



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
SHARI BUCK, Mayor,
City of North Las Vegas,
State of Nevada,

Request for Opinion No. 11-63C

Subject. /

STIPULATED AGREEMENT

1. **PURPOSE**: This stipulated agreement resolves Third-Party Request for Opinion ("RFO") No. 11-63C before the Nevada Commission on Ethics ("Commission") concerning Shari Buck ("Buck"), Mayor, City of North Las Vegas, Nevada, and serves as the final opinion in this matter.

2. **JURISDICTION**: At all material times, Mayor Buck served as the Mayor of the City of North Las Vegas, Nevada ("City"). Pursuant to Nevada Revised Statute ("NRS") 266.015, the government of all incorporated cities is vested in a mayor and city council. The City of North Las Vegas Municipal Code Section 2.010 provides that council members and the mayor are elected officers. NRS 281A.280 gives the Commission jurisdiction over current elected and appointed public officers for conduct which occurred within two years preceding the filing of the RFO. Accordingly, the Commission has jurisdiction over Mayor Buck in this request.

3. **FINDINGS OF FACT:**

The following events are relevant to the matter:

- a. Mayor Buck was elected to the office of Mayor in 2009. The North Las Vegas general election in 2011 included a contest for the Ward 4 City Council seat between then-incumbent Richard Cherchio (Democrat) (“Cherchio”) and candidate Wade Wagner, D.D.S. (Republican) (“Wagner”). According to the election results, Wagner prevailed by a single vote; however, a question arose as to the validity of one vote in the Ward 4 election which created a dispute regarding the effect of the election results.
- b. During the campaign Mayor Buck supported Wagner. She provided campaign contributions and supplied advertising mailers to support Wagner’s candidacy. Additionally, Mayor Buck’s husband worked as a paid employee for Wagner’s campaign.
- c. The three remaining City Council members supported Cherchio and provided campaign contributions in support of Cherchio’s campaign.
- d. At the conclusion of each election, the City Council is responsible to canvass the votes. However, in response to concerns regarding the validity of the Ward 4 City Council race, the Council was undecided whether it must canvass the vote or whether it had other options regarding the outcome of the election given the disputed vote.
- e. The City Council retained outside legal counsel, Matt Griffin, Esq., to provide advice regarding its duty. Attorney Griffin met with City Council members individually and recommended to each that they canvass the vote.

- f. On or about June 15, 2011, the City Council met concerning this issue. Mayor Buck disclosed to the City Council and public that a member of her family had been a paid campaign worker and that she would abstain from voting on the outcome of the election due to that conflict. Attorney Griffin then publicly advised the City Council regarding its options – canvass the vote and declare Wagner the winner, or order a new election. The City Council ordered a new election and moved to hold a special session the following week to determine the election’s parameters.
- g. On or about June 21, 2011, a legal action was filed challenging the City Council’s legal authority to grant a new election. On or about June 23, 2011, a second complaint was filed alleging that the June 15 actions were invalid based upon an alleged Open Meeting Law violation for the Council’s failure to properly notice the public that it may vote to hold a new election. To cure the alleged Open Meeting Law violation, the City Council noticed a special meeting for June 30, 2011 to reconsider the June 15 action and determine whether to hold a new election in Ward 4.
- h. At the outset of the June 30, 2011, meeting, and upon the legal advice of the Acting City Attorney, Mayor Buck incorporated by reference the disclosure she made on June 15 without specifying the nature of her conflict and stated her intent to abstain from voting on the matter. The Acting City Attorney further advised Mayor Buck that her disclosure and abstention did not prohibit her from making public comments. While presiding over the meeting and before referring to her prior disclosure and stating her intent to abstain, Mayor

Buck made the following comments regarding her concerns about holding a new election:

“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 5th as to why I'm abstaining and now I will turn the meeting over to Mayor Pro Tem.”

4. **PROCEDURAL HISTORY BEFORE COMMISSION**

- a. On or about August 3, 2011, the Commission received a Third-Party Request for Opinion (“RFO”) from a private citizen alleging that Mayor Buck failed to appropriately disclose her interests in Wagner's campaign, advocated in violation of various provisions of NRS 281A by offering opinions regarding the City Council's anticipated vote during the June 30, 2011 special meeting and attempted to influence a matter on which she had abstained by creating and signing an agenda for the July 14 meeting which included the Ward 4 election issue. The RFO generally alleged that Mayor Buck had: 1) failed to sufficiently disclose a conflict of interest; 2) failed to abstain from acting on a matter in which a conflict existed; and 3) inappropriately influenced an agenda item despite a conflict of interest.

- b. As required by NAC 281A.410, the Commission provided Mayor Buck with notice of the RFO by mail. Pursuant to NRS 281A.440(3), Mayor Buck was provided an opportunity to respond to the RFO and submitted a written response through her counsel, Jacob Reynolds, Esq., of Hutchison & Steffen law firm in Las Vegas, Nevada.
- c. Based on the facts developed from the Commission's investigation, the Commission's Executive Director provided a report to an Investigatory Panel pursuant to NRS 281A.440(4) recommending that credible evidence established just and sufficient cause for the investigatory panel to forward certain allegations implicating various provisions of NRS 281A to the full Commission for a hearing and opinion as follows:
- (1) Mayor Buck's alleged failure to adequately disclose a conflict of interest, implicating NRS 281A.420(1); and
 - (2) Mayor Buck's alleged improper advocacy in light of her conflict of interest, implicating NRS 281A.420(3).
- d. The Executive Director also recommended that the Investigatory Panel dismiss allegations that: 1) Mayor Buck did not disclose that she had made campaign contributions to Wagner because NRS 281A.420(2) specifically exempts campaign contributions from required disclosures; and 2) Mayor Buck influenced an agenda which included an item regarding the Ward 4 election because the evidence revealed that Mayor Buck was not involved in creating the agenda. Rather, members of the City staff had developed the agenda.

- e. Pursuant to NRS 281A.440, on July 28, 2011, a two-member Investigatory Panel of the Commission reviewed the RFO, Mayor Buck's response, the Executive Director's report and recommendation and other evidence. The Panel adopted the Executive Director's recommendations described in paragraphs "c" and "d" herein and forwarded the matter to the Commission for a hearing and opinion.
- f. In lieu of a full hearing regarding these alleged violations of NRS 281A, Mayor Buck now enters into this stipulation acknowledging her duty as a public officer to commit to avoid conflicts between her private interests and those of the public she serves. See NRS 281A.020. The Commission summarily dismissed all claims that Mayor Buck's conduct was willful based on her motion for summary resolution that was considered by the Commission in open session on February 15, 2012.

5. **TERMS / CONCLUSIONS OF LAW:** Based on the foregoing, Mayor

Buck and the Commission agree as follows:

- a. Each of the findings of fact enumerated in section 3 is deemed to be true and correct.
- b. Mayor Buck holds a public office which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the people of the City of North Las Vegas).
- c. Despite her reliance on legal counsel, Mayor Buck's June 30, 2011, incorporation by reference of her prior disclosure on June 15, 2011 rather than re-stating the disclosure for the benefit of those in attendance at the

June 30 meeting did not satisfy the requirements of NRS 281A.420(1), which required Mayor Buck, at the time the matter was considered, to provide sufficient information regarding her conflict of interest to inform the public of the nature and extent of the conflict and the potential effect of her action or abstention on her private interests.

- d. Mayor Buck's June 30, 2011, comments regarding the Council's consideration of a new election constitute "advocacy" within the meaning of NRS 281A.420(3), which prohibited her from advocating for the passage or failure of a matter in which she has a conflict of interest regarding which she intends to abstain.
- e. Mayor Buck's acts in reliance on the advice of counsel and the totality of circumstances related to the City Council actions in the Ward 4 election at the June 15 and 30 meetings constitute a single course of conduct, resulting in one non-willful violation of NRS 281A.420. The failure to satisfy the requirements of Nevada's Ethics in Government Law was not willful because of the unique circumstances involving her reliance upon counsel in the City Attorney's Office and noting her absence from North Las Vegas attending to other City business during the relevant time frame. Mayor Buck complied with the requirements of NRS 281A.480(5)(a) to (c), inclusive.
- f. This agreement applies only to the specific facts, circumstances and law related to this RFO. Any facts or circumstances that are in addition to or differ from those contained in this agreement may create a different resolution of this matter.

g. This agreement applies only to these matters before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding Mayor Buck.

6. **WAIVER:**

- a. Mayor Buck knowingly and voluntarily waives a full hearing before the Commission on the allegations in this RFO (No. 11-63C) and of any and all rights she may be accorded pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B), and the laws of the State of Nevada.
- b. Mayor Buck knowingly and voluntarily waives her right to any judicial review of this matter as provided in NRS 281A, NRS 233B or any other provision of Nevada law.

7. **ACCEPTANCE:** We, the undersigned parties, have read this agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on March 21, 2012.

DATED this 26 day of March, 2012. Shari Buck
Shari Buck, Mayor
City of North Las Vegas

DATED this 13th day of April, 2012. Erik Beyer
Erik Beyer, Chair
Nevada Commission on Ethics

The above Stipulated Agreement is approved by:

DATED this 2nd day of April, 2012. Jacob A. Reynolds
Jacob Reynolds, Esq.
Counsel for Shari Buck

DATED this 11th day of April, 2012. Yvonne M. Nevarez-Goodson
Yvonne M. Nevarez-Goodson, Esq.
Commission Counsel