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STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701

July 20, 2020

Sent via U.S. Mail

Mr. Tod Corbin
[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint, OAG File No. 13897-277
Elko County Board of County Commissioners**

Dear Mr. Corbin:

The Office of the Attorney General (OAG) is in receipt of your complaint alleging violations of the Open Meeting Law (OML) by the Elko County Commission (the Board) regarding Elko County's alleged attempt to seek legal action to keep you from attending public meetings (the Complaint).

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 complaint, the OAG reviewed your complaint and attachment, several sets of Board meeting minutes, documents from the Wells Justice Court, and the relevant authority.

FACTUAL BACKGROUND

The County of Elko is a County of the State of Nevada that was created in 1869 pursuant to NRS 243.055. As such, the Board is a "public body" as defined in NRS 241.015(4) and subject to the OML.

Your complaint alleges that Elko County undertook legal action to prevent you from attending public meetings and specifically names four individuals, only one of who is a member of the Board.¹ The Complaint includes an attachment of a

¹ Your complaint also alleges various other facts related to the Town of Montello's water system. After reviewing the complaint and the attached documents, none of these allegations relate to a possible violation of the Open Meeting Law. This investigation was limited to the single alleged violation of the Open Meeting Law.

notice of appearance filed in Well Justice Court case number 4014-0053 in November of 2014. The Complaint does not include a specific date on which you were prevented from attending a meeting. The caption of the Wells Justice Court case is Lynn Forsberg and Terry Lister as plaintiffs versus yourself as Defendant. Neither of the named plaintiffs is a member of the Board nor were they members of the Board in 2014. Though the Complaint is lacking significant details, the allegation appears to be that Elko County initiated legal action to prevent you from attending a public meeting.

DISCUSSION AND LEGAL ANALYSIS

Chapter 241 of NRS requires the actions of public bodies “be taken openly and that their deliberations be conducted openly.”² Public bodies working on behalf of Nevada citizens must also conform their agendas to certain statutory requirements contained in Chapter 241. Relevant to the current complaint is the obligation for public bodies that “all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies.” NRS 241.020(1). However, this is not an unfettered right. A public body maintains a right to remove willfully disruptive persons. NRS 241.030(4)(b). Furthermore, a public body may take actions to remove a member for being disruptive without appealing to a court.³

Here the Complaint contains no allegation that a public body abused its authority to wrongfully remove an individual from a meeting. The Complaint fails to make out an open meeting law violation on at least two accounts.⁴

The Complaint Fails to Allege Any Board Action

The only cognizable OML allegation contained in the Complaint is that the public body sought legal action to prevent you from attending. However, the caption of the attached pleading establishes that the County was not a party to the action; two individuals, not the Board, brought the action. There was a notice of appearance filed by the Elko County District Attorney, but a review of the initiating document in case #2014-0053 confirms that the Board was not a party. Mr. Lister and Mr. Forsberg brought the action on behalf of themselves, the Elko County Community Development Employees, the Elko County Roads Department, and the Town of Montello Advisory Board. The Board did not authorize or initiate the action. The OML places an obligation on the public body to allow attendance at the meeting, but the Complaint shows only actions of individual non Board members

² NRS 241.010(1).

³ The chair of the public body may, without vote of the body, declare a recess to remove a person who is disrupting the meeting. See AG File No. 00-046 (December 11, 2000).

⁴ Additionally, the Complaint was filed nearly four years after the complained of court action. AB 70 of the 2019 legislative session allows the OAG to decline to investigate allegations raised more than 120 days after the offending action.

Mr. Tod Corbin
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CERTIFICATE OF SERVICE

I certify that on the 19th day of August, 2020, I mailed the foregoing letter by depositing a copy of the same in the U.S. mail, properly addressed, postage prepaid, first class mail, to the following:

Mr. Tod Corbin

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████████████████████

Tyler Ingram, Elko District Attorney
540 Court St., 2nd Floor
Elko, NV 89801

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