

1 OFFICE OF THE ATTORNEY GENERAL  
2 STATE OF NEVADA

3 In the matter of:  
4 AMARGOSA VALLEY TOWN BOARD

OAG FILE NO.: 13897-452  
**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

7  
8 **BACKGROUND**

9 Marley Mahomy Mendoza filed a complaint with the Office of the Attorney General  
10 (“OAG”) alleging violations of the Nevada Open Meeting Law (“OML”) by the Amargosa  
11 Valley Town Board (“Board”), stemming from its May 30, 2022, meeting. Specifically, Ms.  
12 Mendoza alleges the following OML violations:

13 **ALLEGATION 1:** The Board failed to record its May 30, 2022, meeting on  
14 audiotape or video or cause the meeting to be transcribed by a court reporter as  
15 required pursuant to NRS 241.035(4).

16 **ALLEGATION NO. 2:** The Board failed to properly prepare and produce minutes  
17 of its May 30, 2022 meeting, as required by NRS 241.035.<sup>1</sup>

18 The OAG has statutory enforcement powers under the OML and the authority to  
19 investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040.  
20 The OAG’s investigation of the Complaint included a review of the following:

- 21 1. The Complaint; and  
22 2. The Response filed on behalf of the Board, dated July 27, 2022, and all  
23 attachments thereto;

24  
25 <sup>1</sup> Ms. Mendoza also alleged that board member Trevor Dolby was not present at the meeting  
26 according to the town’s fire chief, Bruce Jensen. The OAG will refrain from providing an  
27 opinion on this allegation given that the response to the complaint included a copy of the  
28 May 30, 2022 meeting minutes and these minutes state that Mr. Dolby was in attendance.  
In addition, Mr. Dolby provided an affidavit dated September 7, 2023 stating that he was  
present at the meeting.

1 After investigating the Complaint, the OAG determines that the Board violated the  
2 OML by failing to record its May 30, 2022, meeting. However, the OAG does not find that  
3 the Board violated the OML in connection with the allegations made regarding Mr. Dolby  
4 not attending the meeting or that minutes were not made available as required by NRS  
5 241.035.

### 6 FINDINGS OF FACT

7 1. At the time of the May 30, 2022, meeting, the Board consisted of five (5)  
8 members, namely, Chairman Scott Harris, Vice Chairman John Bosta, Town Clerk Trevor  
9 Dolby, Member Richard Classens, and Member Mike Cottingim.

10 2. The Board held a public meeting on May 30, 2022.

### 11 LEGAL STANDARDS AND CONCLUSIONS OF LAW

12 The Amargosa Valley Town Board is a “public body” as defined in NRS 241.015(4);  
13 therefore, the Board is subject to the OML.

#### 14 A. Allegation No. 1: The Board violated the OML by failing to record 15 its May 30, 2022, meeting pursuant to NRS 241.035(4).

16 The OML requires that a public body record its meetings on audiotape or video or  
17 cause the meeting to be transcribed by a court reporter. NRS 241.035(4). The Complaint  
18 notes that there is no recording of the May 30, 2022, meeting. The Board, through its  
19 counsel, admitted that the Board failed to record this meeting. Based on the Board’s  
20 admission, the OAG finds a violation.

21 While the OAG finds a violation, and pursuant to NRS 241.037 could penalize and  
22 fine the Board and its members for failure to record its meeting, it will forgo doing so given  
23 that the violation was caused by the members lack of knowledge on how to operate the  
24 recording device normally used to record meetings. The OAG encourages the Board to  
25 ensure that such a violation does not occur again by it ensuring that all Members are  
26 adequately training on operating the recording equipment.

27 In addition to the allegations made in connection with the May 30, 2022 meeting,  
28 Ms. Mendoza references in the Complaint that the Board failed to video record and post to

1 its YouTube channel its May 26, 2022 meeting. NRS 241.035(4) requires that a record of  
2 the meetings be kept by either audio or video. Even though it may be the Board's normal  
3 practice to have both formats available, there is no violation of the statute as long as either  
4 audio or video formats are used.

5 **B. Allegation No. 2: The Board failed to provide minutes of its May 30,**  
6 **2022 meeting, as required by NRS 241.035.**

7 The OML provides that a public body must make minutes of a meeting available for  
8 inspection by the public within 30 working days after adjournment of the meeting. The  
9 minutes should have been available by the time that the Complaint dated July 18, 2022,  
10 was filed by Ms. Mendoza. The Response included a copy of the minutes. The affidavit of  
11 Trevor Dolby dated September 7, 2023 states that the minutes were available on June 20,  
12 2023, and therefore the OAG does not find a violation of the statute.

13 **SUMMARY**

14 Upon investigating the present Complaint, the OAG makes findings of fact and  
15 conclusions of law that the Amargosa Valley Town Board violated the OML as described  
16 above.

17 If the Attorney General investigates a potential OML violation and makes findings  
18 of fact and conclusions of law that a public body has acted in violation of the OML, "the  
19 public body must include an item on the next agenda posted for a meeting of the public  
20 body which acknowledges the findings of fact and conclusions of law." NRS 241.0395. The  
21 public body must treat the opinion of the Attorney General as supporting material for the  
22 agenda item(s) in question for the purpose of NRS 241.020. *Id.* Accordingly, the Board  
23 must place an item on its next meeting agenda in which it acknowledges the present  
24 Findings of Fact and Conclusions of Law ("Opinion") resulting from the OAG's investigation  
25 in this matter. The Board must also include the OAG Opinion in the supporting materials  
26 for its next meeting.

27 Lastly, NRS 241.037 confers upon the OAG the power to bring suit "in any court of  
28 competent jurisdiction to have an action taken by a public body declared void or for an

1 injunction against any public body or person to require compliance with or prevent violation  
2 of [NRS 241].” NRS 241.037(1). Further, NRS 241.0365(1) provides that if a public body  
3 takes action to correct an alleged violation within 30 days of the alleged violation, the  
4 Attorney General may decide not to commence prosecution of the alleged violation if the  
5 Attorney General determines foregoing prosecution would be in the best interests of the  
6 public. Here, while the OAG finds that OML violations occurred, it is the OAG’s position  
7 that the foregoing remedies required of the Board are sufficient to address the violations.

8 Dated: January 16, 2024

9 AARON FORD  
10 Attorney General

11 By: Chris Maher  
12 CRIS MAHER  
13 Deputy Attorney General

**CERTIFICATE OF SERVICE**

I hereby certify that on the 16<sup>th</sup> day of January, 2024, I served the foregoing **FINDINGS OF FACT AND CONCLUSIONS OF LAW** by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, **CERTIFIED MAIL** addressed as follows:

Marley Mahomy Mendoza



**Certified Mail No.:** \_\_\_\_\_

Amargosa Valley Town Board  
c/o Marla Zlotek, Esq.  
Nye County Office of the District Attorney  
P.O. Box 39  
Pahrump, Nevada 89041

**Certified Mail No.:** 7020 2450 0001 1950 7344

/s/ Debra Turman  
An employee of the Office of the  
Nevada Attorney General