

ADAM PAUL LAXALT
Attorney General



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5420 Kietzke Lane, Suite 202
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November 2, 2017

Via U.S. Mail

Mark J. Phillips

**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-239
Storey County Board of Commissioners**

Dear Mr. Phillips:

The Office of the Attorney General (OAG) is in receipt of your complaint (Complaint) alleging a violation of the Open Meeting Law (OML) by the Storey County Board of Commissioners (Board) regarding meetings held without the presence of the Storey County District Attorney or Deputy County District Attorney.

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. In response to the Complaint, the OAG reviewed the Complaint and attachments; the response to the Complaint from the Board's counsel, Keith Loomis, Storey County Deputy District Attorney; the agenda and meeting materials from the Board's August 15, 2017, meeting; and the minutes for the Board's August 15, 2017, meeting approved by the Board on October 3, 2017.

FACTUAL BACKGROUND

The Board is a "public body" as defined in NRS 241.015(4) and subject to the OML. During its August 15, 2017, meeting, the Board did not have deputized counsel present. The Board had private counsel, who was not deputized, retained to attend the meeting.

DISCUSSION AND LEGAL ANALYSIS

Chapter 241 of the Nevada Revised Statutes requires the actions of public bodies "be taken openly and that their deliberations be conducted openly." NRS 241.010(1); *see McKay v. Bd. Of Supervisors*, 102 Nev. 644, 651 (1986). Your

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complaint does not allege the Board did anything in violation of Chapter 241 of the Nevada Revised Statutes. Rather, your complaint appears to allege a violation of NRS 252.070 in that the private counsel who had not been deputized attended the meeting of the Board, and the Storey County District Attorney and her deputy were not present. Determining whether or not the Board violated NRS 252.070 is not within the scope of review by the OAG on an OML complaint. Thus, your complaint does not allege a violation of the OML.

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By: 

JOHN S. MICHELA
Senior Deputy Attorney General
Gaming Division

JSM:arz
cc: Anne M. Langer
Storey County District Attorney