

**From:** George H. Taylor  
**Sent:** Friday, March 05, 2010 9:35 AM  
**To:** 'rwsears@wpcda.org'; 'kbriggs@elycity.com'  
**Subject:** City/county budget negotiating teams and the OML:  
3.5.10

Gentlemen;

I reviewed this morning's Ely Times article concerning City/County budget negotiations. It states that the City negotiating team met behind closed doors only to conclude that no further negotiations last evening (3.4.10) were possible. That decision appears to be an OML violation because the closed meeting required both deliberation and action under the OML. In other words the committee made a promise, commitment or an actual vote to cease negotiating that evening, and that meeting behind closed doors constituted a separate meeting during a recess, according to statute, to discuss breaking off negotiations. NRS 241.015(1) and (2). The County team may have met behind closed doors earlier in the week, but that meeting also concluded early, apparently for the same reasons. I understand that today's session (3.5.10) has been canceled.

This is only a confidential friendly reminder regarding the apparent OML violations. I understand both the City Council and the BOCC appointed their respective negotiating teams, both of which may have a mix of staff and Councilmen/Commissioners.

Any committee appointed by a public body is itself a public body even if less than a quorum of the elected public body serves on the committee. OML Manual §3.04 (to the extent a group is appointed by a public body and given authority to make recommendations or make decisions it is a public body). A Group could be all private citizens and it would still be a committee subject to the OML.

Neither negotiating team can meet behind closed doors, unless there is a specific exception in the NRS for such meeting. For example: NRS 288.220 (exemption for collective bargaining by school districts and teacher's union). I'm unaware of any

exemption for White Pine County/City of Ely budget negotiations. Perhaps the Legislature could enact a specific exception, but until then, each team must follow the law no matter how painful the process seems to be. It makes no difference that there are only two elected public officials on each team. A public body cannot meet behind closed doors for any purpose, unless a statutory exemption or exception exists for such a meeting.

I'm happy to hear that the process is taking place in public. This is a good step forward. I hope you will take this friendly reminder in the spirit it has been sent.

George H. Taylor  
Senior Deputy Attorney General  
100 North Carson St.  
Carson City, Nv. 89701  
775-684-1230 (ph.)  
775-684-1108 (fax)  
gtaylor@ag.nv.gov

**\*\*\*\*\* Confidentiality Notice \*\*\*\*\***

*This e-mail message (including any attachments) is a confidential communication from the Office of the Attorney General, Government Affairs Division, and is intended only for the named recipients(s) above and may contain information that is privileged or attorney work product. If you are not the intended recipient no applicable privilege or confidentiality is waived or intended to be waived and further dissemination is prohibited. If you have received this message in error, or are not the named or intended recipient(s), please immediately notify the sender at (775) 684-1230, or email gtaylor@ag.nv.gov and delete this email message and any attachments from your workstation or network mail system.*