



STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

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April 12, 2016

**Via First Class Mail**

Lewis W. Trout  
5272 Offenhouser Drive  
Winnemucca, Nevada 89445

Re: Open Meeting Law Complaint, A.G. File No. 13897-160  
Humboldt General Hospital

Dear Mr. Trout:

Lewis Trout (Mr. Trout) alleges the Humboldt General Hospital District Board of Trustees (the Board) has failed to prepare minutes from its April 28, 2015 meeting in a timely fashion. According to the Board's response to the complaint, its server died before the minutes could be prepared. Until staff can recover the digital files used to record the meeting, the minutes cannot be prepared. The Board states that the minutes are typically prepared from the meeting's audio recording. Until the digital files are recovered so that staff can use an audio recording, minutes can't be prepared.

Mr. Trout requests that the Office of the Attorney General (OAG) void all actions taken during the April 28, 2015 meeting based on his reading of NRS 241.036. The OAG disagrees the actions taken during the April 28, 2015 meeting should be voided.

The OAG has jurisdiction to investigate Open Meeting Law complaints, to issue findings of fact and conclusions of law in an opinion, to sue a public body to void its action, or to sue for injunctive relief and other civil remedies including monetary fines. NRS 241.037 and NRS 241.040.

The OAG reviewed the response from the Board. Board's server holding hospital records and the April 28th meeting minutes was corrupted. It had failed making it impossible to recover or access its files. Patient records were the first priority for recovery. Not until August 27, 2015 were the meeting audio files accessible. In the meantime, neither the audio files nor the minutes could be made available.

Subsection 7 of NRS 241.035 allows public bodies to make a good faith effort to provide minutes and/or audio recordings without violating the OML. It states:

If a public body makes a good faith effort to comply with the provisions of subsections 4 and 6 but is prevented from doing so because of factors beyond the public body's reasonable control, including, without limitation, a power outage, a mechanical failure or other unforeseen event; such failure does not constitute a violation of the provisions of this chapter.

Our review of the evidence is that the Board made a good faith effort to comply with OML requirements, but the failure of their server, which holds much more information than meeting minutes, was unavoidable; therefore, it was not a violation.


Moreover, even if the failure of the server had been fault of the Board, there's still no basis for voiding the actions of the public body on the April 28th meeting. Those actions were taken in public. Each member of the public body could have reconstructed his or her vote for each action item if necessary. It would be unreasonable to void those actions which were unrelated to the failure of the server.

The OAG is closing the file on this matter.

Sincerely,

ADAM PAUL LAXALT  
Attorney General

By:

  
GEORGE H. TAYLOR  
Senior Deputy Attorney General  
Boards and Open Government Division  
Open Meeting Law

Cc: Kent Maher, Esq., Counsel for the Board  
Mel Hummel, Board President