(a) and thus does not meet the definition of a public body. The OAG does not possess evidence to indicate that the FOTBCH was created to circumvent the OML or that its actions are being used in such a fashion. Thus, the FOTBCH is not a public body and not required to comply with the OML.

### 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



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ROSALIE BORDELOVE  
Chief Deputy Attorney General

cc: Marla Zlotek, Chief Deputy District Attorney, Counsel for Nye County  
Brian T. Kunzi, Board Member and Counsel for the FOTBCH

**CERTIFICATE OF MAILING**

I hereby certify that on the 02<sup>nd</sup> day of October, 2019, I served the foregoing letter by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, Certified Mail, addressed as follows:

Neal Jones  

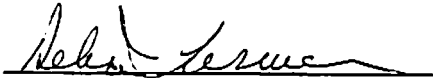

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