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October 5, 2018

Mr. Aaron L. Katz

**Re: Open Meeting Law Complaint, OAG File No. 13897-282
Incline Village General Improvement District**

Dear Mr. Katz:

The Office of the Attorney General (OAG) is in receipt of your complaint alleging violations of the Open Meeting Law (OML) by the Incline Village General Improvement District Board of Trustees (Board) regarding the continued failure of the Board to approve the minutes for its meeting of August 22, 2017.

On February 21, 2018, the OAG found the Board violated the OML by failing to timely approve the minutes for its meeting of August 22, 2017. In the Findings of Fact and Conclusions of Law for OAG File Number 13897-260 (Findings), which contained the violation finding, the OAG found good cause did not exist to delay the approval of minutes at the Board's meetings of January 10, 2018, and January 24, 2018. Subsequent to January 24, 2018, the Board held seven more meetings at which it did not approve the minutes for its meeting of August 22, 2017. The Board approved the minutes at its meeting of May 23, 2018.

The Board, in response to your complaint, submitted that it could not approve the minutes at a meeting prior to May 23, 2018, because the Board Trustee which requested additional changes to the minutes did not provide the additional changes in time for any of the other meetings. The Board stated, by not approving the minutes, it was avoiding further violation of the OML, specifically, NRS 241.035(1)(e) which requires a public body to include other information in its minutes as requested by a member of the public body.

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The OAG does not find this argument persuasive. Minutes are a reflection of a meeting. See NRS 241.035. A member of a public body may request information be included in the minutes of a meeting. However, such a request must be made in time for the public body to approve the minutes pursuant to NRS 241.035(1). As found by the OAG in its Findings: a "member of a public body must provide any information necessary to make the member's requested changes to the public body's minutes as soon as practicable after the meeting at which the member requests the changes." To find otherwise would lead to an absurd result: a member of a public body could state he has information he desires be included in the minutes, never provide the information, and cause the minutes to not ever need approval for the "good cause" of waiting for the information the member stated he would provide. If a member of a public body does not provide information the member desires be included in the minutes as soon as practicable after the meeting where the member requests changes to the minutes based on the information, good cause for a delay in the approval of the minutes will not be found.

However, the OAG, in its Findings, previously found the Board violated the OML by failing to timely approve the minutes for its meeting of August 22, 2017. In review of your current complaint, the OAG does not find a new violation of the OML.

If the Board had failed to correct its violation, the OAG could have taken action under NRS 241.037(3)(a) based on the on-going nature of the violation. However, the Board corrected its violation on May 23, 2018. The OAG may consider taking action for future, similar OML violations of the Board pursuant to NRS 241.040.

Sincerely,

ADAM PAUL LAXALT
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