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STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900  
Las Vegas, Nevada 89101

April 13, 2021

Via Certified Mail and Email

Steven Cohen



**Re: Open Meeting Law Complaint, OAG File No. 13897-383,  
Clark County Board of County Commissioners**

Dear Mr. Cohen:

The Office of the Attorney General (OAG) is in receipt of your complaint alleging violations of the Open Meeting Law (OML) by the Clark County Board of County Commissioners (Board) regarding public comment periods during their December 1, 2020 meeting.

The OAG has statutory enforcement powers under the OML, and the authority to investigate and prosecute violations of the OML. Nevada Revised Statutes (NRS) 241.037; NRS 241.039; NRS 241.040. In response to your complaints, the OAG reviewed your complaint; the Board's response; and the agenda, minutes and video recording for the Board's December 1, 2020 meeting.

**FACTUAL BACKGROUND**

The Board, as a County Commission, is created by statute, is a "public body" as defined in NRS 241.015(4) and is subject to the OML.

The Board held a meeting on December 1, 2020. The meeting had no physical location available to the public due to the COVID-19 pandemic. Board members and staff attended the meeting in person, while public could view the meeting via a live stream on the Board's website or local television channels. A link to the live stream and local television information was listed on the public notice agenda. The agenda listed two methods for public comment, one by using teleconferencing software and also a telephone number to call into.

Agenda item #1 read: “Reconsider the decision of the Board of County Commissioners to omit from its certification of the canvass conducted on November 16, 2020, the office of County Commission, District C. (For possible action)”. Agenda item #2 was the first public comment period.

During the meeting, after the call to order, invocation, and pledge of allegiance, the Board held a public comment period on items on the agenda. Item #1 on the agenda was heard after the first public comment period. At the end of the meeting, the Board held a second public comment period. Members of the public made live audio public comment during both periods.

Your Complaint alleges that the Board violated the OML by listing an action item of substantial public interest prior to the first public comment period in violation of NRS 241.020(3)(d)(3).<sup>1</sup>

### **DISCUSSION AND LEGAL ANALYSIS**

The legislative intent of the OML is that actions of public bodies “be taken openly, and that their deliberations be conducted openly.” NRS 241.010(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”). The OML requires public bodies to include periods devoted to comments by the general public during their meetings. NRS 241.020(3)(d)(3). Public comment periods must be held: “(I) At the beginning of the meeting before any items on which action may be taken are heard by the public body and again before adjournment of the meeting; or (II) After each item on the agenda on which action may be taken is discussed by the public body, but before the public body takes action on the item.” NRS 241.020(3)(d)(3).

While the agenda listed an action item prior to the first public comment period, the Board did not discuss any action items or take any action prior to the first public comment period. The listing of an action item prior to the first public comment period is not, in and of itself, a violation. Public bodies are specifically permitted under the OML to take items on an agenda out of order. NRS 241.020(3)(d)(6)(I). Thus, the OAG does not find a violation of the OML.

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<sup>1</sup> To the extent the Complaint makes allegations regarding compliance with Robert’s Rules of Order, they do not fall within the OML and will not be addressed in this opinion.

**CONCLUSION**

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred on which formal findings should be made. 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: Mary-Anne Miller, County Counsel

**CERTIFICATE OF SERVICE**

I hereby certify that on the 13<sup>th</sup> day of April, 2021, I served the foregoing **FINDINGS OF FACT AND CONCLUSIONS OF LAW** by depositing a copy of the same in the United States mail, properly addressed, postage prepaid, **CERTIFIED MAIL** addressed as follows:

Steven Cohen

\_\_\_\_\_  
\_\_\_\_\_

**Certified Mail No.:** \_\_\_\_\_

Mary-Anne Miller, County Counsel  
Clark County Office of the District Attorney  
500 S. Grand Central Pkwy., Suite 5075  
Las Vegas, Nevada 89155

**Certified Mail No.:** 7020 0640 0000 7651 8213

/s/ Debra Turman  
An employee of the Office of the  
Nevada Attorney General