



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

GREGORY M. SMITH
Chief of Staff

April 3, 2014

Via First Class Mail

Janice Prichard
PO Box 1668
Fernley, Nevada 89408

Re: Open Meeting Law Complaint / AG File No. 13-041
Fernley City Council

Dear Ms. Prichard:

We have reviewed your allegations in the Open Meeting Law (OML) complaint you filed with this office asserting that Mayor LeRoy Goodman (Mayor Goodman) willfully disrupted the Fernley City Council meeting of December 4, 2013.

Complaint alleges the Mayor's comments were offensive to you as the speaker during public comment, and interfered with your First Amendment right to speak during a public meeting, all of which was in violation of Nevada's Open Meeting Law.

Complaint also alleges that your First Amendment rights were violated when Mayor Goodman interrupted your public comment regarding agenda item #6, Discussion and Possible Action of Ordinance Bill #197 (Bill #197) that would amend the city's ordinance setting Rules and Regulations regarding the Fernley Desert Memorial Garden Cemetery. It's alleged that the Mayor's comments were not viewpoint neutral in violation of the OML.

We have reviewed your 16 minute public comment, provided to us from the City's audio recording, multiple times to analyze your allegations in the context of the hearing on Bill #197. We do not find a violation of the OML by Mayor Goodman because of comments he made during your public comment.

FACTS

Ms. Pritchard's public comment lasted almost 16 minutes. However, when Ms. Pritchard stated that Councilman Edgington had stated earlier in the meeting that the City did not know who was buried in the cemetery and then adding that that fact was a violation of Nevada statutes, Mayor Goodman interrupted her comment.

He said, "Whoa, Whoa, ... that's enough. Nobody said we don't know who's buried out there. That's not a true statement. We have records of everyone buried there. Let's get off that. I don't care what Mr. Edgington said." Mayor Goodman asked if she was through with her comment. Ms. Pritchard said "no". Mayor Goodman asked her to finish because time was up and the Council had work to finish.

During Mayor Goodman's statement, Ms. Pritchard can be heard also speaking. She was explaining that she only said what she thought Councilman Edgington said earlier in the discussion of that particular agenda item.

Ms. Pritchard continued to speak for another 45 seconds after the colloquy regarding whether the city had records of individuals buried in the city's cemetery. At the end of her comment, Ms. Pritchard again apologized for mischaracterizing Councilman Edgington's earlier statement. Mayor Goodman thanked her for her comments. There was no disruption of the meeting because the meeting continued even during this colloquy between Mayor Goodman and Ms. Pritchard. Ms. Pritchard was not penalized as she continued to speak and had time to apologize once more.

ARGUMENT

First, the Open Meeting Law does not guarantee civility among the public or between the public and the members of a public body, just like federal civil rights laws are not to be considered or applied as a "general civility code." *Farragher*, 524 U.S. at 788, 118 S.Ct. 2275; *Clark v. United Parcel Serv., Inc.*, 400 F.3d 341, 352 (6th Cir.2005).

Secondly, the allegation that the Mayor's comments were a personal attack which was demeaning, humiliating, and for which the speaker felt shame does not state

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a claim under the OML. None of the comments from the Mayor interfered with Ms. Pritchard's First Amendment freedom of speech rights. It is clear that Ms. Pritchard voluntarily apologized several times for her misapprehension of Councilman Edgington's earlier comments. It seems to us that the colloquy between Mayor Goodman and Ms. Pritchard were well within the bounds of the relationship between members of the public and members of a public body during a public meeting.

CONCLUSION

Mayor Goodman's comment was a viewpoint neutral as he corrected an important fact that had been erroneously restated by Ms. Pritchard during her comment. Viewpoint is a subjective issue from person to person. Whether the City has records of who is buried in its cemetery is a factual matter subject to proof; it's not a subjective issue subject to multiple viewpoints. One may differ with the statement that records are complete, but the difference is not a difference of opinion or viewpoint. It is strictly factual.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:



GEORGE H. TAYLOR
Senior Deputy Attorney General
Open Meeting Law
Tele: (775) 684-1230

GHT:smg

Cc: Brandi Jensen, City Attorney
Office of the City Attorney
595 Silver Lace Blvd.
Fernley, NV 89408

LeRoy Goodman, City Mayor
Kelly Malloy, Councilwoman
Daniel McCassie, Councilman
Roy Edgington, Councilman
Susan Seidl, Ward 4 / Councilwoman
Cal Eilrich, Ward 5 / Councilman