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1 State of Nevada Way, Suite 100
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July 23, 2025

Via U.S Mail

Riley Sutton
[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint, OAG File No. 13897-524
Washoe County Board of Commissioners**

Dear Mr. Sutton:

The Office of the Attorney General ("OAG") is in receipt of your complaint ("Complaint") alleging violations of the Open Meeting Law, NRS Chapter 241, ("OML") by the Washoe County Board of Commissioners ("Board") regarding its July 9, 2024, meeting.

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, the Response on behalf of the Board, and the agenda, minutes and recording of the Board's July 9, 2024, meeting. After investigating the Complaint, the OAG determines that the Board did not violate the OML as alleged in the Complaint.

FACTUAL BACKGROUND

The Board held a public meeting on July 9, 2024. The purpose, as outlined in Agenda Item #5, was to review the recount results for the County Commission District 4 Republican and School Board Trustee District G At-Large races, and, if approved, direct the Registrar of Voters ("ROV") to certify and transmit the official results to the Secretary of State.

During the public comment period, several members of the public spoke, including Kelly Stevens, who directed pointed comments toward the Board. Ms.

Stevens alleged that Riley Sutton (hereinafter “Complainant”), who was not present at the July 9, 2024 meeting, was on Washoe County’s payroll and was “planted” by the Board to set up a GoPro camera in the ROV’s office to “harass private citizens wanting to observe free and fair elections.” Her comments were primarily focused on the Board and not the Complainant directly.

During Agenda Item #4 and following the public comment period, Commissioner Michael Clark addressed the public’s concerns and briefly mentioned Ms. Stevens’ allegations, expressing interest in learning more about her claims regarding the Complainant.

During Agenda Item #7 and before adjourning, Commissioner Clark made closing remarks and reiterated his interest in verifying Ms. Stevens’ claims about the Complainant. No discussion regarding the Complainant occurred among the Board members at any point of the meeting.

Complainant filed the instant complaint, alleging that Commissioner Clark discussed Complainant’s character, alleged misconduct, and competence, and the Complainant was not given notice that these matters would be discussed at the meeting.

LEGAL ANALYSIS

The Washoe County Board of Commissioners is a “public body” as defined in NRS 241.015(5), and therefore, is subject to OML.

Under NRS 241.033, a public body may not hold a meeting to consider the character, alleged misconduct, professional competence or physical or mental health of any person unless the body has provided written notice to that person of the time and place of the meeting and received proof of service of the notice. However, the OML provides that “casual or tangential references to a person or the name of a person during a meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.” NRS 241.033(7).

Here, the meeting was not held to consider Complainant’s character, alleged misconduct, professional competence or physical or mental health. Commissioner Clark’s comments were limited in scope, made in direct response to Ms. Stevens’ public comment, and did not rise to the level of consideration as defined by the statute. His remarks were tangential, aimed at clarifying the alleged misconduct itself, rather than critiquing the Complainant personally. References to the Complainant were made solely to

highlight the need for follow-up information and possible investigation into Ms. Stevens' allegations.

Additionally, Commissioner Clark's use of the phrase "a fox guarding the henhouse," as mentioned by the Complainant, was a rhetorical expression used to further his inquiry into the validity of, and the concerns raised by the nature of the allegations made. It was not a direct or substantive evaluation of the Complainant's character or professional competence. Moreover, no other Board member participated in any discussion regarding the Complainant, and there was no collective or formal consideration by the Board of any matter related to the Complainant's qualifications or conduct.

In evaluating alleged violations of NRS 241.033, the OAG reviews the actual discussion by the public body, including the substance of the remarks and relevant contextual cues. See, AG File No. 13897-464 (April 19, 2024); AG File No. 13897-419 (Jan. 16, 2023); AG File No. 13897-406 (May 31, 2022); AG File No. 13897-351 (Aug. 4, 2020). Where comments are limited and tangential, and no formal consideration occurs, the notice requirement does not apply. Consistent with prior opinions, the OAG finds that Commissioner Clark's remarks do not constitute "consideration" under NRS 241.033.

Accordingly, because the discussion at the meeting did not involve consideration of the Complainant's character, alleged misconduct, professional competence, or physical or mental health, the Board was not required to provide notice under NRS 241.033. The OAG therefore finds no violation of the OML on this point.

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

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cc: Michael W. Large, Esq.
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