



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701-4717

ADAM PAUL LAXALT
Attorney General

WESLEY K. DUNCAN
Assistant Attorney General

NICHOLAS A. TRUTANICH
Chief of Staff

November 4, 2015

Via First Class Mail

David T. Cosner
459 Upper Colony Road
Wellington, Nevada 89444

Re: Open Meeting Law Complaint Nos. 13897-142 and 13897-151, against
Smith Valley Park & Recreation Board

Dear Mr. Cosner:

The Attorney General's Office (AGO) has considered these two Open Meeting Law (OML) complaints. Attached to this letter is a copy of the AGO's August 3, 2015 letter opinion which addressed all OML allegations against the Smith Valley Park and Recreation Board (Board) except item #4 of the complaint #13897-142.

We recently again reviewed these two Complaints and any recent correspondence. Further review and investigation of these two complaints are not warranted. The following is an explanation.

We have received the Lyon County District Attorney's answer in response to our invitation to further examine item #4 (in complaint No. 13897-142) and determine whether there were problems with Board's OML compliance in making supporting materials available to the public as required by NRS 241.020(6). Complainant states that he had not received requested supporting materials on several occasions when board members receive their supporting materials.

The Attorney General has jurisdiction to investigate allegations of violations of NRS Chapter 241, the Open Meeting Law. This office may seek civil remedies against public bodies, including injunctive relief, to require compliance with the OML, or to prevent violations of the OML. A criminal misdemeanor penalty and a monetary penalty for violations of the OML are also authorized relief against individuals in any court of competent jurisdiction. NRS 241.037; NRS 241.040.

Lyon County District Attorney Stephen Rye's response to the allegations determined that Complainant had made a proper request for supporting materials under NRS 241.020(6).¹ It is not denied that supporting materials were available at the time the agenda was posted. The Complainants were not provided with supporting materials at the time the Board was given their packets. Our review of email correspondence with the District Attorney's Office (DAO) explains why requested supporting materials had not been made available. Both individuals from the Board, with knowledge of this failure to provide supporting materials, are new to the Board and were (by admission) unaware of this OML requirement. Both individuals stated they "did not intend to violate the law or withhold anything from anyone."

CONCLUSION

The AGO believes this was an inadvertent violation. Lyon County continues to make a concerted effort to educate the Board regarding legislative intent underlying fundamental requirements of the OML. Because of the County's efforts, and the progress it continues to make, this office carefully reviewed the facts, and will not pursue these issues any further at this time.

¹ NRS 241.020(5) and (6): Upon any request, a public body shall provide, at no charge, at least one copy of:

- (a) An agenda for a public meeting;
- (b) A proposed ordinance or regulation which will be discussed at the public meeting; and
- (c) Subject to the provisions of subsection 6 or 7, as applicable, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

NRS 241.020(6). A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:

- (a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or
- (b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body. If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.

David T. Cosner
November 4, 2015
Page 3

This letter closes both of our files.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By:


George H. Taylor

Senior Deputy Attorney General
Bureau of Government Affairs
Open Meeting Law Coordinator
Office of the Attorney General

Enclosures:

Cc: Stephen B. Rye, District Attorney
Jeffery Page, Lyon County Manager
Ron Bromps, Chairman of the Board