

CRAIG A. NEWBY
First Assistant Attorney General

AARON D. FORD
Attorney General

LESLIE NINO PIRO
General Counsel

CHRISTINE JONES BRADY
Assistant Attorney General

HEIDI PARRY STERN
Solicitor General



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

1 State of Nevada Way, Suite 100
Las Vegas, Nevada 89119

August 28, 2026

Via U.S. Mail and Email

David W. Park



Re: Open Meeting Law Complaint, OAG File No. 13897-568

Dear Mr. Park:

The Office of the Attorney General (“OAG”) is in receipt of your complaint (“Complaint”) alleging violations of the Open Meeting Law (“OML”) by the Douglas County Board of Commissioners (“Board”) regarding communications between Commissioners in December 2025 and early 2026.

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 of the Complaint included a review of the Complaint, its attachments and supplements, the Responses on behalf of the Board, and meeting records of the Board for the time period at issue. After investigating the Complaint, the OAG determines that the Board did not violate the OML as alleged in the Complaint.

FACTUAL BACKGROUND

In 2019, Douglas County entered into a development agreement with Park Ranch Holdings, LLC (“Park Ranch”) that included Douglas County agreeing to construct an extension of Muller Parkway in Douglas County (the “Development Agreement”). Over the proceeding years, the County began the project, dividing it into Phases 1, 2 and 3. Also during that time, litigation arose between the County and Park Ranch regarding the Development Agreement. Included in that dispute are disagreements regarding the feasibility of Phase 2 of the Muller Parkway project and the parties’ contractual obligations with respect to Phase 2.

The Complainant, a principal of Park Ranch, alleges the Board held a gathering as a quorum with its attorneys on December 1, 2025, where it decided not to proceed with Phase 2 of the Muller Parkway project. The Complaint further alleges that on December 7, the County Manager authorized the County Engineer to inform a third party that the County had decided not to proceed with construction on Phase 2.

Commissioners Mark Gardner, Daniel Tarkanian and Sharla Hales submitted sworn declarations all stating that they did not attend an attorney-client session, or “non-meeting”, on December 1. All three declarations also state that as of their date, the Board had not made any decision with respect to Phase 2 of Muller Parkway.

On or around December 9, 2025, a conversation occurred between Keith Ruben, the Director of Planning and Entitlements for Wilson Engineers, and Jeremy Hutchings, the Douglas County Engineer, regarding aspects of the project. Ruben followed that conversation up with an email the next day indicating Ruben’s understanding that the County had made a decision not to proceed with the road’s construction. Subsequent emails the same day between Jenifer Davidson, the Douglas County Manager, and Hutchings reflect their understanding that the County had not made such a decision.

On April 3, 2026, Davidson sent a letter to Park Ranch containing two potential settlement offers to resolve the litigation between the parties. The letter includes legal arguments and states the County’s positions why completing construction of Phase 2 may no longer be feasible. It states, “If all parties cannot come to a resolution, the County will schedule a public meeting with the Board of County Commissioners to discuss the foregoing issues and to determine next

steps.” On May 21, 2026, the Board held a public meeting where it voted to pause construction on Phase 2 of the Muller Parkway project pending the ongoing litigation.

LEGAL ANALYSIS

The Douglas County Board of Commissioners, as the governing body of a Nevada county, is a public body as defined in NRS 241.015(5) and is subject to the OML.

The OML requires that meetings of public bodies be open and public. NRS 241.020(1); *see also McKay v. Board of Supervisors*, 102 Nev. 644, 651, 730 P.2d 438, 443 (1986) (“the spirit and policy behind NRS chapter 241 favors open meetings.”). A “meeting” of a public body occurs when a quorum of members of the body gather together, whether in person or by virtual means, to deliberate toward a decision or to take action on a matter within the public body’s jurisdiction, control or advisory power. NRS 241.015(4)(a). This includes a series of gatherings at which a quorum is collectively present for the same purpose. *Id.* A “meeting” under the OML does not include a gathering or series of gatherings of members of a public body “to receive legal advice from the attorney employed or retained by the public body regarding a matter over which the public body has supervision, control, jurisdiction or advisory power and to deliberate on the matter, provided such deliberation is limited to the legal advice.” NRS 241.015(4)(c).

The Complaint in this matter alleges that the Board made a decision during an attorney-client session on December 1 and/or via serial communications around that time not to proceed with construction of Phase 2 of Muller Parkway.¹ As to the first allegation, the OAG does not possess any evidence that an attorney-client session occurred on December 1. Complainant’s allegations state the information came from Commissioner Tarkanian who disputes that fact in his own declaration. The issue becomes whether there is evidence of a decision being made via serial communications amongst a quorum of Commissioners.

¹ The Complaint also makes many allegations with respect to breaching the Development Agreement and what the Development Agreement requires. However, whether the Development Agreement was breached and what the obligations of the parties were/are under the Development Agreement are outside the purview of the OML and the AGO’s inquiry into this matter. As such, those allegations are not addressed in this opinion.

The only specific consensus alleged by the Complaint is an internal consensus “to breach” the Development Agreement by Commissioner Hales, Commissioner Gardner and County staff. As the Board consists of five members, a consensus between two members, regardless of how many staff were involved, would not constitute a quorum triggering OML requirements. NRS 241.015(6).

While the OAG possesses evidence that County staff were considering advising the Board to make a decision to pause or halt construction on Phase 2 as early as December 2025, the OAG does not possess evidence that such a decision was made by the Board until the public meeting in May 2026. Particularly, emails between Hutchings and Davidson indicate halting the project was a consideration in December 2025 and a miscommunication may have led Ruben, a third party, to believe such a decision had been made. However, neither Hutchings nor Davidson are members of the Board.

An email from the construction company hired by the County for the project indicates that company’s desire for the Board to make a final decision, not that one had been made. In addition, the settlement letter sent by Davidson in April 2026 also indicates that no decision had yet been made and that the Board anticipated agendaizing and taking such an action if no settlement could be reached. Then in May 2026, the Board took that action during a public meeting. As such, the OAG does not possess evidence that a quorum of the Board decided not to proceed with Phase 2 of the project and thus does not find a violation of the OML.

The OAG notes that there were likely some gatherings of Board members regarding the Muller Parkway Phase 2 issue and related litigation with counsel to the Board between December 2025 and May 2026. However, deliberation regarding proposed settlement terms and next steps would have been expressly permitted by NRS 241.015(4)(c). Where a consensus may be reached by a public body while deliberating on potential or existing litigation during an attorney-client session, it does not violate the OML, so long as the deliberations are not treated as action by the public body. *In re Clark County School District Board of Trustees*, OMLO 13897-410 at 4 (finding no violation where a public body expressed to its attorney in an attorney-client session what type of settlement they might be willing to accept and the final settlement agreement was approved during a public meeting).

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/ Rosalie Bordelove
ROSALIE BORDELOVE
Chief Deputy Attorney General

cc: Douglas V. Ritchie, Chief Civil Deputy District Attorney for Douglas County