



STATE OF NEVADA
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July 8, 2014

Via First Class Mail

Samuel B. Sanders
665 Aesop Drive
Spring Creek, Nevada 89815

Re: Open Meeting Law Complaint, A.G. File No. 14-007
Elko County Commission

Dear Mr. Sanders:

The allegation in this Open Meeting Law (OML) complaint asserts that the Elko County Commission (Commission) violated NRS 241.020¹ because it prevented discussion of an agreement between Elko County and the U.S. Dept. of Agriculture Animal and Plant Health and Inspection Service (Wildlife Services) for predator and animal control in Elko County. It is alleged the Commission acted to conceal discussion of contracting with a private vendor for predator control in a public meeting, even though it had been requested multiple times by a member of the public. It is also alleged that failure to agendize the contract prevented the matter/meeting from being "open and public."²

¹ NRS 241.020 Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions. [Effective January 1, 2014.]

1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

² We did not investigate another allegation in the complaint that the Commission illegally entered into the APHIS contract, in April of 2013, because the allegation is more than one year old and beyond the limitations period for Attorney General's jurisdiction when we may seek to void a public body's action, seek injunctive relief, or otherwise investigate the underlying matter. NRS 241.037(3).

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We reviewed the agendas and minutes for relevant meetings of the Commission. We asked for and received statements from each Commissioner. The Commission also forwarded email correspondence between the complainant and the Commission, which the complainant asked that it be forwarded to this office, for our review.

Discussion

County Commissioner Charlie Myers responded to the complaint's allegation with an explanation of the reason the public request for an agenda item to consider a contract for predator control using a local contractor had not been granted sooner. Commissioner Myers recollected that a request had been made by Trevor Walch to agendaize a predator control contract so that local contractors could bid on it.

Commissioner Myers remembered that Mr. Walch commented on the matter at the Commission's March 6, 2014 meeting regarding his experience and his qualifications in predator control compared to that of the federal agency—Wildlife Services—then under contract.

Agenda Item #6 was Mr. Trevor Walch's request for consideration of his request to fund \$25,000 towards his private company to provide spring aerial hunting services (predator control) to livestock producers in Elko County during 2014. In this meeting Commissioner Myers explained to Mr. Walch and to the other members of the public that he had been hesitant to place this matter on the commission's agenda because Wildlife Services Director Mark Jensen had been out of State and Commissioner Myers did not want to go forward with the agenda item unless Mr. Jensen was present or could provide a statement as to services provided to date (April 2013-March 2014).

Commissioner Myers also announced during the meeting on March 6th that the County's Budget Committee would recommend that the County exercise its contractual right to elect out of the contract upon 60-day notice effective June 30, 2014. He said that Wildlife Services had only billed the County \$500.00 for the entire contractual year.

Commissioner Myers also recollected that he had earlier informed Mr. Walch that his request for a contract from the County for predator control had to go through a process including consideration by the Commission's Budget Committee, and then staff had to prepare a request for proposals for predator control if the Commission deemed it necessary to acquire such private services following the termination of the contract with Wildlife services.

There is no evidence of interference with the open and public meeting requirements of the OML based on the yearlong contract with Wildlife Services. Commissioner Myers reasons for waiting to put the matter on the agenda were reasonable and not subject to review under the OML. All meetings relevant to this

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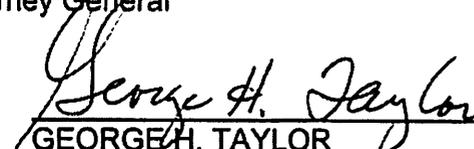
complaint were open and public. The Commission determines what subjects/matters will appear on its agenda. If failure to put a matter on the agenda occurred it was a matter of local concern based on local policy decision to allow the public to request agenda items. The OML does not give the public a statutory right to force public bodies to place matters on a public body's agenda upon any request. There was no evidence of concealment or covert actions to prevent the appearance of this matter on any agenda. Elko County already had a contract with Wildlife Services for predator control which could have extended for another 4 years thus obviating a similar contract with a private party.

We did not find an OML violation. We are closing our file on this matter.

Sincerely,

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Attorney General

By:


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