

1 together with an agenda consisting of a “clear and complete statement of the topics
2 scheduled to be considered during the meeting.” In *Sandoval* the Nevada Supreme Court
3 interpreted the “clear and complete” requirement to mean that it must provide the public
4 with “clear notice of the topics to be discussed at public meetings, so that the public can
5 attend a meeting when an issue of interest will be discussed.” *Sandoval*, 119 Nev. at 155,
6 67 P.3d at 906. The Court rejected a so-called “germane standard” because it was too
7 lenient and allowed a public body to stray from its agenda. *Id.* at 154, 67 P.3d at 905.

8 NRS 241.020(2) also specifies additional information that must be included on the
9 public notice and agenda. NRS 241.020(3) sets forth the requirements for posting a copy
10 of the notice and agenda, which include posting a copy at the official website of the State
11 pursuant to NRS 232.2175. NRS 241.020(5) requires posting a copy of the notice and
12 agenda on any website maintained by the public body. NRS 241.020(6) requires that
13 supporting material be made available to the public when provided to public body
14 members. NRS 241.035(1) requires that the public body keep written minutes of its
15 meetings, including “the substance of all matters proposed, discussed or decided” at each
16 meeting.

17 Any action taken in violation of the OML is void. NRS 241.036. Corrective action
18 requires that the public body engage in an **independent deliberative action** in full
19 compliance with the OML. *See, e.g., Page v. MiraCosta Community College Dist.*, 102 Cal.
20 Rptr. 3rd 902, 930 (Cal. Ct. App. 2009); *Colorado Off-Highway Vehicle Coalition v.*
21 *Colorado Bd. of Parks and Outdoor Recreation*, 292 P.3d 1132, 1137–8 (Colo. Ct. App.
22 2012); *Zorc v. City of Vero Beach*, 722 So. 2d 891, 902-3 (Fla. Dist. Ct. App. 1998); *Pearson*
23 *v. Selectmen of Longmeadow*, 726 N.E.2d 980, 985 (Mass. App. Ct. 2000); *Gronberg v.*
24 *Teton County Housing Authority*, 247 P.3d 35, 42 (Wyo. 2011).

25 FINDINGS OF FACT

26 1. The Committee is an advisory body formed for the stated purpose “to assist
27 the Nye County Board of County Commissioners with the decision-making process in
28 supplying public services to the unincorporated town and area of the Town of Pahrump.”

1 2. The Committee is a “public body” as defined in NRS 241.015(4), subject to
2 the OML.

3 3. As a matter of practice, the Committee does not post a copy of its public
4 notice and agenda in an electronic file format (such as a PDF file) to comply with the
5 website posting requirements of NRS 241.020(3)(b) and NRS 241.020(5). Rather, the
6 Committee notes the time, place and location of the meeting together with a list of agenda
7 items at [http://www.pahrumpnv.org/pahrump-nevada/pahrump-advisory-boards/public-](http://www.pahrumpnv.org/pahrump-nevada/pahrump-advisory-boards/public-lands/)
8 [lands/](http://www.pahrumpnv.org/pahrump-nevada/pahrump-advisory-boards/public-lands/) and provides a link to that webpage at <https://notice.nv.gov/>.

9 4. There is no clear evidence that the public notice and agenda that was posted
10 for the May 3, 2016, Committee meeting contained all the information required pursuant
11 to NRS 241.020(2). The Committee provided the OAG two different versions of the public
12 notice and agenda.

13 5. Agenda item no. 7 for the May 3, 2016, Committee meeting indicated: “FOR
14 POSSIBLE ACTION: Review BLM progress of LCP property for recreational purposes.”

15 6. Agenda item no. 7 did not provide sufficient notice to the Committee
16 members of the scope of discussion and possible action that might be taken under that
17 agenda item. This is evidenced by the fact that Mr. Adams contacted Committee Chair
18 Mike Zaman, Committee Secretary Linda Hatley, and Pahrump Town Manager Pam
19 Webster requesting background information. Mr. Adams was informed that no
20 background information was available and no action was contemplated on that agenda
21 item.

22 7. The Committee met on May 3, 2016. The minutes of the May 3, 2016,
23 Committee meeting indicate that Chairman Zaman, Vice Chairman Merrilee Spoor,
24 Secretary Hatley, Dorothy Smithers, and Rick Tretter were present; Mr. Adams and Erin
25 Hubbell were absent.

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1 8. The minutes of the May 3, 2016, Committee meeting state that under
2 agenda item no. 7: "Linda Hatley shared we need to get approval of the two 10 acre
3 parcels, one is an alternative. Merrillee Spoor motioned to except the 2 different parcels,
4 Rick Tretter 2nd. Vote was 5-0."

5 9. There were no supporting materials available for agenda item no. 7.

6 10. Agenda item no. 7 was too vague to alert Committee members, let alone the
7 public, of precisely the scope of discussion and possible action that might be taken under
8 the agenda item. The Committee asserts that the agenda item describes the topic of "the
9 BLM's progress of reviewing the LCP property for any recreational purposes that may be
10 approved by the BLM" and that "the BLM sought the identification of two parcels, with
11 one being an alternate, within the LCP property in order to process the BLM's review of
12 the proposal to open land at the LCP property for recreational purposes." However, the
13 express language of the agenda item contains no reference to Bureau of Land
14 Management "approval" nor does it specify the action required of the Committee.

15 11. The minutes of the May 3, 2016, Committee meeting fail to reference or
16 identify the specific parcels that were approved, or to specify which parcel was the chosen
17 as the alternate, when taking action under agenda item no. 7.

18 12. There is no clear evidence that the public notice and agenda that was posted
19 for the June 7, 2016, Committee meeting contained all the information required pursuant
20 to NRS 241.020(2). The Committee provided the OAG two different versions of the public
21 notice and agenda.

22 13. Agenda item no. 8 for the June 7, 2016, Committee meeting indicated: "FOR
23 POSSIBLE ACTION: BLM progress of LCP property for recreational purposes."

24 14. The Committee met on June 7, 2016. The minutes of the June 7, 2016,
25 Committee meeting indicate that Chairman Zaman, Vice Chairman Spoor, Secretary
26 Hatley, Ms. Smithers, Mr. Adams and Mr. Tretter were present; Ms. Hubbell was absent.

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1 possible action that might be taken under that agenda item, that agenda item cannot be
2 sufficiently "clear and complete" to provide notice to the public in conformance with
3 Nevada law.

4 4. Agenda item no. 7 for the Committee's May 3, 2016, meeting did not provide
5 notice to the public that the Committee would be deliberating and taking action on a
6 matter of substantial public interest: identification of two specific parcels, with one being
7 an alternate, within the LCP property for potential approval by the BLM for recreational
8 purposes.

9 5. The Committee's action taken under agenda item no. 7 at the May 3, 2016,
10 meeting was a violation of the OML, and is void under NRS 241.036.

11 6. By failing to reference or identify the specific parcels that were approved, or
12 to specify which parcel was the alternate, when taking action under agenda item no. 7,
13 the minutes of the May 3, 2016, Committee meeting fail to comply with NRS
14 241.0335(1)(c).

15 7. Agenda item no. 8 for the Committee's June 7, 2016, meeting further failed
16 to comply with the clear and complete requirement of NRS 241.020(2)(d)(1) and did not
17 provide notice to the public that the Committee would be further deliberating on a matter
18 of substantial public interest: the BML's approval of LCP property for recreational
19 purposes and the Committee's role in that process.

20 **SUMMARY**

21 Because the OAG finds that the Pahrump Public Lands Advisory Committee has
22 taken action in violation of the OML, the Board must place on its next meeting agenda
23 these Findings of Fact and Conclusions of Law and include them in the supporting
24 material for the meeting. The agenda item must acknowledge these Findings of Fact and
25 Conclusions of Law to be the result of the OAG investigation in the matter of Attorney
26 General File No. 13897-197, and that it has been placed there as a requirement of NRS
27 241.0395.

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1 Furthermore, the OAG strongly recommends that the Pahrump Public Lands
2 Advisory Committee members and staff receive training in the OML. The OAG is
3 available to provide OML training upon request.

4 DATED this 26th day of July, 2016.

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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on this 26th day of July, 2016, I caused to be deposited for mailing, a true and correct copy of the foregoing, FINDINGS OF FACT AND CONCLUSIONS OF LAW, to the following:

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