AARON D. FORD
Attorney General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
555 E. Washington Avenue, Suite 3900
Las Vegas, Nevada 89101

January 18, 2019

Via Electronic Mail

Sam Toll

Re: Open Meeting Law Complaint - Storey County Board of County Commissioners, OAG File No. 13897-301

Dear Mr. Toll:

The Office of the Attorney General (OAG) is in receipt of your complaint (Complaint) alleging violations of the Open Meeting Law (OML) by the Storey County Board of County Commissioners (Board) during a Board meeting held on September 4, 2018.

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 your complaints, the OAG reviewed your complaints; the Board's responses; and, the relevant agendas, and materials for the Board's September 4, 2018 meeting.

FACTUAL BACKGROUND

The Board is a "public body" as defined in NRS 241.015(4) and subject to the OML. The Complaint alleges that during the Board meeting held on September 4, 2018, agenda items were presented with technical and financial data that were not included in the meeting agenda packet.

DISCUSSION AND LEGAL ANALYSIS

The OML, as comprised by Chapter 241 of the NRS, applies to meetings of public bodies and it requires 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). Public bodies working on behalf of Nevada citizens must conform to statutory requirements in open meetings under an agenda that provides full notice and disclosure of discussion topics and any possible action. *Sandoval v. Board of Regents,* 119 Nev. 148, 67 P.3d 902 (2003).

To facilitate open government, the OML requires public bodies to provide to a member of the public, upon request, at least one copy of any supporting material provided to the members of the public body for items on an agenda. NRS 241.020(6). If the supporting materials for a meeting are provided to the members of a public body at the meeting, they must also be available at the meeting to requesting members of the public at the same time the materials are provided to the members of the public body. NRS 241.020(7). The OML does not require that supporting material be provided for an agenda item or that a public body receive a specified amount of information prior to taking action on an item. Rather, it only requires that supporting material be made available to the public *if* it is provided to the members of the public body.

Agenda item 7 from the Board meeting on September 4, 2018, was identified as a discussion only item and reads as follows:

> **7. DISCUSSION ONLY (No Action):**
>
> Workshop to provide and discuss updates on the Special Assessment District and all related documents and provide an overview of the inter-related Tax Increment Area including estimated revenue projections.

Agenda item 8 from the Board meeting on September 4, 2018, was identified as a discussion and possible action item and reads as follows:

> **8. DISCUSSION ONLY/POSSIBLE ACTION:**
>
> Discussion and possible action on resolution 18-510 directing the engineer of [sic] behalf of Storey County, Nevada to prepare and file with the County Clerk preliminary plans and an assessment plat in connection with a proposed water project in Storey County, Nevada, Special Assessment District No. 01 (Tahoe-Reno Industrial Center).

Agenda items 7 and 8 included power point presentations containing technical and financial data regarding the creation of the Tax Increment Area and Special Assessment District. Hard copies of the power point presentations were not included in the agenda packets for the meeting. However, there is no evidence that the Board members received hard copies of the power point presentations prior to, or at the meeting on September 4, 2018. Both Board members and members of the public observed the power point presentations for the first time at the presentation of agenda items 7 and 8 on September 4, 2018. Thus, the failure to provide technical and financial details is not a violation of the OML.

Although hard copies of the power point presentations were not required to be placed in the agenda packet and were not provided to Board members, you received a hard copy of the presentations following your request on September 4, 2018.

CONCLUSION

Upon review of your Complaint and available evidence, the OAG has determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,

AARON D. FORD
Attorney General

By: _____

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