



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

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May 29, 2014

Via First Class Mail

Janice Prichard
PO Box 1668
Fernley, Nevada 89408

Re: Open Meeting Law Complaint / AG File No. 14-004
Fernley City Council, Fernley Building Board of Appeals

Dear Ms. Prichard:

This Open Meeting Law (OML) complaint alleges the City of Fernley Board of Appeals (Board) on December 9, 2014, heard an item on its agenda that was outside its scope of authority. During the investigation of this complaint, we asked for minutes and agendas of several meetings and received the assistance of the City Attorney's counsel.

We found no OML violation based on the allegation where Chairman Gary Oberg, incorrectly opened the meeting as the Fernley Board of Appeals instead of the Fernley Nuisance Ordinance Working Group (Working Group). The meeting agenda correctly identified the meeting as one for the nuisance regulation working group and the Public was ready to comment on the possibility of a nuisance ordinance. Mr. Oberg, quickly corrected his misstatement during the meeting. No other member of the Member complained about Mr. Oberg's mistake. This minor misstatement was not an incorrect listing of an agenda item outside the Working Group's scope or jurisdiction rising to the level of an OML violation.

The Working Group was authorized by the City Council and created by the City Manager Chris Good as a working group to review possible amendment to the City's Municipal Code for nuisance regulations. A public comment regarding this issue was taken at each meeting.

We examined the reference in the complaint to Open Meeting Law Opinion No. 99-06, March 19, 1999, but after review, we concluded it is not relevant to this complaint. In § 11.02 of the Nevada Open Meeting Law Manual (11th Ed. 2012), this

Janice Prichard
May 29, 2014
Page 2

office advised public bodies to ensure that proper notice has been given, or they should reschedule the meeting for another time:

If proper notice has not been given for a meeting, the meeting must be stopped. To remedy the violation, the Office of the Attorney General believes that the meeting may be convened or continued solely for the purpose of rescheduling a meeting and adjourning. To otherwise continue a meeting after it is discovered that the meeting was not properly noticed could be viewed as evidence of a willful violation of the Open Meeting Law. Discussions of any public significance which were held before the discovery of the improper notice should be repeated at a later meeting. All actions taken before adjournment are void but may be taken again at a subsequent meeting.

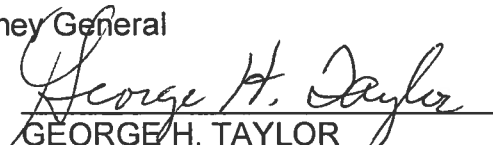
This OML allegation is not supported by the facts of Open Meeting Law Opinion 99-06 primarily because proper notice had been given for the Working Group meeting. Only the scope or jurisdiction of the agenda item has been challenged.

Although a quorum of the Fernley Board of Appeals may have been present at this meeting, there was discussion only of the possibility of a municipal code amendment of a nuisance ordinance; no action or deliberation appears to have been taken on the subject item of the agenda. There was no deliberation or action from members of the Board of Appeals in their official capacity; clearly there was no illegal meeting of the Board of Appeals even if a quorum had been present.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:


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Cc: LeRoy Goodman, City Mayor
Christopher Good, City Manager
Brandi Jensen, City Attorney, Board Counsel

Board Members: Mojra Hauenstein, Brook Renslow, Donald Howard, Gary Oberg,
James Hoover, Scott Huntley, Jim Pringle, Steven Moon