



AARON D. FORD
Attorney General

CRAIG A. NEWBY
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General

TERESA BENITEZ-
THOMPSON
Chief of Staff

LESLIE NINO PIRO
General Counsel

HEIDI PARRY STERN
Solicitor General

STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

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

May 23, 2025

Via U.S. Mail

Ian Bayne
[REDACTED]
[REDACTED]

Maryan Hollis
[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint, Nye County Board of
Commissioners; OAG File No. 13897-509**

Dear Mr. Bayne and Ms. Hollis:

The Office of the Attorney General ("OAG") is in receipt of your Complaints ("Complaints") alleging violations of the Open Meeting Law, NRS Chapter 241 ("OML"), by the Nye County Board of Commissioners ("Board") related to its agenda and meeting on January 17, 2024.

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 Complaints included a review of the Complaints, the Board's Response, and the agenda, minutes, and audio and video recording of the meeting on January 17, 2024. After investigating the Complaints, the OAG determines that the Board did not violate the OML as alleged in the Complaints.

FACTUAL BACKGROUND

On July 14, 2021, the Pahrump Regional Planning Commission ("RPC") approved an application for a Conditional Use Permit ("CUP") for a "Convalescent Care Facility" at 4021 N. Nevada Highway 160, Pahrump, NV 89060. However, on August 2, 2023, the RPC cancelled the CUP because the

Applicant failed to meet the conditions of the approval. Specifically, the Applicant did not use the land for its approved use as a Convalescent Care Facility. Rather, the Applicant used the land as transitional housing for individuals on release from correctional institutions.

On September 1, 2023, Melissa Eure, on behalf of the property owner, submitted an application for a CUP for multifamily residential use at 4021 N. Nevada Highway 160, Pahrump, NV 89060. Specifically, the Applicants described the intended use as, “short or long term emergency housing for victims of domestic violence, family emergencies, and other people in need who meet the following criteria: 1) They are residents of Nye County, and 2) They are referred by one of the following approved state, county, or a recognized providers...”.

On November 15, 2024, the Pahrump Regional Planning Commission (“RPC”) conducted a public hearing and denied the CUP based on findings in the staff report. The staff report including findings that, among other things, “[b]ased on the specific use proposed and the previous history of calls for law enforcement at the site, the proposed use would not be harmonious with the existing or intended character of the general vicinity.”

On December 13, 2023, Melissa Eure submitted, on behalf of the property owner, an appeal of the RPC’s decision to deny the CUP. The appeal hearing took place before the Nye County Board of Commissioners (Board) during the open meeting on January 17, 2024. The appeal was listed as Agenda item no. 12, which stated:

10:00 a.m. – For Possible Action – Public Hearing, discussion, and deliberation on AP-23-8; An Appeal of the Pahrump Regional Planning Commission’s denial of Conditional Use Permit CU-23-22: an application to allow multi-family transitional temporary emergency housing on a General Commercial (GC) zoned parcel located at 4021 N. Nevada Highway 160, Pahrump, NV. Assessor’s Parcel Number 029-731-09. Rain Man, LLC – Property Owner. Melissa Eure – Applicant/Appellant.

Melissa Eure stated that the property owner terminated the lease of the previous operator and found a new operator, Nevada Outreach, who would operate in a manner more consistent with Nye County’s codes and regulations.

Kathie McKenna of Nevada Outreach stated she secured funding to operate the property for two years as an eight-room temporary, emergency housing facility for domestic violence survivors and their families, elderly, and veterans. Ms. McKenna also stated that Nye County did not currently have an emergency shelter or domestic violence shelter and that the closest were in Las Vegas and tend to be full. Ms. McKenna stressed this is not a homeless shelter and is not a permanent housing facility.

At 3:02:33 into the recording, Commissioner Boskovich asked if the facility would be reserved exclusively for Pahrump and Nye County residents. Ms. McKenna answered that she will strive to place an emphasis on helping Nye County residents but she cannot guarantee exclusivity.

At 3:09:22, the Nye County District Attorney interjected a legal opinion that placing a condition on the land use that the facility will service only Nye County residents would be a violation of law.¹

Based on new evidence, i.e. that a new operator (Nevada Outreach) would operate in a manner more consistent with Nye County's codes and regulations, the Board voted 5-0 to reverse the RPC's denial and to grant the CUP.

Following the meeting, Mr. Ian Bayne and Ms. Hollis (Complainants) submitted open meeting law complaints alleging that the Agenda failed to comply with the open meeting law in two ways: 1) in the appeal documentation for a permit, it was improperly asserted that services would be restricted to Nye County residents, and 2) the appeal documentation was "incomplete" as it omitted that services would be open to residents outside of [Nye] County.

LEGAL ANALYSIS

The Board is a "public body" as defined in NRS 241.015(4) and is subject to the OML.

¹ In the District Attorney's opinion, such a land use restriction would constitute a violation of Equal Protection under the 14th Amendment.

An agenda for a meeting of a public body must include a “clear and complete statement of the topics to be considered during the meeting.” NRS 241.020(3)(d)(1). The “clear and complete statement” requirement of the OML stems from the Legislature’s belief that “incomplete and poorly written agendas deprive citizens of their right to take part in government.” *Sandoval v. Bd. of Regents of Univ.*, 119 Nev. 148, 154 (2003). Strict adherence to the “clear and complete” standard for agenda items is required for compliance under the OML. *Id.* “The plain language of NRS 241.020(2)(c)(1) requires that discussion at a public meeting cannot exceed the scope of a clearly and completely stated agenda topic.” *Id.* The OML “seeks to give the public a clear notice of the topics to be discussed at public meetings so that the public can attend a meeting when an issue of interest will be discussed.” *Id.* at 155. “A higher degree of specificity is needed when the subject to be debated is of special or significant interest to the public. *Sandoval* at 155, citing *Gardner v. Herring*, 21 S.W.3d 767, 773 (Tex.App. 2000). However, the OAG applies a reasonableness standard in determining whether an agenda is clear and complete. *In re Board of Veterinary Medical Examiners*, OMLO 13897-363 at 5 (Jan. 8, 2021).

Here, the issue is whether the agenda reasonably notified the public regarding the subjects to be discussed at the January 17, 2024 meeting such that citizens could make an educated decision as to whether to attend. Unlike in *Sandoval*, the agenda item was not of special or significant interest to the public, and thus, did not require a higher degree of specificity.

The agenda item in question adequately notified the public the Board would conduct a public hearing and discuss and deliberate regarding the appeal of the RPC’s denial of the CUP. Inherent in a decision of whether to uphold or reverse the RPC’s denial is a discussion of the legalities associated with the decision. *In re Carson City School District Board of Trustees*, OMLO 13897-444 at 3 (Jul. 3, 2023).

It appears the Complainant’s largest objection is that the CUP Application, separate from the agenda, failed to adequately place the public on notice of the nature of the proceeding on January 17, 2024 as it suggested the land in question would be used exclusively for the benefit of residents of Nye County.² To the contrary, given that the subject of the proceeding was the

² Specifically, the CUP application, dated September 1, 2023, indicated the Applicant wanted to limit use to residents of Nye County.

CUP Application, it was foreseeable that the Board would examine and deliberate its many aspects, including its feasibility and legality. As such, the OAG does not find a violation of the OML.

CONCLUSION

Upon review of your Complaints 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,

/s/ Ryan D. Sunga

Ryan D. Sunga

Senior Deputy Attorney General

cc: Brian T. Kunzi, Esq.
Nye County District Attorney
P.O. Box 39
Pahrump, NV 89041
unsel for Nye County Board of Commissioners
