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June 10, 2026

Via U.S. Mail

MaQuade Chesley



Re: Open Meeting Law Complaint, OAG File No. 13897-560
City of Mesquite

Dear Mr. Chesley,

The Office of the Attorney General (“OAG”) has reviewed your Complaint (“Complaint”) alleging violations of the Open Meeting Law (“OML”) by the City of Mesquite (“City”) regarding alleged serial communications related to the appointment of a permanent Police Chief for Mesquite.

The OAG has statutory enforcement powers under the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. The OAG’s investigation included a review of the Complaint, the Response on behalf of the City, and the agenda for alleged serial communications related to the appointment of a permanent Police Chief for Mesquite. After investigating the Complaint, the OAG determines that the City did not violate the OML as alleged in the Complaint.

FACTUAL BACKGROUND

On October 17, 2025, a complaint was made alleging violations of Nevada's OML in connection with the potential appointment of a permanent Police Chief for the City.

The Complaint alleges that on September 18, 2025, Mayor Whipple ("Mayor") attended a meeting for the Mesquite Police Officers Association ("MPOA") at the Mesquite Police Department. Approximately 15 to 18 MPOA members were present, along with Police Captain Quinn Averett. No members of the Mesquite City Council were in attendance. During the meeting, the Mayor reportedly stated that he had "polled the City Council five different times" regarding support for appointing Interim Police Chief Tracy Fails ("Fails") as permanent chief, and that councilmember views had changed over time. The Mayor also allegedly advocated for Fails' appointment and encouraged MPOA members to actively support that outcome and influence both the City Council and the City Manager.

The Complaint asserts that these statements demonstrate that the Mayor engaged in serial communications with members of the City Council outside a properly noticed public meeting, and that the MPOA meeting itself functioned as an improper forum for deliberation regarding a matter within the Council's jurisdiction.

In the City's January 9, 2026, response, they asserted that the Mayor's communications with council members consisted solely of private, one-on-one conversations. According to sworn declarations submitted by the Mayor and each council member, the Mayor did not communicate the views, opinions, or potential votes of any council member to any other member. The City further states that no quorum was ever present, no collective deliberation occurred, and no action had been taken regarding the appointment of a permanent Police Chief. The Mayor's statement that council opinions had "changed" is characterized as a general observation rather than a disclosure of specific positions. The City also asserts that the Mayor lacked any intent to circumvent the OML and was engaged in permissible information gathering.

LEGAL ANALYSIS

A. There was no OML Violation as the Mayor's Polling of Council Members did Not Constitute a Series of Meetings or Serial Communications.

Under NRS 241.015, a meeting includes not only a gathering of a quorum, but also a "series of gatherings" if those gatherings are used to deliberate toward a decision or are conducted with the intent to avoid the requirements of the OML. The statute defines "deliberate" as the collective examination or weighing of reasons for or against an action, including the exchange of information preliminary to a decision.

The Nevada Supreme Court in *Dewey v. Redevelopment Agency of Reno*, 119 Nev. 87, 94 (2003), clarified that serial communications may violate the OML where they result in collective deliberation, particularly if an intermediary conveys the views of one member to others, thereby creating a constructive quorum. However, the Court also held that sequential, one-on-one discussions do not constitute a meeting absent of evidence that information or positions were relayed among members.

Here, the evidence establishes that the Mayor engaged in multiple one-on-one conversations with individual council members regarding the potential appointment of a Police Chief. The Mayor acknowledged that he had "polled" council members multiple times. However, the critical inquiry is whether those communications resulted in the type of collective deliberation contemplated by NRS 241.015.

The sworn declarations provided by the Mayor and each council member uniformly state that the Mayor did not communicate the opinions, positions, or anticipated votes of any council member to any other member. These statements indicate that the Mayor did not function as a conduit for the exchange of views between members. Rather, the communications, as described, reflect individual information-gathering discussions that terminated with the Mayor and were not shared further.

Additionally, there is no evidence that any council member committed to a particular vote, that a consensus was formed, or that the communications were structured in a manner designed to reach agreement outside of a public meeting. The Mayor's statement that council opinions "changed about every time" suggests the absence of a stable or coordinated position rather than the existence of collective deliberation.

A series of gatherings constitutes a meeting only where there is evidence of specific intent to circumvent the OML. NRS 241.015(4)(a)(2)(III). In this matter, the record contains affirmative declarations denying any such intent, and no independent evidence suggests that the communications were conducted for the purpose of evading public scrutiny.

B. The OML was Not Violated as the September 18, 2025, MPOA Meeting did Not Constitute an Improper, Non-Noticed Deliberation.

The OML applies only to meetings of a “public body,” which requires the presence of a quorum engaging in deliberation or action. NRS 241.015(4). It is undisputed that no members of the City Council, other than the Mayor, were present at the MPOA meeting. Therefore, no quorum of the City Council existed at that gathering.

The Complaint contends that the Mayor’s statements—particularly his reference to polling council members and his encouragement of MPOA advocacy—effectively transformed the meeting into an improper deliberative forum. However, the statutory definition of “deliberation” requires collective discussion among members of the public body. A single official, acting alone, does not constitute a quorum and cannot, by definition, engage in collective deliberation under NRS 241.

Moreover, while the Mayor’s statements referenced prior communications with council members, the record does not demonstrate that he disclosed specific positions attributable to individual members or that he facilitated an exchange of views among council members through the MPOA. Rather, the statements appear to reflect generalized observations and advocacy regarding a policy outcome.

The Court in *Dewey* cautioned against finding violations based on speculation that information may have been shared indirectly. In the absence of evidence that the MPOA meeting was used as a mechanism to transmit councilmember views among members or to reach a collective decision, the meeting does not satisfy the statutory definition of a “meeting” under NRS 241.

CONCLUSION

Upon review of your Complaint and available evidence, the OAG has determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,
AARON D. FORD
Attorney General

By: /s/ Stephanie Itkin-Goodman
STEPHANIE ITKIN-GOODMAN
Deputy Attorney General

cc: Adam K. Anderson, Esq., City of Mesquite