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September 22, 2025

Via U.S. Mail and Email

Janette M. Trask
[REDACTED]
[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint – Ely City Council;
OAG File No. 13897-489**

To Ms. Janette Trask:

The Office of the Attorney General (“OAG”) is in receipt of your complaint (“Complaint”) alleging violations of the Open Meeting Law (“OML”) by the Ely City Council member James D. Alworth (“Alworth”) regarding the Ely City Council meeting of July 27, 2023.

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 following: the Complaint; the response from the City Counsel by and through the Ely City Attorney; the meeting agenda; a video, and an audio recording of the meeting; and minutes of the City Council meeting held on July 27, 2023. After investigating the Complaint, the OAG determines that there is no violation of the OML as alleged in the Complaint.

FACTUAL BACKGROUND

The Ely City Council held a public meeting on July 27, 2023. The agenda for the July 27, 2023, meeting included the following agenda item:

5. REPORTS
CITY COUNCIL
MAYOR

During the meeting, concerning agenda item # 5, Alworth was the only City Council member to have anything to report. During agenda item # 5, Alworth began by stating:

“I have a report and before I start this report, I have been cautioned by the Attorney to watch how I present this. This report is based on nothing but true facts, public information, and I am using my first amendment as to say what I want to in my opinion. I have the right to say my opinion. He is going to caution me if he feels I am going off base and so at that time I will hold those statements for public comment.”

Alworth continued by mentioning that accusations have been made against him in the past and as such he needs to address the mayor and fellow council members. Alworth then mentioned that NRS 266 is the general law for incorporation of cities and mentioned specifically that NRS 266.600 allows the City Council to control the finances of the operation. He stated that as such, he gets to question how the finances are being budgeted and spent and that he gets to make suggestions for possible changes to the finances of the city.

Alworth then raised the issue of how certain appointed city employees were asked by the City Treasurer, the Complainant, to request a dollar amount be added to the Fiscal Year for an increase to their salary. Alworth then mentioned specific requests by specific city employees and alleged improper activity by the employees and Complainant by stating “this is from the cover up that is happening in this City right now.”

The City Attorney tried to cut in by stating that this could be a future agenda item, but to not continue discussing it now.

Alworth continued and stated that a “council person” requested of the City Treasurer a specific budget increase and then Alworth stated, “I must ask, why wasn’t the council person’s name reported, what’s the big secret?” Alworth then stated, “In my opinion the City Treasurer (Complainant) is making salary increases and accepting this secret person’s request for the budget.”

The City Attorney again interrupted stating to the Mayor that “we are getting into allegations and character issues.”

The meeting was then recessed for approximately 10 minutes. After the recess, Alworth stated that “in light of the legal beagles, I will stop running my mouth. I am sorry for hurting anyone’s feelings.”

Complainant filed the instant Complaint alleging City Council Member Alworth violated the OML by discussing during the meeting the job performance of Complainant and making allegations of inappropriate behavior against her.

LEGAL ANALYSIS

The Ely City Council is a “public body” as defined in NRS 241.015(5)(a) and is subject to the OML.

A. The Council was not required to send notice to Complainant under NRS 241.033.

If a public body considers the character, alleged misconduct, professional competence, or physical or mental health of a person during a meeting, it must provide adequate notice to that person ahead of the meeting. NRS 241.033(1). Additionally, pursuant to NRS 241.033(7), “(c)asual 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.”

In determining whether a violation of the notice requirement contained in NRS 241.033 has occurred, the OAG reviews the actual discussion by the public body. *In re Mineral County School District Board of Trustees*, OMLO 13897-406 (May 31, 2022); *In re Lander County Commissioners*, OMLO 13897-351 (Aug. 5, 2020). The OAG evaluates the substance of the discussion and contextual cues to determine whether the notice requirement applies. *In re Esmeralda County Board of Commissioners*, OMLO 13897-419 (Jan. 16, 2023).

Here, City Council Member Alworth is the only member of the Council who made comments regarding the Complainant in her position with the City. The OAG need not determine whether these comments rise beyond tangential references to discussion of character because there was no collective discussion of Complainant’s performance between Council members. *In re Ely City Council*, OMLO 13897-299 (Oct. 12, 2018) (finding unilateral comments of one public body member that touch on a person’s character, without facts implicating the conduct of the body generally, do not cause a violation of the notice requirement under NRS 241.033). The OAG finds the evidence does not support the

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allegations that the Council considered your character, alleged misconduct, professional competence, or physical or mental health.

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/ Matthew P. Feeley
MATTHEW P. FEELEY
Deputy Attorney General

cc: M. Leo Cahoon, Esq., City Attorney
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