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September 15, 2023

Via Electronic and U.S. Mail

Linda L. Clements



Tony G. Stephenson



Kelsey Anne Penrose



**Re: Open Meeting Law Complaint, OAG File No. 13897-424, Lyon
County Board of Commissioners**

Dear Dr. Clements, Ms. Penrose and Mr. Stephenson:

The Office of the Attorney General (“OAG”) has received your Complaints alleging that the Lyon County Board of Commissioners (“Board”) violated Nevada’s Open Meeting Law (“OML”) at its July 1, 2021, open meeting. Your complaints allege that the Board failed to include a clear and complete statement of Item 19.d. on its public notice agenda in violation of NRS 241.020(3)(d)(1).

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. To investigate the complaints, the OAG reviewed the complaints, response from the Board, the agenda, minutes and recording of the Board’s July 1, 2021, meeting, and the agenda and minutes of the Board’s July 15, 2021, meeting. After investigating the complaints, the OAG determines that the Board did not violate the OML because the discussion at issue did not stray beyond the agendized topic.

FACTUAL BACKGROUND

The Board held a public meeting on July 1, 2021. Agenda Item 19.d. stated, “For Possible Action: Approve starting the process to rename a street in the Dayton area.” When the item was called, one commissioner started off by suggesting that Old Dayton Valley Road be renamed in honor of former President Donald Trump. Potential street names as well as other relevant issues were discussed. The District Attorney advised the Board that this agenda item would allow the Board to direct staff to start the process of renaming the street and waive application fees, but that the application would then need to go through the normal process for renaming a street which would include noticing, public participation and future final approval by the Board. The Board voted to begin the process to change Old Dayton Valley Road to “Pres. Trump Way” and to waive the application fees to do so.

The Board held a public meeting on July 15, 2021. Upon notification of the instant complaints, the Board included an item on the agenda relating to the July 1 meeting. Agenda Item 16.d. stated, “For Possible Action: Direct staff to begin the application process to change the name of Old Dayton Valley Road to Pres. Trump Way, approve the application and authorize staff to move forward with the process.” The County Manager advised the Board that this item was on the agenda to correct any potential OML violation. The Board engaged in extensive discussion and heard many public comments specific to the item. A motion to move the matter forward failed. No further motion was made.

Complainants argue that item 19.b. of the Board’s July 1 agenda violated the OML’s clear and complete standard. The Board argues that its discussion stayed within the item’s description and in addition, any potential violation was cured via corrective action at the Board’s July 15 meeting.

DISCUSSION AND LEGAL ANALYSIS

The Lyon County Board of Commissioners, as the governing body of a Nevada county, is a public body as defined by NRS 241.015(4) and is subject to the OML.

An agenda for a meeting of a public body must include a “clear and complete statement of the topics to be considered during the meeting.” NRS 241.020(3)(d)(1). The “clear and complete statement” requirement of the OML stems from the Legislature’s believe that “incomplete and poorly written

agendas deprive citizens of their right to take part in government' and interferes with the 'press' ability to report the actions of government.” *Sandoval v. Board of Regents of Univ.*, 119 Nev. 148, 154 (2003). The OML “seeks to give the public clear notice of the topics to be discussed at public meetings so that the public can attend a meeting when an issue of interest will be discussed.” *Id.* at 155. Further, “a ‘higher degree of specificity is needed when the subject to be debated is of special or significant interest to the public.” *Id.* at 155-56 (quoting *Gardner v. Herring*, 21 S.W.3d 767, 773 (Tex. App. 2000)).

The OAG finds that the item at issue was not of special or significant interest to the public at the time it was proposed to the Board on July 1, 2021, because the Board as a whole had not proposed the street to be named or the potential name yet. As additional steps were required prior to the street being named, including additional opportunities for public participation prior to a final decision by the Board, the item did not gain such significance until the proposed street and name were chosen. *See In re Nevada State Board of Veterinary Medical Examiners*, OMLO No. 13897-363 at 5 (Jan. 8, 2021) (stating the purpose of the agenda is to give the public notice of what the government is doing, has done, or may do). The evidence indicates that other Commissioners were not aware of the proposed name until it was raised during discussion and were able to propose other streets to be named and other potential names. Thus, Item 19.b. did not require a higher degree of specificity to meet the clear and complete requirement.

The discussion by the Board at its July 1 meeting did not stray beyond the agenda item. Public bodies should apply a reasonableness standard in determining whether an agenda item is clear and complete. *Id.* The agenda at issue gave the public notice that the Board would discuss whether to rename a street in the Dayton area, which inherently includes a discussion of what potential street to name and potential names to choose. *See In re Carson City School District Board of Trustees*, OMLO No. 13897-444 at 3 (Jul. 3, 2023) (finding that an agenda item to approve a contract inherently includes the possibility that a contract may not be reached). The agenda item limited the Board to voting to start the process of renaming the street, which is what it did. Thus, the OAG finds that the discussion and final action fit within the clear and complete statement on the agenda and did not violate the OML. As such, the OAG will not address whether the Board’s July 15 action was sufficient to constitute corrective action under NRS 241.0365 and NRS 241.020(3)(d)(2).

CONCLUSION

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

Respectfully,
AARON D. FORD
Attorney General

By: /s/ Rosalie Bordelove
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