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Via U.S Mail

John D. George
[REDACTED]
[REDACTED]

**Re: Open Meeting Law Complaint, Elko County Planning
Commission; OAG File No. 13897-537**

Dear Mr. George:

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 Elko County Planning Commission ("Commission") regarding its August 15, 2024, and September 19, 2024, 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 of the Complaint included a review of the Complaint, the Response on behalf of the Commission, and the agenda, minutes and recordings of the Commission's August 15, 2024, and September 19, 2024, meetings. After investigating the Complaint, the OAG determines that the Commission did not violate the OML as alleged in the Complaint.

FACTUAL BACKGROUND

The Commission held public meetings on August 15 and September 19, 2024. At the August 15 meeting, the Chairman made the following statements prior to the first public comment period:

If you haven't read the agenda already, we have a 7-minute time limit set for each comment. We would prefer not to hear the same repetitive comments over and over and over. We don't want to drag

this meeting out 'til midnight, and it will get that way if that is what occurs.

John D. George (hereinafter “Complainant”), participated in the public comment period. No person was prevented from providing comment during this meeting.

Similarly, at the September 19 meeting, the Chairman again addressed the public before the first comment period, stating:

If you read the procedures tonight, there is a time limit. We will give each individual 7-minutes. That 7-minutes is not transferable. We would ask that if you have something to say, please come to the lectern and say it; but if we could just refrain from repeating the same thing over, and over, and over. We have heard a lot of these comments. I've got a lot of comments on my phone over the last week or so, so I think we got the gist of how a lot of you feel. So, we are going to give each one of you the right to speak, but we ask that you please be courteous on both sides, those for and opposed to any of the agenda items, and we'll get through this meeting as quickly as we can.

The Complainant again participated in the public comment session, and no person was prevented from making a comment.

Complainant filed the instant complaint, alleging that the Chairman repeatedly made statements limiting repetitive public comments in an attempt to intimidate people from speaking up on issues that are of concern to them.

LEGAL ANALYSIS

The Elko County Planning Commission is a “public body” as defined in NRS 241.015(5), and therefore, is subject to OML.

The Commission did not violate the OML by limiting repetitive public comments at the August 15, 2024, and September 19, 2024, meetings.

Under NRS 241.021, a public body is required to provide the public with an opportunity to make public comment. 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 upon viewpoint.” A public body may prohibit comment if the content of the comments is a topic that is not relevant to, or within the authority of, the public body, or if the content of the comments is willfully disruptive of the meeting by being

irrelevant, repetitious, slanderous, offensive, inflammatory, irrational or amounting to personal attacks or interfering with the rights of other speakers. *See* AG File No. 00-047 (April 27, 2001).

Here, the Chairman's restriction on repetitious comments was imposed to promote the efficiency of the meeting and prevent the meeting from becoming excessively lengthy. This restriction was reasonable and did not serve to limit the public's ability to comment. There is no evidence to suggest that the imposed restriction was made in an aggressive, threatening, or intimidating manner. Furthermore, the Complainant, along with other members of the public, were still allowed to speak and fully express their views.

While the statute does not specifically authorize the Commission to limit repetitious comments, it also does not prohibit such restrictions. The key provision under NRS 241.021, is that comments cannot be restricted based on viewpoint, which was not the case here. All members of the public, including the Complainant, were allowed to speak regardless of their viewpoint. Moreover, the Chairman's request to refrain from repetitious comments was made respectfully, stating: "... we ask that you please be courteous on both sides, those for and opposed to any of the agenda items." This request reinforces that the restriction was not intended to limit any particular viewpoint, but rather to ensure an orderly and productive meeting.

Thus, because the Commission's restriction on public comment was reasonable under NRS 241.021 and did not restrict public comment based upon viewpoint, the OAG 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

John D. George
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cc: Rand J. Greenburg, Esq.
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