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July 31, 2013

Fred Voltz
1805 North Carson Street, Suite 231
Carson City, Nevada 89701

Re: Open Meeting Law Complaint / AG File No. 13-019
Carson City Library Board of Trustees

Dear Mr. Voltz:

We have investigated your Open Meeting Law (OML) Complaint, which alleges the Carson City Library Board of Trustees violated the OML at numerous meetings, going back to January 25, 2013. The Complaint alleges the Trustees have never called for public comment before taking action on items marked "for possible action." NRS 241.020(2)(c)(3)(II).

The Complaint also alleges that the February 28, 2013, meeting minutes and the April 25, 2013, meeting minutes failed to append to either the paper meeting minutes or the online meeting minutes documents you provided to the Secretary at the meeting. The Complaint alleges Trustee's failure to append your documents to meeting minutes were violations of NRS 241.035(1)(d). You have also alleged that your written comments were summarized rather than posted verbatim.

We investigated your Complaint. We reviewed the agenda and minutes of the many public meetings. We also asked for and received a response from legal counsel for the Library Board.

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The gravamen of your Complaint requires review of the statutory authority you have asserted to determine whether the Library Board is under a duty to: (1) append documents which you have referred to as public comments and whether they in fact did append documents to the two meeting minutes, and (2) whether the Library Board is under a duty to call for public comment before taking action on each agenda action item.

The Complaint alleges the Board has not taken public comment after discussion of an action item, but before taking action on the item. Review of the agendas for the several meetings referred to in your Complaint shows that the Board is not under any statutory duty to take public comment when considering an action item. NRS 241.020(2)(c)(3) provides a choice to each public body about how it will allow the public to address it. There is a choice to be made; parts (I) and (II) are set out in statute in the disjunctive which means they are connected with the conjunction "or" – which means "choice." The Board has chosen to use part (I) which means it provides two periods of public comment – one at the beginning of the meeting and one before adjournment. Once this selection was made, there was no statutory duty to allow additional public comment before the Board takes action on an item marked "for possible action."

You have also alleged the Board failed to append documents, which you provided to the Secretary of the Board, to the minutes of two meetings (April 25, 2013, and February 28, 2013), and that these documents were not attached to the online meeting minutes of these meetings. NRS 241.035(1)(d) requires meeting minutes to reflect the substance of remarks made by any member of the public if the public member requests that the minutes reflect his remarks, or if he submits prepared written remarks and submits a copy for inclusion in the minutes. However, there is no requirement that minutes be uploaded to the public body's website – public bodies are required to upload agendas, but not minutes. Verbatim minutes are not required by the OML. Open Meeting Law Manual §10.02 p.94 (11th ed. 2012).

NRS 241.035 requires that the public body "make available" minutes for inspection by the public within 30 days after adjournment of the meeting; it does not require that minutes appear online. The words "make available" mean that the public may inspect the minutes or make a copy of minutes. It does not mean they must be posted online. The Board did make available to the public, for inspection at the Carson City Library, the official meeting minutes with the documents you asked to be appended.

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The Board's handling of its minutes complies with statutory requirements. NRS 241.035(1)(d). We were provided copies of Board's meeting minutes for the two meetings you provided documents to be appended. The minutes we reviewed had appended your documents.

We do not find that an OML violation for any issues raised in this Complaint. We are closing our file on this matter.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:



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Senior Deputy Attorney General
Open Meeting Law
Tele: (775) 684-1230

GHT/rmh

cc: Joe Ward, Senior Deputy District Attorney, Counsel to Carson City Library Board of Trustees via U.S. Postal Service and email: jward@carson.org
Carson City Library Board of Trustees board members:
Sandy Foley, Chairperson
Drew Simmons, Vice Chairperson
Robert Kennedy, Trustee
Maxine Nietz, Trustee
Robin Williamson, Trustee