

1 which a quorum is present to deliberate toward a decision or to take action on any matter
2 over which the public body has supervision, control, jurisdiction or advisory power.” See
3 also *Dewey v. Redevelopment Agency of the City of Reno*, 119 Nev. 87, 95, 64 P.3d 1070,
4 1076 (2003). “Deliberate” is defined in NRS 241.015(2) as “collectively to examine, weigh
5 and reflect upon the reasons for or against the action. The term includes, without
6 limitation, the collective discussion or exchange of facts preliminary to the ultimate
7 decision.” If a quorum of the Council deliberates outside of a public meeting, this would
8 constitute a violation of the OML. *Del Papa v. Board of Regents*, 114 Nev. 388, 956 P.2d
9 770 (1998).

10 FINDINGS OF FACT

11 1. Boulder City is an incorporated municipality established by 1959 Charter
12 and governed by the Council pursuant to Article II of the Charter.

13 2. The Council is a “public body” as defined in NRS 241.015(4), subject to
14 the OML.

15 3. Boulder City Code 2-2-2 (1959 Charter § 58; amd. by Amd. 2, 5-4-1965)
16 provides “[t]he head of the Department of Finance shall be the Director of Finance who
17 shall be, or be appointed by, the City Manager, with the concurrence of a majority of the
18 City Council, and whose duties hereinafter set forth shall be subject to the supervision
19 and control of the City Manager.”

20 4. In correspondence dated September 6, 2016, a contingent offer was made by
21 the City to Mr. Kim for the position of City Finance Director.

22 5. On September 15, 2016, Nancy Sommer, Executive Assistant to the City
23 Manager, scheduled the Private Meeting through a series of email communications with
24 the Council members. The email communications expressly stated that the purpose of the
25 Private Meeting was for the Council members to meet the Finance Director “candidate.”

26 6. On September 21, 2016, Mayor Rod Woodbury and Councilmembers Peggy
27 Leavitt, Duncan McCoy and Rich Shuman participated in the Private Meeting with Mr.
28 Kim at the Boulder Dam Hotel. Councilmember Cam Walker was not present.

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SUMMARY

Because the OAG finds that a quorum of the City Council of Boulder City has taken action in violation of the OML, the Council must place on its next meeting agenda these Findings of Fact and Conclusions of Law and include them in the supporting material for the meeting. The agenda item must acknowledge these Findings of Fact and Conclusions of Law to be the result of the OAG investigation in the matter of Attorney General File No. 13897-223, and that they have been placed there as a requirement of NRS 241.0395.

Furthermore, the OAG strongly recommends that the City Council of Boulder City members and staff receive training in the OML; the OAG is available to provide OML training upon request.

DATED this 20th day of March, 2017.

ADAM PAUL LAXALT
Attorney General

By:



BRETT KANDT
Chief Deputy Attorney General

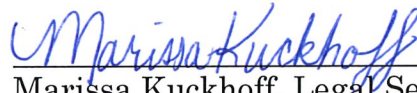
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CERTIFICATE OF SERVICE

1
2 It is hereby certified that I am an employee of the Office of the Attorney General,
3 State of Nevada, and that on March 20, 2017, a true and correct copy of the foregoing
4 FINDINGS OF FACT AND CONCLUSIONS OF LAW, was deposited for service by
5 mailing to the following:

6
7 Joseph Kranyac, III
8 PO Box 62144
9 Boulder City, NV 89006

10 City Council of Boulder City
11 c/o City Attorney
12 401 California Avenue
13 Boulder City, NV 89005

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15 

16 Marissa Kuckhoff, Legal Secretary II
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