

1 STATE OF NEVADA
2 OFFICE OF THE ATTORNEY GENERAL
3

4 In the Matter of:)
5)
6 KINGSTON TOWN BOARD.)

OPEN MEETING LAW COMPLAINT
Attorney General File No. 14-035

7
8 CORRECTED OPINION

9 BACKGROUND

10 Bradley Ward (Mr. Ward), of Kingston Nevada, submitted this Open Meeting Law
11 (OML) complaint that alleges the Kingston Town Board (KTB), a public body subject to the
12 OML, violated the OML when it prevented Mr. Ward from making public comment to the Board
13 about an item on the Board's October 8, 2014 agenda.

14 We have reviewed the minutes of the meeting on October 8, 2014.

15 FINDINGS OF FACT

16 On October 8, 2014, the Kingston Town Board held a special meeting primarily to
17 consider whether to approve a letter that had been written on behalf of the KTB. It was to be
18 sent to the Kingston Volunteer Fire Department (KVFD), a corporation. In it, the KTB informed
19 KVFD that the town of Kingston would no longer financially support the KVFD, nor would it
20 need the corporation's services, as the town intended to use its own volunteer's services. The
21 letter would also require the return of certain equipment to the KTB.

22 The agenda for this meeting had two items. It also had two periods of public comment;
23 however, both periods of public comment limited comment to non-agendized items only.

24 Mr. Ward asked to speak during the second period of public comment after the Board
25 had voted to send the letter. He was denied from speaking by members of the Board.
26 Mr. Ward stated during the second public comment period that he wished to speak. Shannon
27 Thiss (Ms. Thiss), Town Manager, reiterated what Board Members had told Mr. Ward, that the
28 letter was a Board "thing" and had nothing to do with the public. Ms. Thiss said Mr. Ward

1 couldn't discuss the letter in public comment. Mr. Donald Haines, Vice-Chairman told
2 Mr. Ward he would have to wait to get the letter [it was being sent to him] to find out what had
3 been suggested by the Board Counsel regarding a proposal that the town disengage from the
4 KVFD.

5 Although Mr. Ward continued to ask questions the Board refused to discuss the letter
6 with him referring him to their lawyer.

7 **CONCLUSION OF LAW**

8 The Open Meeting Law requires at least one period of public comment on every
9 agenda which allows citizens to speak of any matter or topic not specifically included on the
10 agenda as an action item. NRS 241.020(2)(d).

11 **Failure to allow Mr. Ward to speak was a violation of NRS 241.020(2)(d).**

12 Kingston Town Board's failure to allow Mr. Ward to speak invalidates the action the
13 Board took to approve the letter that was intended to be sent to the KVFD. If the KTB intends
14 to pursue the disengagement from the KVFD, it must repeat the meeting and re-agendize the
15 item from the October 8, 2014, agenda.

16 Failure to re-agendize the item on a future agenda will result in an action from this
17 office seeking injunctive relief.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

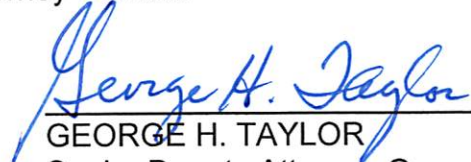
28 ///

1 THIS OPINION FINDING VIOLATION MUST BE PLACED ON THE NEXT KINGSTON
2 TOWN BOARD'S AGENDA AND THE OPINION MUST BE MADE PART OF THE
3 SUPPORTING MATERIALS PURSUANT TO NRS 241.0395.¹

4 DATED this 13th day of February 2015.

5 ADAM PAUL LAXALT
6 Attorney General

7
8 By:



9 GEORGE H. TAYLOR
10 Senior Deputy Attorney General
11 Open Meeting Law Coordinator
12 Nevada State Bar No. 3615
13 100 North Carson Street
14 Carson City, Nevada 89701
15 (775) 684-1230

16
17
18
19
20
21
22
23
24 ¹ NRS 241.0395 Inclusion of item acknowledging finding by Attorney General of violation by public body
on next agenda of meeting of public body; effect of inclusion.

25 1. If the Attorney General makes findings of fact and conclusions of law that a public body has taken action in violation
26 of any provision of this chapter, the public body must include an item on the next agenda posted for a meeting of the public
body which acknowledges the findings of fact and conclusions of law. The opinion of the Attorney General must be treated as
supporting material for the item on the agenda for the purposes of NRS 241.020.

27 2. The inclusion of an item on the agenda for a meeting of a public body pursuant to subsection 1 is not an admission of
wrongdoing for the purposes of a civil action, criminal prosecution or injunctive relief.

28 (Added to NRS by 2011, 2384)

Attorney General's Office
100 N. Carson Street
Carson City, Nevada 89701-4717

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 13th day of February 2015, I deposited for mailing at Carson City, Nevada, a true and correct copy of the foregoing OPEN MEETING LAW OPINION, via United States Mail addressed as follows:

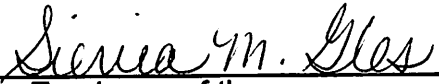
Bradley G. Ward
8 Buckhorn Court
Kingston, Nevada 89310

R. Scott Weide, Esq.
7251 W. Lake Mead Blvd., Ste. 530
Las Vegas, Nevada 89128

Theodore C. Herrera, DA
Lander County District Attorney's Office
P.O. Box 187
Battle Mountain, Nevada 89820

Brent T. Kolvet, Esq.
6590 S. McCarren Blvd., Ste. B
Reno, Nevada 89509

Kingston Town Board
Shannon Thiss
Ann Miles
Rosalie Zamora
Betty Kemp
Donald Haines
HC 65, Box 130
Austin, Nevada 89310


An Employee of the
Office of the Attorney General
Bureau of Government Affairs