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November 12, 2025

Via U.S. Mail

Jed Margolin
[redacted]

Re: Open Meeting Law Complaint - Storey County Board of Commissioners, OAG File No. 13897-543

Dear Mr. Margolin,

The Office of the Attorney General ("OAG") has reviewed your Complaint ("Complaint") alleging violations of the Open Meeting Law ("OML") by the Storey County Board of Commissioners ("SCBC") at its January 6, 2025, February 18, 2025, and March 4, 2025, meetings.

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 included a review of the Complaint, the Response on behalf of the SCBC, and the agenda, minutes and video recordings, for the SCBC's January 6, 2025, February 18, 2025, and March 4, 2025, meetings. After investigating the Complaint, the OAG determines that the SCBC did not violate the OML as alleged in the Complaint.

FACTUAL BACKGROUND

The SCBC held a swearing in ceremony of newly elected officials on January 6, 2025, at 2:00 p.m. at the Storey County Courthouse, 26 South B St., Virginia City, NV 89440. The County posted a "Notice of a Possible Quorum" for the event, indicating that members of the SCBC might be present.

The SCBC held a public meeting on February 18, 2025, at 10:00 a.m. at the Storey County Courthouse, 26 South B St., Virginia City, NV 89440. The

agenda was properly posted in compliance with OML and included clear instructions for accessing the meeting and submitting public comment. As required under NRS 241.020, public comment was scheduled for each item on the agenda.

The SCBC held a public meeting on March 4, 2025, at 10:00 a.m. at the Storey County Courthouse, 26 South B St., Virginia City, NV 89440. The agenda was properly posted in compliance with OML and included clear instructions for accessing the meeting and submitting public comment. As required under NRS 241.020, public comment was scheduled for each item on the agenda.

On April 23, 2025, a formal Complaint was made by Mr. Margolin, whereby he contends that the swearing in ceremony constituted a public meeting and that the SCBC failed to comply with statutory obligations to record the meeting, produce written minutes, and make the record available to the public.

Mr. Margolin asserts that a quorum was in fact present and that the event involved official duties under NRS 282.010. He further alleges that no recording or minutes were made and that his repeated requests for a copy of the recording were either ignored or fulfilled incorrectly. Several County officials responded that the event was not a formal meeting, was not presided over by the Board, and did not involve deliberation or action. As no deliberation or action was to occur, they contend it is not legally considered a meeting under the OML.

The OAG issued a letter dated April 30, 2025, requesting clarification from Mr. Margolin regarding whether he had requested to inspect recordings at the Commission's offices and whether the January 6, 2025, event involved deliberation or action sufficient to trigger the definition of a "meeting" under NRS 241.015(4). Mr. Margolin responded on May 27, 2025, reiterating his belief that the event constituted a meeting and raised additional concerns about the form of oath taken by public officials and the County's reliance on YouTube for record retention.

Mr. Margolin alleges in his Complaint that posting the recordings of the meetings on YouTube does not satisfy the requirements of NRS 241.035(2), which requires that recordings of a meeting be made available to the public at no charge. The SCBC District Attorney's formal response, dated August 29, 2025, addressed the February 18, 2025, and March 4, 2025, meetings, asserting full compliance with NRS 241.035 for those dates and emphasizing the County's practice of recording meetings via YouTube and retaining them in the Joint Automated Booking System ("JABS"). The District Attorney further

explained that, upon request, copies of the recordings are provided free of charge.

LEGAL ANALYSIS

I. The January 6, 2025, Swearing-In Ceremony Did Not Constitute a "Meeting" Under NRS 241.015.

The January 6, 2025, swearing-in ceremony did not meet the legal definition of a "meeting" under NRS 241.015(4). Under NRS 241.015(4)(a)(1), a "meeting" is defined as a gathering of a quorum of members of a public body at which any deliberation or action occurs. NRS 241.015(4) further clarifies that for a quorum to trigger OML requirements, there must be deliberation or action "over which the public body has supervision, control, jurisdiction or advisory power."

The Nevada Supreme Court has interpreted this definition narrowly. In *Sandoval v. Board of Regents*, 119 Nev. 148, 153 (2003), the Court held that mere presence of a quorum is not sufficient to constitute a meeting; there must be substantive engagement with matters under the body's authority. Further, in *McKay v. Board of Supervisors*, 102 Nev. 644, 650 (1986), the Court emphasized that the OML must be construed liberally to promote transparency, but not beyond its statutory bounds.

In Mr. Margolin's supplemental response, he concedes that he cannot confirm whether any deliberation or action occurred during the January 6, 2025, event. He states, "there is no way to know if there was any deliberation or action because the meeting was not recorded and no minutes were taken." This admission is critical.

The complainant does assert that a quorum was present and that the event involved the administration of oaths under NRS 282.010. However, the administration of oaths is a statutory requirement for individual officials and is typically conducted by judicial officers, not by the governing body itself. In this case, the swearing-in was reportedly conducted by District Court judges, not by the Board of Commissioners acting in their official capacity. There is no evidence that the Board convened, deliberated, or took any collective action during the ceremony.

The complainant's concerns about the form of oath taken and the recording of those oaths under NRS 239.330 raise separate legal and ethical questions, but they do not transform the swearing-in into a "meeting" under the OML. The OML is designed to ensure transparency in the deliberative and decision-making processes of public bodies, not to regulate ceremonial functions or individual compliance with oath-taking statutes.

While a quorum may have been present at the January 6, 2025, swearing-in ceremony, there is no evidence of deliberation or action by the SCBC over matters within their jurisdiction. Therefore, the event did not constitute a "meeting" under NRS 241.015(4), and the requirements of NRS 241.035 regarding recording and minutes were not triggered.

II. There was No OML Violation Because No Meeting Occurred and the Duty to Record or Transcribe Did Not Apply.

NRS 241.035(4) requires public bodies to record each of their meetings or have them transcribed by a certified court reporter. The recording or transcript must be retained for at least three years. Because the January 6, 2025, event does not qualify as a meeting under NRS 241.015, the obligation to record or transcribe under NRS 241.035(4) was not triggered. The SCBC's failure to produce a recording for this event does not constitute a violation of the OML.

NRS 241.035(2) requires that minutes or recordings of public meetings be made available for inspection within 30 working days and that a copy be provided upon request at no charge. Mr. Margolin made multiple requests for the January 6, 2025, recording. County officials confirmed that no recording exists for January 6, 2025. As the event was not a meeting, the obligation to provide access under NRS 241.035(2) does not apply.

III. Use of YouTube for Meeting Recordings Can Comply with NRS 241.035 as Recordings Remain Accessible and Free of Charge.

Mr. Margolin raises concerns about reliance on YouTube for hosting meeting recordings, citing issues of chain of custody, platform reliability, and data access limitations. While these concerns are valid from a public access perspective, the use of YouTube does not violate NRS 241.035 as long as the recordings are retained for three years and made available for inspection or copying upon request, at no charge. The District Attorney's response confirms that SCBC meets these requirements for the February 18, 2025, and March 4, 2025, meetings and that, upon request, copies of the recordings are provided free of charge.

IV. Concerns Regarding Oath Forms Under NRS 282.020 and Alleged False Instruments Fall Outside the Scope of the OML.

Mr. Margolin raises broader concerns about the form of oath taken by public officials under NRS 282.020, arguing that the recorded documents do not reflect whether the oath was sworn to God or affirmed under penalty of perjury. He suggests this could constitute a false instrument under NRS

239.330 and render subsequent decisions by those officials null and void. While this issue raises questions about transparency and accountability, it falls outside the scope 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/ Stephanie Itkin-Goodman
STEPHANIE ITKIN-GOODMAN
Deputy Attorney General

cc: Brian Brown, Deputy District Attorney
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