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September 29, 2016

Via First Class Mail

Ms. Andrea Engleman
500 Mary Street
Carson City, Nevada 89703

**Re: Open Meeting Law Complaint, A.G. File No. 13897-203
Carson City Airport Authority Board**

Dear Ms. Engleman:

The Office of the Attorney General (OAG) is in receipt of your Complaint alleging violations of the Nevada Open Meeting Law (OML) by the Carson City Airport Authority Board of Trustees (Board). 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.

The Complaint alleges the Board committed multiple violations of the OML at its public meeting held on July 20, 2016. In response to the Complaint, the OAG reviewed the public notice, agenda, supporting material and video recording of the meeting, together with a response to the Complaint from Steven E. Tackes, General Counsel for the Board.

DISCUSSION AND ANALYSIS

The Board is created pursuant to 1989 Nev. Stat. 844, and is a "public body" as defined in NRS 241.015(4), subject to the OML.

The first alleged violation of the OML is that during consideration of Agenda Item F(4) the Board members "deliberated over how they could do the work of Item 4 and get around the open meeting law."¹ In the video recording of the July 20, 2016 meeting, Board Chairman Karl Hutter

¹ Agenda Item F(4) for the July 20, 2016 Board meeting stated:

states that creation of a subcommittee would have implications under the OML, and since Mr. Tackes was not present to consult, the item would be removed from the agenda. The meeting agenda stated that “items may be removed from the agenda at any time” in conformance with NRS 241.020(2)(d)(6)(III). There is no evidence to support the allegation that the Board members deliberated to evade the OML. However, public bodies are warned that any effort to circumvent the OML may result in prosecution by the OAG.

The second alleged violation is that Chairman Hutter unilaterally took action under Agenda Item K by appointing Secretary/Treasurer Maurice White as the “official representative of the [A]uthority so he could take action and get additional information” regarding airport expansion marketing efforts and the payment of airport employees’ healthcare costs. Agenda Item K, entitled “Report From Authority Members”, was not denoted as an action item. Public bodies must comply with NRS 241.020(2)(d)(1) by providing an agenda consisting of a clear and complete statement of the topics scheduled to be considered during the meeting. *See also Sandoval v. Board of Regents*, 119 Nev. 148, 154, 67 P.3d 902, 906 (2003) (“discussion at a public meeting cannot exceed the scope of a clearly and completely stated agenda topic”). NRS 241.020(2)(d)(2) further requires that an agenda include a list describing the items on which action may be taken and clearly denote that action may be taken on those items by placing the term “for possible action” next to the appropriate item.

The video recording of the July 20, 2016 meeting establishes that no action was taken to appoint White as the “official representative” of the Authority or the Board with regard to airport expansion marketing or health insurance negotiations. There were no motions taken and no votes cast. Moreover, White was not granted any decision-making power or authority to negotiate on behalf of the Authority or the Board. Rather, the record reflects that White was only requested to continue to gather information regarding airport expansion marketing efforts and the payment of airport employees’ healthcare costs to help shape future Board discussions on these topics. In fact, Chairman Hutter specifically cautioned White that no action was to be taken, and that the Board was not authorizing White to commit to anything.

However, to provide the public clear notice that the Board may discuss airport expansion marketing efforts or the reorganization of the airport employees’ healthcare cost payment system, these items should be expressly set forth on the agenda in the future.

The third alleged violation is that White, during his report on the payment of employee healthcare costs under Agenda Item K, referred the Board to documents not contained in the

FOR POSSIBLE ACTION: TO APPROVE THE SELECTION OF A SUBCOMMITTEE TO REVIEW AND EVALUATE CONTROLLABLE BUDGET ITEMS INCLUDING LEGAL FEES, ADVERTISING COSTS AND OTHER ADMINISTRATIVE EXPENSES; AND TO MAKE RECOMMENDATIONS TO THE AIRPORT AUTHORITY AT THE AUGUST 17TH MEETING.

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materials available to the public. Public bodies must comply with NRS 241.020(6) and (7) by making supporting materials available to the public at the time they are provided to the members of the public body.

The video recording of the July 20, 2016, meeting reveals that White handed out a document containing a breakdown of healthcare premium rates for Carson City employees during the 2016 fiscal year. The Complaint alleges that White directed the Board members to view information on their computers that was not made available to the public. Upon review of the video recording, there is no indication that the Board members had computers, but rather that they referred to the hard copies of the Carson City healthcare premium document that was handed out. There is no indication that any member of the public in attendance requested a copy of the Carson City healthcare premium document, nor is there any reason to believe that copies of the document would not have been provided to the public upon request. According to the response by Mr. Tackes, a copy of the Carson City healthcare premium document was placed on the Board's webpage after the meeting and in response to the Complaint.

CONCLUSION

The OAG finds that no violation of the OML occurred, and the OAG will be closing its file this matter.

Sincerely,

ADAM PAUL LAXALT
Attorney General

By:



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cc: Steven E. Tackes, Esq., Board General Counsel