



4. Attach two copies of all documents or items you believe provide credible evidence to support your allegations. [NRS 281A.440.2\(b\)\(1\)](#) requires you to submit all related evidence to support your allegations. [NAC 281A.435.3](#) defines credible evidence as a minimal level of any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made within the complaint. Credible evidence does not include a newspaper article or other media report if the article or report is offered by itself.

State the total number of additional pages attached (including evidence) 43.

**REQUESTER'S INFORMATION:**

NAME: Scott Sauer	E-MAIL: SSAUER1@cox.net
ADDRESS: 6330 Orions Tool St	
CITY, STATE, ZIP: North Las Vegas, NV 89031	
TELEPHONE: none	CELL PHONE: (702) 501-9563

By my signature below, I do affirm that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief and I am willing to provide sworn testimony if necessary regarding these allegations.



7/31/11

Signature

Date

Print Name: Scott Sauer

**Please return an original signed form, two copies of the form, and three copies of the supporting documents and evidence to:**

Executive Director  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703

Forms submitted by facsimile will not be considered as properly filed with the Commission.

[NAC 281A.255.3](#)

Several Issues have come to light concerning the Mayors' lack of ability to comply with the conflict of interest regulations. The details are found below:

**Background**

**June 15, 2011 North Las Vegas City Council item #15:**

The item was noticed as follows: Canvass of the June 7, 2011 Municipal General Election Results (Please see attached verbatim minutes for exact wording and time line). The acting City Manager Maryann Ustick called the item and turned the time over to acting City Attorney Nick Vaskov who provided a series of comments outlining a problem that had been brought to his attention by Larry Lomax, Clark County Registrar of Voters. At this time he also disclosed that he had retained outside council in the form of Matt Griffin to advise the Council on this item. Following the initial comments Councilwoman Wood and Councilman Eliason disclosed their involvement in the ward 4 council race of Richard Cherchio. Councilwoman Wood also disclosed that she had verified that she could be involved in the discussion based upon advice of Karen Jenkins, ED for the Nevada Commission on Ethics. Following these disclosures, Larry Lomax provided further discussion on the specific problem that had occurred. At this point the Mayor did specifically ask that the first vote be for the canvas of the Ward 2 and Judge races since there were no issues with these races. At this point Richard Cherchio did confirm that he could vote on the canvas of these races. The two races were then canvassed. At this time the Mayor disclosed that she had contributed to a campaign and had a family member that was a paid employee of a campaign. Based upon this, in an abundance of caution she abstained. Following the Mayor Pro Temp William Robinson taking over the meeting, the discussion continued with Matt Griffin providing two options to the Council, Canvas the election or order a new election in the precinct in question. In the end the council ordered a new election in the precinct in question.

**June 23, 2011 North Las Vegas Special City Council item #1 (agenda signed by Mayor Pro Temp Robinson):**

The item was noticed as follows: Approval of guidelines regarding the new election for precinct 4306 in ward 4. Following the item being called, the council was advised that they could take no action on this item due to a court injunction. The Mayor was not present at this meeting, but was instead out of town.

**June 30, 2011 North Las Vegas Special City Council item #1 (agenda signed by Mayor Pro Temp Robinson, Councilman Eliason and Councilwoman Wood):**

The item was noticed as follows: Discussion, action and/or approval of a new election for precinct 4306 in ward 4 and review and/or approval of guidelines and a schedule for the same (Please see attached verbatim minutes for exact wording and time line). After calling the meeting to order the Mayor stated that she would be again abstaining but would like to ask some questions first. She proceeded to confirm that the meeting scheduled for June 23, 2011 did not occur because of court order; however that order would not stop this meeting from occurring. Matt Griffin confirmed the same. At this point the Mayor provided an editorial comment on the actions of the Council on June 15, 2011 and did accuse the Council of taking an illegal action. She then proceeded to

abstain. The item continued to move forward, with Mayor Pro Temp Robinson running the meeting.

July 14, 2011 North Las Vegas Special City Council item #1 (agenda signed by Mayor Buck):

The item was noticed as follows: Canvass of the June 7, 2011 Municipal General Election results for ward 4 (action item). Although I was not in attendance at this meeting, I am told that the Mayor did again abstain from this item. Although she was the individual to schedule the meeting.

July 14, 2011 North Las Vegas Special City Council item #2 (agenda signed by Mayor Buck):

The item was noticed as follows: Swearing in of Dr Wade Wagner. Although I was not in attendance at this meeting, the action summary shows this item as withdrawn. It is my understanding that this was because of a court order.

July 14, 2011 North Las Vegas Special City Council item #3 (agenda signed by Mayor Buck):

Issuance of a certificate of election. Although I was not in attendance at this meeting, the action summary shows this item as withdrawn. It is my understanding that this was because of a court order.

Complaint(s)

June 15, 2011 – The Mayor did fail to abstain due to her personal involvement in a campaign, but instead used an alternate reason. This meant that she did not have to disclose her personal involvement in a campaign. This involvement included the use of her office and title. Please see attached copies of ads. It should be noted that one has a return address of Mayor Shari Buck's home address.

June 30, 2011 – The Mayor did attempt to influence and direct the discussion on an item that she was abstaining on. In her attempt to influence this discussion she did, accuse the council of taking illegal actions.

July 14, 2011 - The Mayor did attempt to influence and direct the discussion on an item that she was abstaining on. This was accomplished by being the only individual to schedule the meeting as well as the only individual to sign the agenda.

Comments:

The series of actions outlined above has to be the worst demonstration of ethics I have ever had the frustration to witness. This race has been the most contested race I have ever witnessed. The race has been in and out of court so many times, I have lost count. I truly believe that the public will never know who actually won this race. The actions of our Mayor have permanently damaged the reputation of this great city. Please take appropriate action and discipline the Mayor for her actions.

**Additional witnesses:**

Gay & Steve Shoaff  
5622 Midnight Breeze St  
North Las Vegas, NV 89081  
(702) 655-5533

**CITY COUNCIL MEETING**

**June 15, 2011**

**Verbatim Excerpt Transcript No. V1311**

**15. CANVASS OF THE JUNE 7, 2011 MUNICIPAL GENERAL ELECTION RESULTS.**

Acting City Manager  
Maryann Ustick:

Let's return to the Business Section of the agenda. Item No. 15, Canvass of the June 7, 2011 Municipal General Election Results. Mr. Vaskov?

Acting City Attorney  
Nicholas Vaskov:

Mayor, members of Council, as you know by now last Thursday at about 4:45 p.m. I received a, I had a visit from Larry Lomax who's the Registrar of Voters for the Election Department. Larry informed me of an irregularity in the Ward 4 Election. After gathering some initial facts, I determined that in order to protect the integrity of the election and to avoid any appearance of impropriety on the part of the City, my office or myself, that it was necessary to, for the Council to have the benefit of outside independent Counsel advice on this matter. By about 9:00 that evening, I retained Matt Griffin to do that work. Matt Griffin is the former Chief of Elections for the Secretary of State's Office. He is currently a partner in the law firm of Griffin, Rowe and Nave. He has a wealth of knowledge in Election Law and I am confident that he will serve this Council well tonight. So, with that said, I am, have effectively recused myself from providing advice on this matter and I will invite Larry to come up and tell you a little bit more about the irregularity.

Councilwoman Wood:

Mayor, before we get to that, I need to make a disclosure.

Mayor Buck:

Okay.

Councilwoman Wood:

I need to disclose that my campaign did make contribution to Councilman Richard Cherchio's campaign, that my husband did put up signs for him and that I did make phone calls in support of him. I have reviewed my involvement, both with Karen Jenkins, who is the AD of the Nevada Commission on Ethics as well

as the outside legal counsel for the City Council and have been advised that my actions were all within my rights as an individual to do and that they do not rise to the level to allow me to abstain. I did not use my office to alter or affect the outcome of this election and that I understand the issue before me and can maintain independence of judgement that will not be materially affected by that involvement.

Mayor Buck:

Thank you. Councilman Eliason.

Councilman Eliason:

Your Honor, I also, I have to disclose that I have made a campaign contribution to Councilman Cherchio's campaign and I also believe it will not affect my right to vote.

Clark County Registrar  
of Voters

Larry Lomax:

Is that it?

Mayor Buck:

Yes. Wait, just stop.

Larry Lomax:

Good evening. I'm Larry Lomax. I'm the Registrar of Voters in Clark County. I've been asked to come before you tonight and give a summary or review of what happened and make sure you, are thoroughly familiar and if you have any questions, obviously you can ask them, I mean, that's why I'm here. I did present an affidavit earlier, I think there's a copy of it that's been provided to you, but that's really what I'm gonna summarize, what's in the affidavit. The General Election, as you know, took place on June 7<sup>th</sup>. The Election went fine, initially, as far as we could tell. After every Election we conduct an audit. We do this for every precinct. We do it for what occurred during Early Voting or what occurred in mail ballots or absentee voting and then what occurred on Election Day. In the course of conducting this audit, we found no problems were in the mail ballots. We found no problems or discrepancies in the Early Voting. However, on Election Day voting, in a single polling place, we found an individual, who was properly registered to vote in Ward 3, showed up at a polling place in Ward 4 and presented to the person in charge of the polling place, identification showing that he had moved to a residence in Ward 4. And, the polling place he was in was the

correct polling place for his new address. The person in charge of the polling place asked this individual if he had updated his address on his registration records. And the individual stated that he had not. At this point, the individual in charge of the polling place should have directed the voter to his old polling place because Nevada law requires you to vote at the polling place, at the address for which you are currently registered. And this individual had stated, he was not, had not updated his registration address. The poll worker, incorrectly, allowed the voter to fill out a change of address form and then enter his name on a supplemental page in the roster book. The roster book, I think you're familiar with, if you vote on Election Day, is a pre-printed book and in that are the names of everyone in the precinct eligible to vote at that polling place on Election Day. This individual's name, needless to say, was not in it. It was in a roster book back in Ward 3. In the back of the roster book is a page, which I don't expect you to be able to see from there. It's a page where an entry can be made if an individual has been inadvertently, and by that I mean a mistake has been made on the part of the Election Department, and an individual has been left out of the roster book. This does occur. An example would be such as, I have a son who has the same name as I do. We're both registered to vote. My son, might leave Nevada and move to another State in pursuit of a job. A worker in my department might mistakenly cancel me and leave my son in because we have the same name. These kind of things occur. And that's the purpose of this page. However, printed in one-inch font on this page, it says, "before making an entry on this page, you must have the Election Department's approval." There is also a column in which you must enter the name of the Election Department Official that authorized you to enter this individual onto this form. This did not occur. And the person in charge of the polling place admits he failed to do this. He allowed the voter to enter his name, sign it and allowed the voter to vote. Thus, we found that one extra ballot and this is the only discrepancy in this, unfortunately, in this contest, there is a vote that was cast, that should not have been cast. If you're not familiar with the way our equipment works, part of the way democracy in America works, is you all guarantee the privacy of your ballot. You can go in and vote for anyone you want and no one will ever know

who you vote for. And what that means is, we have no way to go back and pull that ballot out of the Election. Once that ballot is cast, it's thrown in with the other ones. It can not be attached to the voter. So, we can not withdraw it. It's in there and we have no way of knowing how that individual actually voted. There were two undervotes on Election Day, meaning, 50 voters showed up and voted and that's including this individual. 48 votes were cast in this particular contest. So, it is true that two people did not cast, or did not vote in that particular race. I assume they voted for the Judge race only. Does anyone have any questions?

Mayor Buck:

What I'd like to do, Mr. Lomax, if we can, is jump forward, Matt, with canvassing, or talking about the two other races and then we'll come, call Mr. Lomax back, ask any questions of that particular race.

Matt Griffin  
Law Firm of  
Griffin, Rowe and Nave:

Sure, Madam Mayor. For the purpose of the record, my name is Matt Griffin and as previously discussed and agreed to, I think it's necessary to separate the Ward 4 race out and then canvass the rest of the General Election from 2011. There's been no record led by Mr. Lomax of any infirmities in that. I believe it's ready for your consideration to canvass today.

Mayor Buck:

Council Members, you have any questions of Mr. Griffin on that portion?

Councilman Cherchio:

Just a, would I be allowed to vote on the Ward 2 and also on the Judge?

Mayor Buck:

Yes.

Matt Griffin:

Yes.

Councilman Cherchio:

Okay.

Mayor Buck:

Okay, then, is there a motion to....

Mayor Pro Tempore Robinson:

So moved, for Ward 2.....

Councilman Eliason:

Second.

Mayor Pro Tempore Robinson: .....and the Judges.

Councilman Eliason: Second.

Mayor Buck: And there's a motion to approve and certify Ward 2 and the Judge race and a second. Cast your vote. I say yes. Motion carries. Now, before we go further, Matt, I need to make a statement. And I want to make sure that this Election is fair and everything is on the up and up and I want to be very cautious in this, so, let me just disclose that I donated to a campaign that would not preclude me from voting on this. However, a member of my family worked on a campaign and was paid, and so, therefore, to be very cautious, I will abstain tonight. I want to avoid any appearance of impropriety. However, I do believe that this Council will make the right decision and do what's prudent for all of the voters in this City. So, right now, Mayor Pro Tem will run the portion of this meeting and I will actually, excuse myself from this portion.

Mayor Pro Tempore Robinson: Okay, Council.

Matt Griffin: Thank you, Mayor Pro Tem. Yes? Councilman Cherchio?

Councilman Cherchio: Question?

Matt Griffin: Yes?

Councilman Cherchio: Do you want me to leave or stay?

Matt Griffin: That is wholly up to you. I know that you've, you've retained private Counsel in this matter and they were going to consult with you on that. That the standard that will be adjudicated if ever adjudicated in this matter, is whether or not you participated in the deliberation of this hearing and there has been past cases in the State of Nevada where nods of the head or body gestures have been found to be deliberations, so, I would advise, in the abundance of caution, so that those allegations can not be made.

Councilman Cherchio: Oh, absolutely no problem. I'll just leave. That's fine.

Matt Griffin:

Thank you, Mayor Pro Tem, and again for the sake of the record, my name is Matt Griffin. As Mr. Vaskov stated, I've been retained by the City Attorney's Office to help advise and assist the City of North Las Vegas in the Ward 4 canvass today and the issues that Mr. Lomax just laid out for the Council. As all of you are aware, I've, over the course of this week, I've discussed this issue in detail, with each of you and outlined various options. And based upon those discussions and for the purposes of the record and for the benefit of any proceedings hereafter, I'm just going to focus this presentation today, on what I believe are two viable legal options that this Council can proceed with today. As noted, Mr. Lomax said for, and essentially, the underlying infirmity of this Election is that an invalid vote was cast and of course, as always it seems, is cast in a one vote race. With that, I want to make very clear, that I am not aware of any, nor have I heard of anybody make any allegation that any fraudulent conduct occurred on the part of either the voter or on the part of the poll worker. All indications that I have, and I believe all of the City Attorney's Staff has, is that it was just, clearly a mistake and mistakes do occur whenever you have people operating elections. The essential issue for this Council to address today is whether an improper vote has been included in the official tally of the Ward 4 Election. But that vote can not be ascribed to a particular canvass total and because that tally reflects, because the tally reflects a one vote advantage for Mr. Wagner, the invalid vote could have affected the result of this Election. The primary, remedial choice for this situation is whether to admit the Election to stand undisturbed, or whether to order a new Election in the affected precinct. The outcome of this meeting today will depend, in part, on whether you think the existence of an unknown, invalid vote in a one vote race has prevented an Election from occurring. There are two statutes for you to consider and the resolution of this matter will depend on your conclusion. If your conclusion, is, excuse me, under NRS 293.387 and NRS, or NRS 293C.387 and NRS 293C.710. I'll first discuss the authority under law today, for you to canvass this Election and I will next conclude my presentation today with the authority under State law

that allows you to put the precinct 4306 in the Ward 4 Election to a new Election from the people therein. Pursuant to Nevada law, you may properly canvass a vote as it appears before you today. Nevada Revised Statutes 293.387 governs the canvass and requires the returns of a General City Election must be delivered to the City Council for a canvass of the vote. It further provides that in completing the canvass of the return, the governing body shall note any clerical errors that have been discovered and take account for the changes resulting from the discovery of those errors so that the canvass reflects the true result of the vote cast. Nevada law does not permit the City Council or any board canvassing election to pass its own judgement on the veracity or legality of the votes cast therein, and this Council does not have authority to hear today, go in and verify the status of individual voters as they cast their ballot. Rather, the purpose of a canvass is to certify results of an Election and essentially to make the results of an Election official. Which in turn, allows the City Clerk to issue an Election Certificate to the candidate receiving the most votes. In this matter it has been shown that one valid vote has been, one invalid vote has been cast. And although that vote could affect the outcome of this Election, the precise affect of that vote is properly reserved for judicial review. I say that because the Statutes of Nevada have already contemplated a scenario that is before you today. No Election is perfect and every Election is with some degree of imperfection. The practical difficulties in administering Elections means that they are not flawless. The error of this Election could be considered de minimus. There is no mechanism by which this Council could determine who the invalid vote was cast for. And the new Election offers no insurance that similar errors will not occur in any new Election ordered today. Additionally, a new Election may cause additional delay and inefficiency in the vote. In recognition of these irregularities as I mentioned earlier, the Nevada Legislature has codified two procedures by which an aggrieved candidate can seek full relief. First, after the canvass of the vote, a losing candidate can demand that the vote be recounted and any errors in the count can be corrected. Second, and after a canvass by the Council, an aggrieved candidate may contest an Election. And of the grounds available to a

candidate to contest an Election in Nevada, it includes the inclusion of an illegal vote in the final tally of the vote. Nevada law also provides for a contest of Election after the canvass when errors were made sufficient to change the result of the Election as due any person who has been declared elected. By canvassing the vote today, you will reserve the rights, or preserve the rights of the statutory revenues available to the candidate receiving the least number of votes. The existence of these remedies is evidence of the Legislature's acceptance of a certain amount of errors that will include an Election. And by canvassing today, you allow this matter to proceed to full resolution. The second option and the reason therefore that you can proceed today, is by ordering a new Election. And I now will provide you the reasons under which you can order a new Election under the State of Nevada. You may conclude today that a new Election is necessary.

Mayor Pro Tempore Robinson: Counsel, when you said new Election you mean new Election for that particular precinct.

Matt Griffin: Yes.

Mayor Pro Tempore Robinson: Okay, let's establish that.

Matt Griffin: As I indicated, I think, if you proceed on a new Election, the only geographical area in which you can proceed is the precinct, Precinct 4306. And I think State law requires that it is all eligible voters in that precinct would be allowed to participate in a new Election. And just to be clear and to State the inverse, I do not believe there's statutory authority to order a new Election for the entire Ward and I do not believe there's statutory authority to order a new Election for just those voters that showed up on Election Day. I believe it has to be for precinct wide. Nevada Revised Statutes 293C.710 states that any Election that is prevented in any precinct, for any cause, the Election Official will make an affidavit setting forth that fact and deliver it to this body. I believe you've been delivered from Mr. Lomax an affidavit earlier that was sent to the City Attorney's Office and provided to you that essentially is the written version of what he has testified to today and it is a signed and sworn and notarized affidavit for your consideration. While the invalid voter issue here, as I've

mentioned, is not an unusual occurrence. In this instance, it is rather unusual because we have a one vote Election. A new Election is not uncommon in Nevada and in fact, in my years, since I've been involved in Elections, I have overseen at least, or been involved in some capacity with new Elections ordered in Lyon County, Douglas County and Washoe County and in addition as the Council, I think is aware, this jurisdiction, North Las Vegas had a new Election ordered in 1996 and 1999. It is not a new occurrence. It is not a foreign occurrence. It is, in fact, a way the Nevada law allows you to address what is before you. Based on the uncertainty of the results, if you, as a Council, can not, if you as a Council decide that you can not perform your duty under NRS 293.387 sub 2b, which states that you must take into account the changes so that the result declared represents the true vote cast, you are prevented from canvassing the vote today. The Nevada Supreme Court has stated that the canvass is an integral and to use their language, indispensable part of the Election. And without a canvass being conducted today, under 293C.710, an Election will be prevented for purposes of that statute. And because of that you have the authority to proceed with a new Election. Hopefully, and at this point, I want to conclude. If there's any question on the substance of it, I'm more than happy to address those questions. But I also want to conclude with at least a little bit of guidance of how we can proceed from here. Not knowing how the Council's going to vote, there may be a need to take two votes in this matter. First of all, if the Council determines that they are able to proceed with the canvass today, that is the only vote that needs to be held. A yah vote on canvass, the Election becomes official and the statutory remedies will then be available to the losing candidate that he can proceed either a contested Election or recount of Election. If the Council believes that they can not canvass the Election today, then you must also hold a second vote. And in that second vote, you must order that a new Election be conducted in Precinct 4306 to remedy the problem in the 2011 General City Election. In that new Election, a couple of things will need to occur so that it's done properly and correctly. We would request that if you're inclined to order a new Election that you order the City Attorney's Office and Mr. Lomax to work together to set

forth the parameters of that Election so that the most people can be allowed an opportunity to participate and that that concern can be balanced against the need to have a final resolution to this matter. We would be happy to bring that to the Council by next week for your approval and then from that point, we can begin the process of recapturing the vote in Precinct 4306. And as I stated, and just to stress one last time, the only lawful new Election that can be ordered in this matter is for Precinct 4306 regardless of whether the person voted in the underlying Election or not. They must be allowed to vote in the new Election. I'm happy to take any questions.

Mayor Pro Tempore Robinson: Council? I don't have the light, so, feel free to ask questions or comments.

Councilman Eliason: Do we have any kind of, if we was to order a new Election for that precinct, do we, I mean, is there a time frame or anything that has to be.....

Matt Griffin: There's not. I would recommend and I think any proposal that you would receive would allow for absentee ballots to be cast. And whenever you're gonna use absentee ballots, you have to at least, give a certain timeframe for the person to request....

Councilman Eliason: But that comes back to us, right?

Matt Griffin: Yeah. Yeah, it'll come back, if you order a new Election it would come back to you next week. And I think the idea would be, you'd have to allow a certain amount of either a week or two weeks for a person to request an absentee ballot and allow a week after that for them to return it. So, two to three weeks out, I think, would be a reasonable time to have the polls open and close at a polling location.

Councilman Eliason: Then, that brings up the next question. If we went that way, then you're talking two weeks, July 1<sup>st</sup> is here....

Matt Griffin: At a minimum.

Councilman Eliason: Are we sitting as a four member Board?

- Matt Griffin: Well, it, and candidly, I think the realities of what we're discussing today. If the vote is canvassed today, by State law and by 293C, the person receiving the most votes must be issued their Certificate of Election. Unless it can be showed, with this quote, unquote, reasonable certainty that they did not receive the vote. It's anticipated at least, from my perspective advising the Council, I wouldn't say it's a long shot that a law suit follows whatever occurs today. And with that law suit, I would not be surprised to see an injunction to prevent anybody from taking that seat. So, I think, *(unintelligible)* yes, somebody would be seated, but I think, practically there might be something to stop that.
- Councilman Eliason: One way for sure is, or, if we canvass there's a possibility of him being seated....
- Matt Griffin: Yes....
- Councilman Eliason: If we.....
- Matt Griffin: Unless someone stops it, they will be seated.
- Councilman Eliason: Right. If we order a new vote, there's, just the timeframe does not allow for the July 1<sup>st</sup> and would the current City Councilman sit until that's completed or does he leave June 30<sup>th</sup>?
- Matt Griffin: In all candor, I'm not positive with when new officers would be sworn in under your City Charter. But if it's July 1<sup>st</sup> when the new officers are sworn in, you're correct. The sitting officer now would not, would be relieved of his duty as a sitting Council Member after July 1<sup>st</sup>. And I can't imagine, in all candor, a scenario in which if this was litigated that a court would order that he stay in his Council seat until....
- Councilman Eliason: Some of the concern is we got to run business as a City. And there's a reason there's five of us.
- Matt Griffin: And that's a valid concern. I think it's a legitimate concern that that seat could remain vacant until this reaches final resolution.
- Mayor Pro Tempore Robinson: Councilwoman Wood?

Councilwoman Wood:

Now, Matt, there were some questions about disenfranchising the voters. So, I guess my question is, if the Council were to order the re-vote, it would just be in the precinct so I'm assuming that the current number of votes that were from that precinct would be taken out of the count and replaced by the new count.

Matt Griffin:

Yes. And what we have done is we'd advised Mr. Lomax not knowing what direction the Council's going to go in, is the existing results from Precinct 4306 have been preserved and will be locked away and will be available for any evidentiary purposes down the road. If you order a new Election, those results, unless a judge were to order so, would not be included in any canvass that would come before you again. Whatever the results of the new Election are, would be the results submitted to you for you to certify and make official as the records of the Election.

Mayor Pro Tempore Robinson:

What's your pleasure, Council?

Councilwoman Wood:

Well, I mean, I'll speak up as far as my concern. I do agree both with Mr. Lomax and with you that this is not really what I would declare an illegal vote so much as just an invalid vote. I do not believe that there was any intent to circumvent the Election or to alter the Election. I mean, I think it was just whether you call it a clerical error or something along that line, I mean, I truly believe that that's what it was. I am concerned about disenfranchising the voters. And for me, and believe me, I have been through this and all these laws and all this more times than I can tell you in the past three days. My problem is, it does tell us that we need to note the clerical errors and that we need to take account of the clerical errors resulting from that discovery so that the result declared represents the true vote cast. And the problem is, I'm not sure I know what that is. And from there, we are declaring the result of the canvass and being that this vote was in fact, only one vote in a race where the difference was one vote, I don't know for certain, one way or the other, whether it changed the results of the Election or not. And that makes it very, very difficult to know where to go from this point on. I do know that if we canvass, we tell our City Clerk to issue a Certificate of Election and she may be smarter

than I am, but I'm just not sure who that goes to at this point. I mean, the idea of voting to canvass seems to me to be an automatic assumption that the vote was for Councilman Cherchio and that Mr. Wagner won by a two point lead, because we're certifying the Election and that would in fact, certify him the winner and that's the assumption therefore, being made. So, I am concerned about moving forward with that, because I have to be honest and say that as Council person, I'm elected to make decisions on behalf of my constituents. And I get to make all sorts of votes on land use and financial and all these things that are part of my job and I take that as my responsibility. But I have a real problem because I truly to the bottom of my heart feel that the one job that I do not get, the one vote that I do not get to make, is the vote of who sits in this seat or any of these seats. That is the voters. The voter decides who sits here. And I don't get to usurp that, that decision. That has to me, to be made by the voters. And that, just to me, voting to me is the primary responsibility, the primary right and the primary duty of every American and every citizen of North Las Vegas in this case. And granted, there's a lot of us that throw that away and don't use it and shame on us for that. But for us to sit here and say that I for sure know what the outcome of this Election is, I don't. I don't. And I don't want to, and I don't think I have the right or any of us on Council have the right to say that we are going to decide the outcome of this Election as opposed to the voters. So, I truly believe, to make that decision, would in fact, be disenfranchising the voters. So, I would support not going forward with the canvassing, going forth with the new Election in 4306, Precinct, because I think that's the only fair thing to do. That puts it back in the hands of the voters so that the voters decide who will sit in the Ward 4 seat.

Mayor Pro Tempore Robinson: Was that a motion or was that just your comments?

Councilwoman Wood: I will make that a motion.

Mayor Pro Tempore Robinson: Is there a second, Councilman? I just second it. Cast your votes. Post. Motion carries.

- Matt Griffin:** Mr. Mayor Pro Tem, if I could. Fair and for all circumstances today, NRS 293C.710, you have an affidavit set forth in front of you. Mr. Cherchio, through his Counsel, Bradley Shrager, has provided the required application for this new Election to be ordered, so I'd like to at least, at this point submit this to the Council and make this part of the record of this proceeding.
- Mayor Pro Tempore Robinson:** Do we need to see that. Let us see that.
- Councilwoman Wood:** And I believe we need to do a follow up to call for...
- Mayor Pro Tempore Robinson:** Council, let's look at this first. Okay, now that you've had the opportunity to see that affidavit, what was your comment?
- Councilwoman Wood:** Well, I think that we need some idea from Mr. Lomax and what kind of timeframe that a new Election in 4306, is it?
- Mayor Pro Tempore Robinson:** I need to state this, though. The timeframe will be that Ms. Brown will be the person that will be serving in the Ward 2 seat, so Pamela you come aboard with a fire storm. I'm going out with one and you come in with one, but you can handle it.
- Matt Griffin:** And if we could, we would like to at least, and I know that there's no regularly scheduled meeting like next week, but sometime next week, we would like to have Mr. Lomax come back, after consulting with the City Attorney's Office and submit a proposal to on public record, for the citizens to see of when a new Election will be held. When Early and Absentee Voting would be held, or not Early, but Absentee Voting would be held and what kind of notices that the residents would be receiving under this.
- Councilwoman Wood:** Karen, what's the earliest that you can....
- City Clerk Karen Storms:** Earliest we can post a meeting would be for next Thursday.
- Mayor Pro Tempore Robinson:** Is there any further comments, Council?

- Councilwoman Wood: I think that we need to make an official motion.
- Councilman Eliason: Well, that's what... Matt, didn't you say if we went that way there had to be two motions.
- Matt Griffin: At least, however the Council feels comfortable doing it, but I just want at least, an order from the Council to require us to return next Thursday with a proposal and to consult with you and have your input on the proposal before we get here next Thursday.
- Mayor Pro Tempore Robinson: So moved.
- Councilwoman Wood: Second.
- Mayor Pro Tempore Robinson: Cast your votes. Post. Motion carries.
- Matt Griffin: Thank you.

**ACTION: JUNE 7, 2011 GENERAL ELECTION RESULTS CANVASSED FOR COUNCIL MEMBER, WARD 2 AND MUNICIPAL COURT JUDGE, DEPARTMENT 1; COUNCIL MEMBER WARD 4 RESULTS WERE NOT CANVASSED; APPROVED NEW ELECTION IN PRECINCT 4306**

Transcript Requested by: Sergeant Leonard Cardinale  
Transcript Prepared by: Marie Purcell  
Date: June 30, 2011

## SPECIAL CITY COUNCIL MEETING

June 30, 2011

### Verbatim Excerpt Transcript No. V1411

1. **DISCUSSION, ACTION AND/OR APPROVAL OF A NEW ELECTION FOR PRECINCT 4306 IN WARD 4 AND REVIEW AND/OR APPROVAL OF GUIDELINES AND A SCHEDULE FOR THE SAME.**

Mayor Buck: Alright, we'll call this meeting to order, tonight, of the North Las Vegas City Council and verify that we are in compliance with the Open Meeting Law.

Chief Deputy City Clerk  
Jennifer Snyder: We are in compliance with the Open Meeting Law.

Mayor Buck: Tonight we have a Special City Council Meeting. I will again abstain as I did last time. Matt, before I leave the room I'd like to ask a couple of questions if you don't mind. Matt, if you'll just state your name and how you are related to the City then.

Matt Griffin, Law Firm of  
Griffin, Rowe and Nave: Thank you, your Honor. My name is Matt Griffin. I'm with the law firm of Griffin, Rowe and Nave. I've been contracted with the City Attorney's Office as Special Counsel to advise the Council and your Honor in this matter.

Mayor Buck: Okay, thank you. Last week I was out of town so I didn't participate in that meeting. I understand there was a temporary restraining order. I'm curious about this meeting tonight, if we have the legal ability to move forward on this.

Matt Griffin: Yeah, there was a temporary restraining order brought alleging an Open Meeting Law violation from the June, I believe, 8<sup>th</sup> hearing that the Council had. That matter is set for hearing next Tuesday. The City has filed its response to the allegation. It's yet to be undecided but it doesn't affect the ability of this Council today to proceed on holding this meeting and taking a vote on whether or not to hold a new election today.

- Mayor Buck: Thank you. Okay then I want to take this opportunity just to express my opinion before I abstain and leave the room again. I have grave concerns that the direction this Council has chosen to go in is not only wrong but is illegal. The City Attorney, Matt Griffin previously gave us a recommendation to canvass the vote, but the Council has chosen to disregard that opinion. This now has put the liability on the City and the taxpayers who it didn't have, where it didn't have to be had the law been followed. I'm very concerned about this prospect and what's going on. To be overly cautious I will abstain again and refer to the record made on June 5<sup>th</sup> as to why I'm abstaining and now I will turn the meeting over to Mayor Pro Tem. He will run the full meeting and adjourn it.
- Mayor Pro Tempore Robinson: Thank you, Mayor. I didn't hear whether we was in compliance with NRS 241, the Open Meeting Law. Are we?
- Chief Deputy City Clerk Snyder: We are in compliance.
- Councilman Cherchio: Mayor Pro Tem?
- Mayor Pro Tempore Robinson: Councilman?
- Councilman Cherchio: I think it would be appropriate at this time if I recuse myself and leave the room as well.
- Mayor Pro Tempore Robinson: Okay. Is there anyone else?
- Councilwoman Wood: Yes, Mayor Pro Tem, may I?
- Mayor Pro Tempore Robinson: Sure.
- Councilwoman Wood: Since we're getting all the disclosures out of the way. I need to disclose that my campaign did make a contribution to Councilman Richard Cherchio's campaign. That my husband did put up signs for him and that I did make phone calls in support of him. I have reviewed my involvement both with Karen Jenkins, who is the ED of the Nevada Commission on Ethics as well as the outside legal counsel for the City Council and have been advised that my actions were all within

my rights as an individual to do and that they do not rise to the level to allow me to abstain. I did not use my office to alter or affect the outcome of this election and that I understand the issue before me and can maintain independence of judgement that I will not be materially affected by that involvement particularly as tonight our mission is to follow the law which is mandated based upon the vote we took at the last meeting. But I would like to state for the record that I don't know about any other people's comments or conversations with Mr. Griffin, but in the conversations that I had with him, his direction was very clear that we had two options. That it was based upon whether we considered this to be administerial or whether we considered this to determine the outcome of the election, that we have the right to do either based on our feelings and that we have completely followed the advice of our attorney. And that I really, I have to say, that I resent any implication that we have not.

Councilman Cherchio: Mayor Pro Tem, may I just add.....

Mayor Pro Tempore Robinson: Sure, Councilman, I thought you just left the room.

Councilman Cherchio: Well, I thought so too. But, for the record, just to explain why I'm recusing myself and abstaining and leaving the room. The reason being is that I am the candidate and even as Council person, I feel that it would be inappropriate for me to be over here during the discussions and the dialogue concerning the election process.

Mayor Pro Tempore Robinson: Okay, thank you. Councilman Eliason is there anything from you?

Councilman Eliason: Yeah, I'll just reiterate what I said last time upon the recommendation of our counsel, I did make a contribution and following the recommendation of our counsel, I will be voting on this item.

Mayor Pro Tempore Robinson: Okay, now I will turn the meeting over to Mr. Chambers.

Assistant City Manager  
Sam Chambers:

Mayor Pro Tem, members of the City Council, our Special City Council Meeting tonight is for discussion, action and/or approval of a new election for Precinct 4306 in Ward 4 and review and/or approval of guidelines and a schedule for the same.

Mayor Pro Tempore Robinson: Okay, Nick.

Acting City Attorney  
Nicholas Vaskov:

Mayor Pro Tem, Council, you will recall that on Thursday, June 9<sup>th</sup>, the City was informed by Mr. Lomax, the Registrar of Voters of an irregularity in the Ward 4 General Election. On June 15<sup>th</sup>, the City Council met to determine whether to canvass the results of the 2011 General Election. At that hearing you heard testimony from Mr. Lomax describing the irregularity and you received a report from Matt Griffin, the City's outside counsel. Ultimately, this City Council decided to one, canvass the results of the Ward 2 and Municipal Judge, Department 2 General Election results and determined that it could not canvass the results for the Ward 4 election. As a result, you directed my office to work with Mr. Lomax on recommendations and a schedule for a new election in the affected precinct and to bring back for approval by the Council at another meeting how that was to occur. Due to a last minute temporary restraining order issued by the District Court, that meeting which was scheduled for Thursday, June the 23<sup>rd</sup> did not occur. We are here tonight to do what we had hoped to accomplish last Thursday which is have a discussion and potential approval of a new election in the affected precinct and approve the timeline and guidelines for that election. Now Larry Lomax will go ahead and describe for you, once again, the irregularity issue and then the City's outside counsel, Matt Griffin will give you a presentation and go over the proposed timeline and guidelines.

Mayor Pro Tempore Robinson: Prior to getting started, there's several people here I'd like to acknowledge. Ex-Mayor Mike Montandon, he's here somewhere, I've seen him. Welcome Mayor. Ex-Councilwoman Smith, did I see her walk in? And

Councilwoman-Elect in Ward 2, Pamela Goynes-Brown.  
Okay, Mr. Lomax.

Larry Lomax, Registrar of  
Voters, Clark County Election  
Department:

Mayor Pro Tem, Council Members, Larry Lomax, Registrar of Voters in Clark County. I've been asked, again, once again recap the problems we had in the June 7<sup>th</sup> Election. The issue was we had a voter registered to vote in Ward 3 who showed up at a polling place in Ward 4. He had moved, changed addresses, the polling place he showed at, up at, was correct for his new address. Unfortunately, the poll workers did not act properly. The individual stated he had not changed his address or re-registered at the new address. Nevada law requires you to vote at the address in which you are registered. He should have been sent back to Ward 3 to cast his ballot at his proper polling place. He was not. He was added to a supplemental page in the roster book incorrectly and without the authorization of the Election Department. This poll worker did this on his own. As a result there was one ballot cast incorrectly in the Ward 4 race, much to everybody's regret, I can assure you at this point. And as a result of that, that ballot could have affected the outcome of that particular election. Are there any questions?

Mayor Pro Tempore Robinson:

Is there any questions from any Council Members? No, thank you Mr. Lomax. Matt?

Matt Griffin:

Good afternoon, your Honor. For the benefit of the record, my name is Matt Griffin. I've been retained by the City Attorney's office as Special Counsel in this matter. And I'm here again today to discuss, I guess, what we can characterize as part two of this process. As you recall at the last meeting of the City Council, a vote was taken on whether or not the vote should be canvassed in the Ward 4 Election. The vote was unanimous that it should not be canvassed and I'm here to at least inform the Council today of how to proceed from here and what State law mandates the process to be. At the outset I would like to request that the record from the last meeting be incorporated into today's hearing and I would also, in addition to that, and probably in an abundance of caution, I have brought with me today an affidavit of Larry Lomax, the Registrar

of Voters for Clark County and I would like to re-introduce this, even though it's in the existing record from the last meeting. And I would also like to re-introduce what is referred to as an Application for New Election submitted on behalf of Councilman Richard Cherchio and signed by him. Both of which documents are required under NRS 293c.710. 293.710 states that if an election has been prevented for any reason, a new election shall be ordered in that precinct or district, whichever is applicable. As I just noted, Mr. Lomax has introduced in evidence to the record, that has been supplied to the City Attorney's Office that is essentially a written version of what he has testified to here today. The invalid voter at issue here, as I mentioned, this is not an unusual occurrence and I wanted to assure the City that in my involvement with elections over the last maybe five years or so, every election has in some form and in some jurisdiction required what is usually characterized as a re-vote or a new election. In 2008, two counties, Washoe County, Lyon County and in 2010 again a re-vote was required in Douglas County. So these are not unusual occurrences. It's just the operation of State law and it gives this Council guidance on how to proceed and how to address the issue that Mr. Lomax outlined to you today. As I indicated, 293c.710 provides the legal authority for a new election in Precinct 4306. Pursuant to that statute, whether to order an new election today is not a discretionary vote. In fact, it's a mandatory vote, evidenced by the word "shall" in that statute. The statute requires a new election to be ordered when an election has been prevented. State law also dictates that all eligible voters at that precinct would be allowed to participate in a new election. And just to be clear and to state the inverse of this, I do not believe there's authority today for you to order a new election for the entire ward and I do not believe there's authority for you today to order a new election for just those voters at the affected polling location in Precinct 4306. To the contrary, I think State law mandates that the new election be ordered in the affected Precinct 4306 as Mr. Lomax stated. We are in a situation today. It's not unusual that a vote is cast in an election either improperly or invalidly. It is and I think probably not to the benefit of everybody here, uncommon that it occurs in a one vote election. So, those circumstances provide the commission today, I

think, the reason why 293c.710 mentions the word precinct and allows you to order the election in the new precinct. I think if there was a circumstance, well if this circumstance did not call for a precinct only new election, I don't think that there is a circumstance in Nevada law. And without circumstance, that language in the statute is essentially rendered meaningless and superfluous and from a lawyer's perspective, under no circumstances do you render words in the statute meaningless. So, with that, as I said, it's going to require a vote today and it's not a discretionary vote. The Council today, because you have refused to canvass the vote based upon the election itself being prevented in that precinct, State law requires today, that you order a new election. The only, I think, arguing a discretionary vote that the Council could take today is the procedures and parameters of that new election. The City Attorney's Office, myself and Mr. Lomax have gotten together and consulted and we do have a proposal. I would call Larry Lomax back to the podium with me now and we could discuss with you that proposal and the reasons why and more than happy to take any questions that you might have about it. If, for some reason, that proposal is not satisfactory to the Council, or if the Council would like to amend that proposal in any way, you have the authority to do that here today. But in any circumstance, your vote has to be for a new election and you have to set the parameters of that new election. And that way, the process of notifying voters, setting up polling locations, getting out absentee ballots, allowing people to request absentee ballots, all of those necessary measures in order to have an election can begin tomorrow. So with that, I'd ask Larry to come up and he has a proposal for the Council and we can discuss it, as I said, if there's any questions.

Acting City Attorney Vaskov:

Council, if I might, just before Larry gets started. I do have a transcript of that June 15<sup>th</sup> testimony and I'd just like to offer that for the record for clarification.

Larry Lomax:

Larry Lomax, Registrar of Voters, again, in Clark County. Alright, Clark County Election Department is essentially a contractor for you folks when we put, when you put on an election. And so, I've been working with your City Clerk and your Attorney, here, to dates that are

agreeable apparently to them and what they would like to do and I just, I'm here to tell you that we can support this request. The scenario would be tomorrow we would send out letters to all the eligible voters in Ward 4. These letters would describe, it would first state that these people are eligible to vote in a re-election, explain the reason why it is taking place, give them the date of the new election, tell them the time period where early voting would be allowed and the last day to request an absentee ballot. The proposed date of the election would be the 19<sup>th</sup> of July. The letters would go out tomorrow. They should be, reach all people in Ward 4, or in this precinct, excuse me, 4306 should receive the letter no later than July 5<sup>th</sup>. The last day to request a mail ballot would be July 12<sup>th</sup>, so that would give them, essentially, a week to request an absentee ballot if they wanted to vote absentee. We would have early voting the week that runs from the 11<sup>th</sup> through the 15<sup>th</sup>. And early voting would take place at our facility and just coincidentally our facility is located literally across the street or adjacent to this particular precinct. Our, if you know where our facility is on the corner of Revere and Cheyenne, in our warehouse, and that's one corner of this precinct, so it's as close a place as we could possibly have it. The election itself, would, on Election Day, would take place at Seward Elementary School which is the, is a middle school, excuse me, but that is the polling place for this particular precinct. One thing that would be different from the normal election is, because the schools are shut down for the summer and the quoted price for opening the school is \$7,400 to provide, let us in there for a day and you don't want to pay that, we'll provide our, we have these mobile voting trailers and we'll put those in the parking lot so voting will take place in the trailers in the parking lot and that doesn't cost anything. So, that's the proposal. The election on the 19<sup>th</sup>, last day to request a mail ballot is a week before that and that's statutory based upon the date of the election and the five day period of early voting. Any questions?

Mayor Pro Tempore Robinson: Is there any questions for Mr. Lomax?

Councilman Eliason: Mr. Lomax, you're saying the trailers will be at the middle school in their parking lot?

Larry Lomax: Right. They'll be literally right in front of where the voter would go if they were gonna go on inside. They're not going, you can't miss them.

Mayor Pro Tempore Robinson: Any further questions? Is that fairly clear to Council what's proposed? Okay. Matt, you have anything else to say?

Matt Griffin: No, your Honor. If there's no other questions for me, I don't have anything else to add.

Mayor Pro Tempore Robinson: Okay, here's how I'm gonna handle this. Council, first, I'm gonna go to you, if you have any questions or comments and let you have your say. We're gonna have Public Forum on this particular item. And believe me, three minutes is all you get. Jennifer, three minutes and that's it. You cut off at three minutes. So, Council? No comments or questions from you? Okay, the first person, the first card I have is Michelle Hunter.

Michelle Hunter: Good afternoon your Honor. I'm Michelle Hunter. And I'm a resident in Ward 4, Precinct 4306. And, given the circumstances that have arisen, I do believe that we need to re-vote. We need to correct a wrong. It was unfortunate that it happened but it did and I think to be fair to everybody, we deserve the vote. I did work in a precinct in California, my garage was the voting place for several elections. So, I'm familiar with when people come in. Back in the day we did not have computers we just had a log book with everybody's name. A voter came in, wanted to vote, sorry you're not in our precinct. Well, what do you mean? You need to call the Registrar of Voters or someone, but we can't let you vote. So, I understand things happen, but I'm all in favor of doing a re-vote. Thank you.

Mayor Pro Tempore Robinson: Thank you Ms. Hunter. Scott Sauer?

Scott Sauer: Good evening, Scott Sauer for the record. While I am not in this precinct, I believe I am a Ward 4 voter and I certainly have to support this course of action. I feel this is the only way to ensure that the public actually gets a chance to select their representation like the law says. Thank you.

Mayor Pro Tempore Robinson: Steve Shoaff?

Steve Shoaff: I'd like to speak at the end, please. Thank you.

Mayor Pro Tempore Robinson: Jay King?

Jay King: I'm Jay King. I live at 1521 Silent Sunset Avenue, North Las Vegas. My wife and I have lived at that address for eight years. I've lived in North Las Vegas for 16 years. I'm registered Democrat and I've worked on Congressional, Senatorial and local campaigns. I'm currently serving on the North Las Vegas City Citizens Advisory Committee and the Utility Advisory Board. I'm a CPA and MBA with over 30 years of business experience which includes being the Director of Budgeting and Reporting for Pacific Gas and Electric where we had over an \$11 billion budget as well as CFO and COO of several companies, including on NASDAQ. I've audited cities, counties and water districts. I'm an expert in budgeting and reorganizations. I only mentioned this background to bring out the point that I know what I'm talking about when it comes to government issues, although I'm not an attorney. I believe in the rule of law. I strongly object to the intention of this meeting where you have one Council Member who's leaving the Council tonight at midnight and two Council Members that have clearly demonstrated their bias. You're disenfranchising me as well as 3,600 voters in the Ward 4 by calling for an election in only one precinct it would make, that you nullified all of our votes. It would make more sense to not count any vote in Precinct 4306 and that way you'll only disenfranchise a hundred and somewhat voters instead of 3,600. But I suppose that would not serve the outcome that you're trying to achieve. I would offer two optional solutions. One, call for a new election in all of Ward 4. This would give both sides more of a fair chance to determine the will of the people. If you insist only on Precinct 4306, the only people that should be allowed to vote would be the properly registered voters in that precinct who voted in the first time. There's a clear record at the election office to indicate who voted. If you're trying to correct a count to find out what it really was, this makes sense. But you don't, those who didn't

vote the first time should not be given a second chance to sway the outcome of this election. A chance you're not giving to the rest of the voters in Ward 4. You are stealing our free agency. Thank you for allowing me to speak. I would encourage the Council to overcome their biases, look into their souls and find enough moral character and integrity to do what is right and not force our pre-determined outcome in this election. Thank you.

Mayor Pro Tempore Robinson: I don't know that there is any biases, Mr. King. So....

Jay King: That's my opinion.

Mayor Pro Tempore Robinson: Okay. I'm glad to hear that. Okay. Mayor Mike. Montandon.

Michael Montandon: Thank you. It's good to be back. I wish it was under slightly different circumstances.

Mayor Pro Tempore Robinson: So do I.

Michael Montandon: But, for the record, it's Mike Montandon, 719 Oadbridge Court which is in Precinct 4306. And I'll keep this well under three minutes. We all remember 2000, Bush versus Gore. This virtually identical case went all the way to the Supreme Court and the Supreme Court made it clear that hanging chads or dimpled chads or warts and all, election's on Election Day. And with all due respect to Mr. Griffin's opinion, the election was not prevented. I know it, cause I was there. And I did vote. The law, on our Charter says it's pretty clear. That you can re-vote if the election, if the ballots are destroyed before you can count them. We can have lawyers debate this a long time. But it's essentially going to be, no matter what you choose, a judge's opinion. And what you're doing is shouldering the liability 100% upon the City Council and the taxpayers of North Las Vegas by saying we're going to choose something this, in my opinion, illegal but questionable at least and not putting it on the, the burden, on the candidates the way it should be. Thank you.

Mayor Pro Tempore Robinson: Thank you, Mayor. Todd Bice?

Todd Bice:

Good afternoon and thank you again, Mayor Pro Tem. Todd Bice. I am legal counsel, as you know, for Mr. Wagner who received a majority of the votes. It's interesting to note the last time we were here, you were told that you had options. One of the options was canvass the vote and in fact, that was the recommendation that was made to you that you disregarded. Now, tonight, we're hearing that, well you have to order a new election. And with all due respect to my colleague Mr. Griffin, I think that the public needs to know what the statute actually says. Because he never actually quotes it. And it seems to get lost in everyone. And Mayor Montandon actually quoted it, partially, so I'll read it so that all of you in the crowd could actually hear what this statute actually provides. Loss or destruction of ballots or other causes preventing election in a precinct or district new election. If a city election is prevented in any precinct or district, by reason of the loss or destruction of the ballots intended for that precinct or district, or any other cause, the election officers for that precinct or district shall make an affidavit setting forth the fact, that fact, and transmit it to the governing body of the appropriate city. And upon receipt of the affidavit and upon the application of any candidate for any city office to be voted for by the registered voters of that precinct or district, the governing body of the city shall order a new election in that precinct or district. The election has to be prevented. The ballots have to be lost or destroyed or some other cause.

Mayor Pro Tempore Robinson: Todd, Mr. Bice would you kindly talk to us please.

Todd Bice:

Yes, I apologize, Mayor Pro Tem. The point here being is this statute does not remotely authorize a new election. No election was prevented here and it's a sham to argue that it was. This, the law in the State of Nevada is quite clear on this point. What happens here? We have allegedly one unlawful vote, right? One. Mr. Wagner won by one vote. So, there's three possible outcomes here. The voter didn't vote in this contest, in which case, Mr. Wagner won by one vote. The voter voted in this contest in favor of Mr. Cherchio in which case Mr. Wagner really won by two votes. Or, it's a tie. There's no statute that provides for a new

election in the case of a tie. State law is quite clear on this point and you know it because you've done it within the last election cycle. Ties are decided by a draw of cards. No one gets a new election under the theory of a tie. So worse case scenario, what we are talking about in this case is a tie. Worse case scenario.

Mayor Pro Tempore Robinson: Mr. Bice, I'm gonna give you a couple more seconds, since you represent Mr. Wagner, however, your time is up.

Todd Bice: Thank you. My point is this, the Mayor, former Mayor Montandon is right. You are exposing the City to liability for no reason other than to benefit Mr. Cherchio. The law provided him with a remedy if he could claim that this vote was unlawful. But yet, you have taken that power away from the courts and with all due respect, you're not entitled to do so and that's unfortunately why we're all gonna end up in court because of that fact. And it wasn't necessary and it isn't necessary today. Thank you.

Mayor Pro Tempore Robinson: Rebecca Brewer? Would you hold your claps please. Would you hold your applause please. Ms. Brewer.

Rebecca Brewer: Thank you. I have a statement I'd like to read. My name is Rebecca Brewer and my husband Richard and I are here this evening to make our voices heard. We have a great deal of concern about the fact that we've become disenfranchised voters because of the recent decision made by this board. We voted in Ward 4 in the recent City Council race and we're very satisfied with the party for whom we voted. However, we understand our vote was not good enough for some people. It has been proposed that there be a re-election for this Council seat and that the re-election vote for the Ward 4 seat will take place in only one precinct. Why? The vote that was held was a legal vote and should be certified as such. We feel that our rights as citizens of this community have been taken away by the possibility of another election. This decision is very misguided and can possibly benefit only one person who is not the original winner of this election. We have always been conscientious voters and feel we make a strong contribution to our local government by our participation. But we have become aware that we are no longer allowed to participate. We have always felt that our

government representatives act as surrogates to do the will of the people. However, this decision by the majority of the board makes me think that this decision has been made in spite of the will of the people. The citizens of this community duly held an election in accordance with all the rules and regulations allowed by the current laws in effect. But you have apparently decided that those laws did not work in your favor so that gives you the right to do, to hold a do-over. We strongly disagree with this decision and feel that there should not be a re-election. This is the only way that we see that the voting rights of the citizens will be fully addressed as opposed to the whims of the City Council. When the election is certified, both candidates will have the opportunity to file a lawsuit if they disagree with the results. This would put the financial burden on the candidate and not on the taxpayers of North Las Vegas.

Mayor Pro Tempore Robinson: You have one minute.

Rebecca Brewer: I'm done, thank you.

Mayor Pro Tempore Robinson: Joshua Johnson?

Joshua Johnson: My name is Josh Johnson. I live in Precinct 2449 in Ward 4. I voted in the Primary and the General Election and I'm extremely disappointed that you guys are taking away my vote, my wife's vote, my neighbor's vote and I couldn't find the exact numbers because the vote wasn't certified, but over 90% of the people in Ward 4 you are taking away their vote and I strongly disagree with what you, what you're planning to do with holding an election with just one precinct when there's, is there 21, is that correct? 21 precincts? I don't know. Please listen to the Counsel and canvass the vote and then proceed from there. Thanks.

Mayor Pro Tempore Robinson: I have several cards here and I presume that you guys are for Agenda Item 1. You didn't list whether you were for or against Agenda Item 1 so I will presume that you are here to speak on Agenda Item 1. Steve and I guess that's Wood? I, Jennifer if you could make this out, it's, their writing is, I thought mine was bad, but.....

Councilman Eliason: Samson. Steve Samson.

Mayor Pro Tempore Robinson: Okay, that's you?

Steve Samson: Although I do not live in Ward 4, I'm willing to come out of my district and tell the Council, although I do respect all of you, personally. I agree with what you're doing. There should be a new election here. And I agree with the vote of the Council in tonight. There should be an election. Thank you very much.

Mayor Pro Tempore Robinson: Hold your applause please. Deborah Lewis?

Deborah Lewis: Hi, my name is Deborah Lewis. I live at 4010 Hemphill Street, North Las Vegas, Nevada. I am a registered voter and I do live in Ward 4. I believe that if you can not certify an election if you know that it's uncertifiable. If it's fraudulent. If there's a miscount or something like that. If there was a bigger difference in it. You know, if there were more, a larger percentage difference. But this is, this was so close that I believe the Council is making the right decision. And I appreciate that you folks are doing this. As a registered voter, I do, do appreciate it. Thank you.

Mayor Pro Tempore Robinson: Gary Bouchard and Gary you have three minutes.

Gary Bouchard: Hey, I don't need three minutes in this one. I came down here with my mind undecided. But if Mayor, former Mayor Montandon says we shouldn't have an election, then I know an election is the right thing to do. Because when he was, when he was Mayor, he didn't make any good decisions. So, you know, now, he talked me into it. Thank you Mayor Montandon. So, I think we need to go ahead. I think it's a good idea, because the election was way too close. And close elections is what got us in trouble in 2000. You know when blacks were not allowed to vote in Florida and we ended up with eight years of a bad administration. Thank you, God bless you, have a nice day.

Mayor Pro Tempore Robinson: Kathy Jones?

Kathy Jones: My name is Kathy Jones. I live at 931 Dover Glen Drive, North Las Vegas and I've lived in Ward 4 for 11 years, but more importantly, I've been a military wife for 23 years.

Gary Bouchard: God Bless you. That's a tough job.

Kathy Jones: It took a lot of effort for me to get my college aged son, who lived out of state to get his ballot in. Husbands who are deployed. And to have a re-election, I'm thinking of all of my military friends and if you're even in tune with military community right now, you know so many of them are deployed and not just deployed a little ways away, an awfully long ways away. And so to have absentee ballots in just one week, that's absolutely impossible to have your military represented. Thank you.

Mayor Pro Tempore Robinson: Steve Sanson?

Steve Samson: I already spoke.

Mayor Pro Tempore Robinson: No, it's another Steve. You got three minutes.

Steve Sanson: Thank you Mayor Pro Tem. Good afternoon Council, residents of North Las Vegas. My name is Steve Sanson. I live at 8908 Big Bear Pines, Las Vegas, Nevada. I don't live in North Las Vegas but I represent an organization called Veterans in Politics which therefore, I'm the President of. This is very unique. I've been in countries that people don't have the right to vote. That's ran by dictatorship. And I'm very impressed in the amount of people that are coming out here fighting for their right to vote and fighting to be on the ballot and fighting for their elected officials. A couple of months ago, I was in Henderson watching their swearing in. Tuesday, I think it was Monday, I was in Boulder City watching their swearing in. And I do respect the voting process. And I do respect people that run for office and people that fight for their rights to vote. But last time I was here, I listened to the City Council and I listened to the citizens of North Las Vegas and counsel for both parties, Councilman Richard Cherchio and Dr. Wade Wagner. As a matter of fact, my organization interviewed both of those individuals which you could find on YouTube. Both gentlemen I

respect and I do understand that the City Council has a tough job. I mean it was one vote. One illegal vote, one vote the incumbent lost by. But I'm here to say that I do respect the decision of the North Las Vegas City Council, Councilwoman Wood, Councilman Eliason and Councilman Robinson. And Councilman Robinson has been here, god damn, excuse me, excuse me, that slipped, for a very long time. And I do respect all three City Council members' decision to go ahead for a new election. Thank you so much.

Mayor Pro Tempore Robinson: And you know, the sad thing about it, Steve, is that on my last day, when I should be relaxing, I'm chairing a meeting. Stacia Newman?

Stacia Newman: Thank you. Stacia Newman with the Nevada Political Action Action for Animals. I'm Vice President and have been for 14 years. I'm here just to express my concern and also to say that as I'm representing members and members that do live in Ward number 4. A lot of them are still at work. They could not make it and we are in favor of having a new election. And I think the Council is acting very responsible as citizens and also registered voters. I think we have not only the right, but the responsibility to make sure every vote is counted. So we are in favor of the new election. Thank you.

Mayor Pro Tempore Robinson: The only other card I have for this particular item is Steve Shoaff.

Councilman Eliason: He wants to go under Public Forum.

Mayor Pro Tempore Robinson: So you want to do it in the Public Forum, I gather. Okay. Council, we move to the item.

Councilman Eliason: I got a question of Matt.

Mayor Pro Tempore Robinson: Matt, would you come back up please?

Councilman Eliason: Does the law address anything in regards to the people that didn't vote in the General Election? Does it address that at all? Or does it just.....

Matt Griffin:

The State law does not. Of course it addresses, I'm sorry, for purposes of the record, Matt Griffin. But State law does not specifically address this. State law just leaves it at the precinct or the district. Courts that have addressed this are typically hesitant to ever order a re-vote of the same people who voted in the same precinct, because, of course, and I understand the problems that the Council is wrestling with and it's no different than what most judges have wrestled with that have addressed this is. No matter how you, who you restrain it to, you're going to have people who voted on Election Day that can't make it to this election. You're going to have people that didn't vote on Election Day that can make it to this election. But State law only gives you the authority to order it in that precinct or in that district. And I think the majority of the case law supports that decision that's out there. There's no authority that says that you can just restrict it to those who showed up.

Councilman Eliason:

Okay, thank you.

Mayor Pro Tempore Robinson:

Council, what's your desire?

Councilwoman Wood:

Excuse me, can I ask a couple of questions, here before.

Mayor Pro Tempore Robinson:

Councilwoman Wood?

Councilwoman Wood:

Thank you. Thank you, Mayor Pro Tem. I want to make sure of something. Mr. Lomax, I kind of asked this last time, but I want to make sure it gets back on the record again. My understanding is, the way this is going to work, so please correct me if I am wrong. You are going to take the votes from 4306 where there is the invalid or illegal vote cast. You're going to take that out. The tally will stand for every other precinct. We will do the new vote. The 4306 will then be added to all the votes from every other precinct in Ward 4 and a final number, hopefully, will come out that gives this Council direction. Is that not correct? So there's, we are not saying that only Precinct 4306 is going to determine this election. It's the vote of the new vote of 4306 plus the ballots from every other precinct in Ward 4.

Larry Lomax:

Larry Lomax again, for the record, and yes that's correct.

Councilwoman Wood:

So there's no disenfranchising the voters from the other 20 precincts or how ever many there are because their ballots stand, but there is simply no reason and in all of the checks and balances that you did after the election, you have no reason to believe that there was any other questionable ballots in any of the other precincts. Correct? Except this one.

Larry Lomax:

We found no other discrepancies in any other precinct except for this one.

Councilwoman Wood:

Thank you. I just will have to say, for me, I think Mr. Bice summed it up for me. He admitted there's three different outcomes. Three different outcomes and I don't know which one is right. I don't know how this person voted. And nor do I feel that we have the right to ask him. The cornerstone of being in America and voting, is you get to vote and nobody, you don't owe anybody the right to know how you voted. When I look at what we were asked to do when we were asked to canvass it says, in completing the canvass of the return, and this is NRS 293c.387 3 a,b and 4. In completing the canvass of the returns, the governing body of the City and the Mayor shall (a) note separately any clerical errors discovered and (b) take account of the changes resulting from the discovery so that the result declared represents the true vote cast. (4) After the canvass is completed the governing body of the City and Mayor shall declare the result of the canvass. Now, I don't know how to declare a result in which there are three options for how it could have turned out. So, I am doing what I feel is right. Not because I lack moral character. Not because I am impartial and I'm trying to get my candidate another chance. But because I can't certify a result that I don't know. And my only thing that I do know is that if we are going to decide this fairly, it needs to go back into hands of the voters because it is the voters and the voters alone who get to determine who sits in these seats up here.

Mayor Pro Tempore Robinson: Hold your applause please. Hold your applause. We're trying to get through the meeting.

Councilwoman Wood: That's it.

Mayor Pro Tempore Robinson: Councilman Eliason you have anything to add?

Councilman Eliason: No, sir.

Mayor Pro Tempore Robinson: The only thing that I have to add in 1999 was a similar situation to this. And we had to go back in, it was either one or two precincts and redo the vote again. So I don't really see a whole heck of a lot of difference this and 99. I'm trying to see where the heartburn is and I don't quite get it. Council what's your decision.

Councilwoman Wood: Excuse me, Mayor Pro Tem, may I ask one last question?

Mayor Pro Tempore Robinson: Sure.

Councilwoman Wood: And this is actually for Mr. Lomax. Mr. Lomax there was the woman who spoke who was concerned about the military and the absentee ballots so, how do we, do we need to make an adjustment there? How do we handle the military ballots because that I did feel was a valid question.

Larry Lomax: We refer to an overseas ballot as a UOCAVA ballot, which stands for Uniformed and Overseas Citizens and something, military and there were no participants out of 4306 in that category.

Councilwoman Wood: Okay.

Mayor Pro Tempore Robinson: Matt, do you have something to add? You have anything to add?

Matt Griffin: No, your Honor.

Mayor Pro Tempore Robinson: Okay, Council, what's your pleasure?

Councilwoman Wood: You want me to make the motion?

Mayor Pro Tempore Robinson: Which one of you? Yeah cause you....

Councilwoman Wood: Alright. Mayor Pro Tem, I would move for approval of the procedures and approval of the new election for Precinct 4306 in Ward 4 and approve the timetable and timeline as proposed by Mr. Lomax.

Councilman Eliason: Second.

Mayor Pro Tempore Robinson: There's a motion and a second. Cast your vote. Post. Motion carries.

Councilwoman Wood: Nick, does that take care of?

Mayor Pro Tempore Robinson: Is there any further that we need to do in this particular item?

Acting City Attorney Vaskov: No.

**ACTION: PROCEDURES APPROVED AND NEW ELECTION CALLED IN PRECINCT 4306 WARD 4 TO BE HELD ON JULY 19, 2011.**

Transcript Requested by: Deputy City Attorney Jeffrey Barr  
Transcript Prepared by: Marie Purcell  
Date: July 6, 2011

# VOTE for Dr. Wade Wagner

Cherchio is a political appointment who was NOT ELECTED by the people. Now is our chance to make the needed change and elect someone who will represent our community's values.

# VOTE for Dr. Wade Wagner

Cherchio led the charge to spend **\$500,000** on a "feasibility or master plan study" that our City DOES NOT NEED. Electing Dr. Wade Wagner will ensure we do not waste our taxpayers' dollars on unnecessary political maneuvers, but rather that we scrutinize and prioritize our budget at all times.



## for Dr. Wade Wagner

Cherchio chose to lay off 33 firefighters, 36 police officers, 19 detention officers and shut down half of our jail capacity. Now, our neighborhood is facing an extreme and out of the ordinary rise in crime. Dr. Wade Wagner has promised to never put politics before the safety of our citizens.

# *VOTE for Dr. Wade Wagner* *City Council Ward 4*



*Wade Wagner and his Family*

Mayor Shari Buck  
1529 Silent Sunset Avenue,  
North Las Vegas, NV 89084



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Mayor  
Shari  
**BUCK**



Dear Friends,

As your current Mayor, previous Ward 4 Councilwoman for 10 years, and longtime neighbor here in Ward 4, I am proud to have had so many years of support from each of you. My lifelong commitment and investment in our community's quality of life is a personal priority that shapes every decision I make as your Mayor.

Currently, I am very concerned over the poor decisions made by our representative on the city council. My dedication to each of you will not allow me to stand by and watch our community suffer because of fiscal irresponsibility. I ask that each of you stand by my side and help make a difference this election by voting for a representative who will protect our pocketbooks. I will be voting for Dr. Wade Wagner for City Council Ward 4.

Mayor Shari Buck

**I will be voting for Dr. Wade Wagner in this election.**

- *Dr. Wade Wagner owns his own business, is fiscally prudent, and understands how important it is to be accountable to his constituents.*
- *Dr. Wade Wagner is an honest man who believes in sound government principles and has the ability to solve complex problems by envisioning long-term solutions.*

**Two mayors.  
24 years of experience leading North Las Vegas.  
Both endorse Dr. Wade Wagner as the best choice for Ward 4.**



**Mayor Shari Buck**  
North Las Vegas Mayor, 2009-present  
City Councilwoman Ward 4, 1999-2009



**Mayor Mike Montandon**  
North Las Vegas Mayor, 1997-2009

*Paid by Committee to Elect Wade Wagner*

ELECT  
**DR. WADE  
WAGNER**  
FOR NORTH LAS VEGAS CITY COUNCIL WARD 4

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To Our Friends At



# As mayors, Shari Buck and Mike Montandon know the value of a City Council that works together and builds consensus to put the people of North Las Vegas first



*"For 10 years, I took great pride in representing Ward 4 on the city council. I worked hard to fulfill my commitment to my neighbors that I would protect our quality of life, which included putting a priority on public safety.*

*Two years ago, we were handed our current councilman when he was appointed to the City Council. We were never given the opportunity to vote and choose our own representative. Sadly, he has not watched out for what is best for us and has shown a disregard for our well-being.*

*In fact, I believe his fiscal irresponsibility has put the safety of us and our neighbors in jeopardy.*

*Now is our chance to let our voices be heard. On June 7, we will have the chance to elect the*

*city councilman we want. We can make our vote count for strong leadership that puts our interests first.*

*I urge you to join me and support Dr. Wade Wagner as our next Ward 4 City Councilman."*

**SHARI BUCK**  
Mayor, North Las Vegas



*"I will always care deeply about what happens in the City of North Las Vegas – both as a former Mayor and as a citizen of this great City. That's why I believe it's so important that we elect Wade Wagner to the City Council.*

*I know Wade can take the talents he has – talents that have made him so successful in business – and incorporate those skills into sound fiscal and employee management in our City government. Wade is the kind of quality individual you always want on your team –*

*qualified, experienced, loyal, trustworthy; someone you can count on to make the right choice in every situation.*

*Please, vote for good government in North Las Vegas. Vote for Wade Wagner."*

**MIKE MONTANDO**  
Former Mayor, North Las Vegas

**Don't settle for an 'appointed' choice to represent you.  
You have the right to elect your own city councilman. The right choice for Ward 4 is Dr. Wade Wagner.**