



STATE OF NEVADA
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November 21, 2014

Via First Class Mail

Michael J. Coster
P.O. Box 150864
Ely, Nevada 89315

Re: Open Meeting Law Complaint, A.G. File No. 14-029 against
White Pine County Commission

Dear Mr. Coster:

Background

In this Open Meeting law complaint, Nevada Revised Statute 241 (NRS), White Pine County Commissioner Mike Coster alleges that the Open Meeting Law was violated during the White Pine County Board of County Commissioners (BOCC) meeting on September 10, 2014. He alleges the Commissioners refused to follow agenda language that allows any Commissioner to remove any item from the consent agenda for discussion.¹ The Commission voted to approve the consent Agenda as set forth in agenda item IV, even though Commissioner Coster abstained. He alleges that the BOCC could not approve a consent agenda without his vote to make the vote unanimous.

The consent agenda is considered to be routine matters for which several items can be grouped for one vote. The action item approved by the Commissioners, with an abstention by Commissioner Coster, indicated ratification and approval on behalf of the White Pine County Commission Chairman's letter to the Ely Times. Commissioner Coster said during the debate on this matter that he did not object to the letter; he only wanted to exclude the letter from the vote. Commissioner Coster was allowed to speak

¹ IV CONSENT AGENDA stated in part that "Any County Commissioner May remove any items from the consent Agenda and have it placed in the Action Items."

and plead his case to the other Commissioners and to the public before a motion was made to approve the consent agenda. Other Commissioners including Chairman Lampros suggested he abstain from the vote, which he did.

Commissioner Coster sought to pull from the consent agenda one piece of correspondence (the letter) which Chairman Lampros had sent to the Ely Times newspaper for publication. It was published.

Chairman Lampros' said during the September 10th meeting that he wrote the letter to explain to the Ely Times readers that the County Commission (with the exception of Commissioner Coster) had not been responsible for the recent entry into the Northern Nevada Railroad Management Board office at the time the building was locked and no one was present in the office.

Commissioner Coster acknowledged his indecorous role affording entry into the Management Board's office by the Ely Mayor, two City Councilmen, and an auditor. He publicly acknowledged his role in the entry to the building housing the Railroad Management Board in an interview with the Ely Times reporter and again during public comment in the September 10th BOCC public meeting.

Commissioner Coster entered the Railroad Management Board office through a window that was also occupied by an air conditioner, then unlocked a door allowing entry of the other elected officials. It was from this act that Chairman Lampros sought to distance the other Commissioners and the County.

Discussion

This office enforces the Open Meeting Law – NRS chapter 241, but not local rules of parliamentary procedure. The Attorney General does not enforce the public body's agenda local rules, except as mentioned below. Complainant Coster has not linked the alleged OML violation to any statutory authority in NRS 241. He only points to a local rule, which in our view is a matter of parliamentary procedure. The fact that Chairman Lampros refused to allow Commissioner Coster to remove some correspondence from the consent Agenda is not a violation of the OML. The OML states that agenda items need only be "clear and complete" and items must "comply with all other provisions of this chapter (NRS 241.020(1)). He has not explained how the alleged violation is linked to any statutory authority, nor do we find any.

This issue was discussed in public and the vote was in public. This office does not enforce or comment on rules of parliamentary procedure or alleged violations thereof. There is no requirement in the OML that rules of parliamentary procedure be adopted by public bodies, although many do so.

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There is no reference in the OML to enforcement of local rules, unless a rule is a "time," "place," or "manner" restriction that affects public comment. The rule that a Commissioner may remove a matter from a consent agenda is not related to public comment, nor is the Chairman's refusal to honor the rule, a violation of any matter that offends the OML.


This office does not have authority to enforce the local rule applicable to removing an item from a consent Agenda. The issue may be a matter of parliamentary procedure, but it is not a matter of the Open Meeting Law.

We are closing our file on this matter.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:



GEORGE H. TAYLOR
Senior Deputy Attorney General
Bureau of Government Affairs
Open Meeting Law

Cc: Kelly Brown, District Attorney
John Lampros, Chairman
Laurie Carson, Vice-Chair
Mike Lemich, Commissioner
Richard Howe, Commissioner