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October 24, 2023

Via U.S Mail and Email

Angel DeFazio



**Re: Open Meeting Law Complaint, OAG File No. 13897-448
Clark County Planning Commission**

Dear Ms. DeFazio:

The Office of the Attorney General (“OAG”) is in receipt of your complaint (“Complaint”) alleging violations of the Open Meeting Law (“OML”) by the Clark County Planning Commission (“Commission”) regarding its June 7, 2022, 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 Commission, and the agenda, video recording and minutes for the Commission’s June 7, 2022, 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 June 7, 2022, at 7:00 p.m. The public notice agenda for the meeting contained a statement that the Commission chambers “are accessible to individuals with disabilities” and that individuals requesting a sign language interpreter should contact a specific phone number 24 hours in advance of the meeting. The agenda did not contain information regarding other requests for disability accommodation but did list

an individual from whom supporting material could be requested, Ms. Weber, and contact information for her.

On the morning of June 6, Complainant contacted Ms. Weber to request accommodation for her disability by allowing Complainant to appear telephonically to make public comment regarding Item #6 on the agenda or to have her comments read into the record. Ms. Weber requested additional information regarding the comments, including a copy of the comments themselves. Complainant provided additional information but refused to provide a copy of the comments prior to being granted the accommodation. After multiple phone calls and correspondence between Complainant and Commission staff, the Commission sent Complainant call-in information for the meeting on the morning of June 7, noting that she chose to call in instead of having a staff member read her comments into the record.

Complainant attempted to call into the meeting a few minutes before its scheduled start time and was unable to do so with the passcode she was given. One Commission member participated via the telephonic system, but no other members of the Commission or public were participating telephonically.

At the beginning of the meeting, the Chair of the Commission noted that the applicant for Item #6 had requested it be tabled with no date certain for coming back. The Commission questioned the applicant regarding the reasons for this request, discussed its options and received legal advice regarding the request. The Commission then voted remove Item #6 from the agenda to be heard at another time if the applicant did not withdraw it. As a hearing was not held, the Commission did not call for public comment on Item #6. Most of the audience in attendance at the meeting left after Item #6 was removed.

Complainant filed the instant Complaint alleging the Commission violated the OML by failing to accommodate her disability.

LEGAL ANALYSIS

The Clark County Planning Commission, created by the Clark County Board of County Commissioners pursuant to NRS Chapter 278, is a public body as defined in NRS 241.015(4) and is subject to the OML.

Meetings of public bodies must be open to the public. NRS 241.020(1). “Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.” *Id.* Here, Complainant initially requested an accommodation allowing her to either call into the meeting or have her public

comments read by staff. While it took 24 hours of back-and-forth conversation, Commission staff agreed to provide either accommodation to Complainant and she chose the call-in option.¹ Complainant alleges that the call-in information she received was incorrect, causing her to be unable to use it. The OAG does not possess any evidence, nor does Complainant allege, that Commission staff either intended to give incorrect information or knew that the information was incorrect. Indeed, Commission staff states that they gave the same information to a Commission member who was able to successfully participate telephonically. Thus, the OAG does not possess sufficient evidence to find a violation of the OML.

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

cc: Robert T. Warhola, Chief Deputy District Attorney
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¹ The OAG notes that had the Commission insisted on reviewing the content of Complainant's prepared comments (as it had requested) prior to determining whether to grant the accommodation, it may have violated NRS 241.020(3)(d)(7)'s prohibition on restricting comments based upon viewpoint. However, the Commission did not possess the comments prior to making its determination.