STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

In the Matter of:  

KINGSTON TOWN BOARD.  

OPEN MEETING LAW COMPLAINT
Attorney General File No. 14-035

CORRECTED OPINION

BACKGROUND

Bradley Ward (Mr. Ward), of Kingston Nevada, submitted this Open Meeting Law (OML) complaint that alleges the Kingston Town Board (KTB), a public body subject to the OML, violated the OML when it prevented Mr. Ward from making public comment to the Board about an item on the Board's October 8, 2014 agenda.

We have reviewed the minutes of the meeting on October 8, 2014.

FINDINGS OF FACT

On October 8, 2014, the Kingston Town Board held a special meeting primarily to consider whether to approve a letter that had been written on behalf of the KTB. It was to be sent to the Kingston Volunteer Fire Department (KVFD), a corporation. In it, the KTB informed KVFD that the town of Kingston would no longer financially support the KVFD, nor would it need the corporation's services, as the town intended to use its own volunteer's services. The letter would also require the return of certain equipment to the KTB.

The agenda for this meeting had two items. It also had two periods of public comment; however, both periods of public comment limited comment to non-agendized items only.

Mr. Ward asked to speak during the second period of public comment after the Board had voted to send the letter. He was denied from speaking by members of the Board. Mr. Ward stated during the second public comment period that he wished to speak. Shannon Thiss (Ms. Thiss), Town Manager, reiterated what Board Members had told Mr. Ward, that the letter was a Board "thing" and had nothing to do with the public. Ms. Thiss said Mr. Ward
couldn't discuss the letter in public comment. Mr. Donald Haines, Vice-Chairman told
Mr. Ward he would have to wait to get the letter [it was being sent to him] to find out what had
been suggested by the Board Counsel regarding a proposal that the town disengage from the
KVFD.

Although Mr. Ward continued to ask questions the Board refused to discuss the letter
with him referring him to their lawyer.

CONCLUSION OF LAW

The Open Meeting Law requires at least one period of public comment on every
agenda which allows citizens to speak of any matter or topic not specifically included on the
agenda as an action item. NRS 241.020(2)(d).

Failure to allow Mr. Ward to speak was a violation of NRS 241.020(2)(d).

Kingston Town Board's failure to allow Mr. Ward to speak invalidates the action the
Board took to approve the letter that was intended to be sent to the KVFD. If the KTB intends
to pursue the disengagement from the KVFD, it must repeat the meeting and re-agendize the
item from the October 8, 2014, agenda.

Failure to re-agendize the item on a future agenda will result in an action from this
office seeking injunctive relief.
THIS OPINION FINDING VIOLATION MUST BE PLACED ON THE NEXT KINGSTON TOWN BOARD’S AGENDA AND THE OPINION MUST BE MADE PART OF THE SUPPORTING MATERIALS PURSUANT TO NRS 241.0395.¹

DATED this 13th day of February 2015.

ADAM PAUL LAXALT
Attorney General

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¹ NRS 241.0395 Inclusion of item acknowledging finding by Attorney General of violation by public body on next agenda of meeting of public body; effect of inclusion.

1. If the Attorney General makes findings of fact and conclusions of law that a public body has taken action in violation of any provision of this chapter, the public body must include an item on the next agenda posted for a meeting of the public body which acknowledges the findings of fact and conclusions of law. The opinion of the Attorney General must be treated as supporting material for the item on the agenda for the purposes of NRS 241.020.

2. The inclusion of an item on the agenda for a meeting of a public body pursuant to subsection 1 is not an admission of wrongdoing for the purposes of a civil action, criminal prosecution or injunctive relief.

(Added to NRS by 2011, 2384)
CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 13th day of February 2015, I deposited for mailing at Carson City, Nevada, a true and correct copy of the foregoing OPEN MEETING LAW OPINION, via United States Mail addressed as follows:

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