



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701-4717

CATHERINE CORTEZ MASTO
Attorney General

KEITH G. MUNRO
Assistant Attorney General

THOM M. GOVER
Acting chief of Staff

May 12, 2014

Via First Class Mail

Ed Uehling
P.O. Box 19462
Las Vegas, Nevada 89152

Re: Open Meeting Law Complaint, A.G. File No. 14-011
IRPAC (Integrated Resource Planning Committee), Southern Nevada
Water Authority (SNWA)

Dear Mr. Uehling:

We have reviewed your Open Meeting Law complaint dated March 20, 2014. In it you have asked this office to require IRPC to provide backup materials to the public at the same time that meeting notices and agendas are posted.

On April 17th, SNWA's General Counsel Gregory Walch replied by letter to your Complaint. He defended IRPAC's practice of not posting "supporting materials" at the same time the meeting agenda is posted for IRPAC's next meeting. Rather, IRPAC's practice is to "make available" supporting materials to the public at the same time the materials are provided to the public body members.

NRS 241.020(6) requires only that public bodies make available supporting materials when members of the public body are provided with the copies. Subsection (6) of the NRS makes the requirement explicit.

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.

"Made available" means that the materials must be made available over the counter and only upon request. A request for supporting materials must be fulfilled following receipt of copies of the materials by members of the public body. See OMLO 98-01 (January 21, 1998) and OMLO 2003-06 (February 27, 2003); Attorney General Open Meeting Law Manual §6:06, pps. 61-62 (Eleventh Ed., June 2012).

The Open Meeting Law (OML) does not require that supporting materials be posted at the same time as the Notice of the meeting is posted. You are well aware of the OML law, as your letter cites to NRS 241.020(5),(6) and (7) and the ability to request notice by electronic mail.

We also realize that IRPAC's Notice of Meeting indicated that there were no backup materials for the meeting despite an agenda item based on IRPAC meeting summaries, and another based on Agreements and Contracts that govern the Colorado River. Nevertheless, staff has no duty to create "supporting materials" even if such materials exist and even if the public claims they might assist them if they had been made available. Under these circumstances provision of supporting materials is discretionary.

Ed Uehling
May 12, 2014
Page 3

The documents mentioned in your letter, which you believe are supporting materials for the March 26th meeting, may be subject to a public records request if they were not distributed to members of the public body before or during the March 26th meeting. See NRS 239.010.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:



GEORGE H. TAYLOR
Senior Deputy Attorney General
Bureau of Government Affairs
Boards and Commissions Division
(775) 684-1230

GHT:smg

Cc: Gregory Walch, Esq., General Counsel for Southern Nevada Water Authority

Board Members:

Mary Beth Scow, Chairwoman
Sam Bateman, Vice Chairman
Susan Brager
Bob Coffin
Duncan McCoy
Steven Sisolak
Anita Wood