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OFFICE OF THE ATTORNEY GENERAL

555 East Washington Avenue, Ste. 3900
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May 1, 2018

Via U.S. Mail and Electronic Mail

Jessica A. Smith
[redacted]

Re: Yerington/Mason Valley Fire Protection District - Open Meeting Law Complaint, O.A.G. File No. 13897-238

Dear Ms. Smith:

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 Yerington/Mason Valley Fire Protection District (District). Your Complaint alleges the District failed to provide you with supporting materials, including the agenda, for its June and July 2017 board meetings.

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 attachments.

FACTUAL BACKGROUND

The District is a "public body" as defined in NRS 241.015(4), subject to the OML. According to your Complaint, on April 20, 2017, you sent an email to Theresa Spinuzzi, Administrative Secretary for the District, in which you made the following request:

> As mentioned last night, I would like to request documents pertaining to the District Board Meetings such as, but not limited to: agenda, budget documents (draft/final), draft

> minutes, bills, write-offs (without patient information of course), etc. I understand the documents may not be available until the day of the meeting. If needed, I can pick them up in person or, if easier, they can be emailed to smithjes86@yahoo.com. I appreciate your effort in providing the requested documents.

On April 27, 2017, Scott P. Draper, District Fire Chief, responded to your request via an email in which he stated the following:

> Theresa has forwarded me your request for the monthly Board meeting packet. We can definitely get you this information to you as often as you would like; please contact me directly for any future requests.
>
> We usually have the packets ready by the Monday prior to the meeting, sometimes that Friday depending on how busy things get, at the latest; the meeting itself. We can either make a paper copy or email it to you, which ever [*sic*] is best for you, just let me know?
>
> I will have Theresa prepare the May items for your prior to that meeting.
>
> It is refreshing to have your interest in the Districts [*sic*] actions, as you are aware we rarely get public interest in our meetings.

On the same day that Chief Draper sent his email response, you sent him an email which stated the following:

> Thank you for your response and the District's willingness to provide the information. Email would probably be more cost effective, so that will work. I am looking forward to being able to offer input regarding department matters.

No further email requests were sent by you to the District requesting Meeting Materials. Sometime after April 27, 2017, but prior to its May 2017 meeting, the District emailed you the Meeting Materials for that meeting.

DISCUSSION AND LEGAL ANALYSIS

1. Applicable Laws and Opinions

The OML, as comprised by Chapter 241 of the Nevada Revised Statutes (NRS), applies to meetings of public bodies. It requires that, upon any request, a public body provide, with certain exceptions and at no cost, the supporting materials provided to the public body for any item on the public body's meeting agenda.[1] In addition, a public body must make available notice[2] of a public meeting to any person who has requested such notice.[3] Such request for notice shall be in effect for six months after the request for notice is made.[4] The six month standing requirement only applies to requests for notice, it does not apply to requests for supporting materials, and thus a public body is not required to honor such a standing request.[5]

2. Analysis

Based on your Complaint, you intended your April 20, 2017 email request for the supporting materials to be a standing request (*i.e.*, you wanted copies of the supporting materials, including the agenda, for all future District meetings to be emailed to you). However, as stated above, it is not a violation of the OML for a public body to not honor a standing request for supporting materials.[6] Based on this, the OAG concludes there was no violation of the OML regarding the support materials.

Regardless, your request did not clearly state that was the intention for it to be a standing request, and as a result the District interpreted your request as a single, stand-alone request for the supporting materials relating to the May 2017 public meeting, including the agenda. The Chief communicated this interpretation in his April 27, 2017 response in which he stated:

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[1] NRS 241.020(6)(c).

[2] Pursuant to NRS 241.020(2)(d), notice includes, among other things, the agenda for the public meeting. It does not, however, include the supporting materials for an agenda item. *See* NRS 241.020(2).

[3] NRS 241.020(3)(c).

[4] *Id.*

[5] OMLO 99-06 (March 19, 1999); and OMLO 2003-12 (March 11, 2003).

[6] *Id.*

> Theresa has forwarded me your request for the monthly Board meeting packet. We can definitely get you this information to you as often as you would like; please contact me directly for any future requests.

In his email response, the Chief uses the singular form of the word packet, and instructs you to contact him directly for any future requests for the meeting packets. In your response to the Chief's email, you did not take the opportunity to clarify your request.

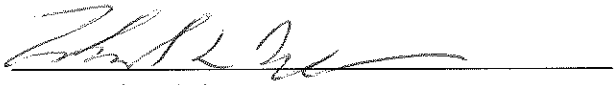
Based on the above, the AGO concludes that the District reasonably interpreted your request to be a single request for meeting support materials, including the agenda, as opposed to being two separate requests (one being the request for the support materials, and the other a request to receive agendas). As such, the District did not violate the OML when it failed to send you copies of the agendas for the June and July 2017 meetings.

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred. Nonetheless, the OAG advises the District to review requests received from members of the public thoroughly to ensure that requests are honored as intended.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: 
Edward L. Magaw
Deputy Attorney General

c: Scott P. Draper, District Fire Chief
Stephen B. Rye, Lyon County District Attorney