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

February 2, 2022

Via Certified Mail

John Phoenix
[REDACTED]
[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint, OAG File No. 13897-377,
Southern Nevada HIV Prevention Planning Group**

Dear Mr. Phoenix,

The Office of the Attorney General (“OAG”) is in receipt of your complaint alleging violations of the Nevada Open Meeting Law (“OML”) by the Southern Nevada HIV Prevention Planning Group (“HPPG”). The violations alleged in your complaint, in summary, assert that the HPPG violated the OML by denying a public comment from being heard during their October 9, 2020 meeting (“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. In response to your complaint, the OAG reviewed your complaint and its attachments (“Complaint”), the HPPG’s response and its attachments (“Response”), and the agenda and minutes for the HPPG’s Meeting.¹

FACTUAL BACKGROUND

HPPG is a “public body” as defined in the Nevada Revised Statute (“NRS”) 241.015(4), and subject to the Open Meeting Law (“OML”).

On October 9, 2020, the Southern Nevada HPPG held a public meeting. During the first public comment period, HPPG member Todd Dickey requested that the Ryan White Part B Program (“RWB”) funding issues and related AIDS

¹ HPPG was unable to provide the recording for the meeting due to “unanticipated technical difficulties” during the meeting.

Drug Assistance Program (“ADAP”) be agendaized for the next HPPG meeting. The minutes reflect that member Dickey acknowledged that this was not on the agenda, but for an upcoming agenda would like to discuss, “ADAP change in meds. Clients will only be able to go to Walgreens.”

Southern Nevada HPPG Chair Cheryl Radloff stated the issue would be placed on a future agenda for discussion. Lyell Collins, the HIV Prevention Manager for the State and an HPPG member, commented the HPPG had no jurisdiction over RWB program decisions and funding and thus it should be raised to the RWB at the State level.

DISCUSSION AND LEGAL ANALYSIS

Allegation: The HPPG violated the OML by denying public comment.

Complainant asserts that the HPPG violated the OML when, during the first public comment period of the October 9 Meeting, HPPG member Mr. Collins denied Mr. Dickey’s comments from being heard. The OML requires public bodies to include periods devoted to comments by the general public during their meetings. NRS 241.020(3)(d)(3). Any restrictions on comments by the general public must be reasonable and may restrict the time, place and manner of the comments, but may not restrict comments based on viewpoint. NRS 241.020(3)(d)(7). Public comment periods must be held: “(1) 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).

Mr. Dickey is a member of the HPPG and not the general public. Therefore, his general comment is not considered “public comment” under NRS 241.020. Further, pursuant to NRS 241.020(3)(d)(1), HPPG may only discuss and deliberate on matters included on its agenda. Member Dickey’s comments related to RWB’s program and funding, which was not listed on the October 9 agenda. Ms. Radloff acknowledged Mr. Dickey’s comments and stated that the topic would be placed on a future agenda for discussion. Thus, the HPPG did not violate the OML with respect to Mr. Dickey’s comments during the first public comment period.

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CONCLUSION

The OAG has reviewed the available evidence and determined that there is insufficient evidence to sustain a violation of the OML. The OAG will be closing its file on this matter.

Sincerely,

AARON D. FORD
Attorney General

By: /s/ Sophia G. Long
SOPHIA G. LONG
Senior Deputy Attorney General

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**AMENDED
CERTIFICATE OF SERVICE
(Amended Copy Sent via U.S. Mail February 7, 2022)**

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on February 2, 2022, I mailed foregoing document via Certified Mail, postage paid to the following:

John Phoenix
[REDACTED]
[REDACTED]
[REDACTED]

Certified Mail No.: [REDACTED]

Southern Nevada HIV Prevention Planning Group
280 South Decatur Boulevard
Las Vegas, Nevada 89107

Certified Mail No.: 7020 0640 0000 7651 8503

/s/ Debra Turman
An Employee of the Office of the
Attorney General