



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

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August 8, 2012

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Patrick J. Flanagan
P.O. Box 427
Virginia City, Nevada 89440

Re: Open Meeting Law Complaint / AG File No. 12-014
Storey County Board Commissioners

Dear Mr. Flanagan:

This letter is our determination of your Open Meeting Law (OML) complaint following our investigation.

The Storey County Board of Commissioners (SCBC) adopted a final budget for FY2012–2013 on May 21, 2012. County Manager Pat Whitten presented staff's recommendation summary and an updated spreadsheet to the SCBC in its board packet. Staff recommended eliminating funding for the Storey County Library.

Your OML complaint alleged inadequate notice to the public of the recommendation to eliminate funding for the library because the closure was hidden in "pages and pages" of numbers. Secondly, another allegation is that you were not allowed to fully give public comment at the May 21, 2012 SCBC meeting because of a three minute time limit.

Finally, the complaint alleges that because the SCBC did not discuss or debate whether the library should be closed, the SCBC had made a decision before the meeting started.

This Office reviewed an exhaustive response from the County which included the agenda for several SCBC public meetings—April 3, April 17 and May 21, 2012. We also reviewed the agendas from two Storey County Library Board meetings—May 15 and May 23, 2012. We were also provided with the County Manager's May 1, 2012 letter to the Library Board explaining why he was recommending elimination of Library funding. Two other documents were provided: 1) Staff recommendation to SCBC, and 2) Budget year 2012–2013 General Fund Revenue and Expenditure Summary.

Our review showed there was more than adequate notice the County would eliminate funding for the library. Staff's summary introducing the reductions in the next fiscal year budget was presented to the public at the beginning of the SCBC's consideration of the budget. The budget itself was an exhibit in the SCBC's board packet. The Storey County Library Board had been provided notice of staff's recommendation to eliminate funding as early as May 1, 2012. Its agenda for May 15, 2012 contained an item to discuss the County Manager's letter to the Board in which he explained why elimination of funding was necessary.

The May 21, 2012 SCBC agenda provided public comment notice to the public requesting that comments be limited to two minutes. Time, place, and manner restrictions on public comment are statutorily allowed but must be reasonable restrictions. NRS 241.020(2)(c)(7). Our review of the audio of your comment showed that comment was allowed during the consideration of the budget. You were allowed three minutes, given a warning, and then allowed to finish your thought. This procedure was not a violation.

Even though SCBC did not discuss or deliberate about elimination of funding, that in the budget does not, without more, generate a presumption that a decision was made prior to the meeting in violation of the OML. Public body members may review matters in the board packet and so long as no contact or discussion with other members constituting a quorum occurs, their vote does not require deliberation or discussion under any statute of the OML.

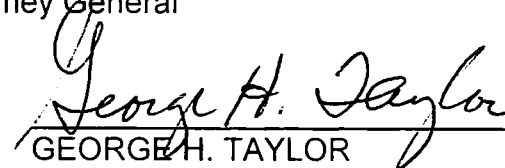
Thank you for your cooperation.

We are closing our file on this matter.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:



GEORGE H. TAYLOR
Senior Deputy Attorney General
(775) 684-1230

GHT/CG

cc: William A. Maddox, District Attorney
Pat Whitten, Storey County Manager;
Storey County Library Board c/o Pat Whitten
Storey County Commission Members: Bob Kershaw, Chairman;
Greg "Bum" Hess, Vice Chairman; Bill Sjovangen, Member