

1 The OML further requires that public bodies record all meetings, whether public or
2 closed, on audiotape or any other means of sound reproduction or cause the meeting to be
3 transcribed by a certified court reporter, and thereafter create and maintain minutes of
4 all meetings, including the substance of all matters proposed, discussed or decided. NRS
5 241.035.

6 Any action taken in violation of the OML is void. NRS 241.036.

7 **FINDINGS OF FACT**

8 1. The Council is a “public body” as defined in NRS 241.015(4) and is subject to
9 the OML.

10 2. Agenda item No. B12 for the Council’s March 23, 2017, meeting was
11 identified for possible action and read as follows:

12 Mayor Van Camp – Discussion/For Possible Action – Approval to
13 send Councilwoman Robison to Rural Roundup in Elko, Nevada
14 April 26-27, 2017 to represent the City of Ely; registration fee of
15 \$65.00 covers meals and increases after March 31, 2017, and to
16 authorize the expenditure of up to \$150.00 for lodging should
17 she not be able to share a room with a member of the Tour and
18 Recreation Board who is planning on attending, to be paid from
19 the general fund.

20 3. At the Council’s March 23, 2017 meeting, during the course of discussion
21 and deliberation on agenda item No. B12, at the request of Councilman Bruce
22 Setterstrom, Mayor Melody Van Camp recessed the meeting for approximately 3 minutes.
23 When the meeting reconvened, Mayor Van Camp stated “[w]e’re done, we’ve got this
24 figured out.”

25 4. Thereafter, Councilman Setterstrom moved to “quash” agenda item No.
26 B12. The motion was seconded by Councilman Sam Hanson and passed unanimously
27 with all councilmembers, including Councilwoman Jolene Gardner, Councilman Kurt
28 Carson, and the complainant, voting in favor.

CONCLUSIONS OF LAW

1. The Council violated NRS 241.020(1) and NRS 241.035 when it continued to
deliberate toward a decision on agenda item No. B12 during the recess of the March 23,

1 2017, meeting. The OML requires public bodies to deliberate toward a decision in a
2 properly-recorded public meeting, and there are no statutory exceptions to this
3 requirement that would have applied to the Council's consideration of agenda item No.
4 B12.¹

5 2. The action taken on March 23, 2017, to "quash" agenda item No. B12 is void
6 under NRS 241.036.²

7 SUMMARY

8 The Council admitted in its response to violating the OML when it continued to
9 deliberate towards a decision on agenda item No. B12 during the recess of the March 23,
10 2017, meeting and subsequently took action to "quash" the agenda item.

11 Because the OAG finds that the Council has violated the OML, the Council must
12 place these Findings of Fact and Conclusions of Law on its next meeting agenda and
13 include them in the supporting material for the meeting. The agenda item must
14 acknowledge these Findings of Fact and Conclusions of Law to be the result of the OAG
15 investigation in the matter of Attorney General File No. 13897-230, and that it has been
16 placed there as a requirement of NRS 241.0395.

17 The OAG notes that this is the second OML violation by the Council in three
18 months, following the violations noted in the matter of Attorney General File No. 13897-
19 218. The Council is warned that any further violations may result in action by the OAG
20 pursuant to NRS 241.037 and NRS 241.040.

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24 ¹ In his response, Ely City Attorney Charles Odgers repeatedly makes reference to when
25 the Council went "off the record" and went back "on the record." However, the OML
mandates that all meetings of public bodies be "on the record."

26 ² The OAG notes that "quashing" an agenda item is not an act recognized under either
27 the OML or any recognized rule of parliamentary procedure. However, to the extent the
28 Council intended to delete the agenda item, NRS 241.020(2)(d)(6)(III) provides that a
public body "may remove an item from the agenda."

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on the 25th day of May, 2017, I caused to be deposited for mailing, a true and correct copy of the foregoing, FINDINGS OF FACT AND CONCLUSIONS OF LAW, to the following:

Patricia E. Robison
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Karen L. Rutledge
Employee of the
Office of the Attorney General

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