



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

NOTICE OF PUBLIC MEETING

NAME OF ORGANIZATION: NEVADA COMMISSION ON ETHICS
DATE & TIME OF MEETING: Wednesday, June 11, 2014 at 8:30 a.m.
PLACE OF MEETING: This meeting will be held at the following location:

**Grant Sawyer State Building
Room 4412
555 E. Washington Avenue
Las Vegas, NV 89101**

Members of the public may attend any open session at the above location.

The open session of this public meeting will be available via the Internet at
<https://www.leg.state.nv.us/App/Calendar/A/>

AGENDA

NOTES:

- Two or more agenda items may be combined for consideration.
- At any time, an agenda item may be taken out of order, removed, or delayed.
- Public comment will be accepted at the beginning of the open session and again before the conclusion of the open session of the meeting. Comment and/or testimony by the public may be limited to three (3) minutes. No action may be taken on any matter referred to in remarks made as public comment.

PUBLIC MEETING:

	1. Call to Order , Roll Call, and Pledge of Allegiance to the Flag.
	2. Open Session for Public Comment. Comment and/or testimony by any member of the public will be limited to three (3) minutes. No action will be taken under this agenda item.

For Possible Action	3. Open Session pursuant to NRS 233B.061 to conduct a public hearing to adopt, amend and repeal permanent regulations set forth in NAC Chapter 281A to reflect amendments to NRS Chapter 281A enacted pursuant to Senate Bill 228 of the 2013 Legislative Session (Chapter 551, 2013 Statutes of Nevada), including provisions relating to Commission procedures regarding jurisdiction, notice and investigations of third-party requests for opinion, confidentiality of certain information and documents, the applicability of certain relationships as those within the third degree of consanguinity and other matters related thereto. (See Proposed Regulations set forth in LCB File No. R048-14) The Notice of Intent to Act upon a Regulation was posted on May 8, 2014 in accordance with the provisions of NRS 233B.060 and 233B.0603.
	4. Open Session for report by Executive Director and Commission Counsel on agency status and operations.
For Possible Action	5. Open Session for presentation by Executive Assistant Valerie M. Carter, participant in the Nevada Certified Public Manager Program, regarding requested data and recommendations to increase agency efficiency.
For Possible Action	6. Open Session for consideration and approval of Minutes from the March 19, 2014 and April 16, 2014 Commission meetings, and the May 22, 2014 Commission meeting to conduct a workshop regarding proposed permanent regulations.
	7. Open Session for Commissioner comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.
*	8. Closed Session pursuant to NRS 281A.440(15) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 13-81C regarding Gary Wilson, Member, McDermitt Fire District , submitted pursuant to NRS 281A.440(2).
*	9. Closed Session pursuant to NRS 281A.440(15) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 14-12C regarding Brian Garner, Commissioner, Lander County , submitted pursuant to NRS 281A.440(2).
*For Possible Action	10. Open Session pursuant to NRS 281A.440(8) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 13-81C regarding Gary Wilson, Member, McDermitt Fire District , submitted pursuant to NRS 281A.440(2).
*For Possible Action	11. Open Session pursuant to NRS 281A.440(8) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 14-12C regarding Brian Garner, Commissioner, Lander County , submitted pursuant to NRS 281A.440(2).
	12. Open Session for Public Comment. Comment and/or testimony by any member of the public will be limited to three (3) minutes. No action will be taken under this agenda item.
	13. Adjournment.

CLOSED SESSIONS:

To be held at approximately 1:00 p.m. or upon completion of the Open Session.
These matters are exempt from the provisions of NRS Chapter 241, the Open Meeting Law.

	A. Closed Session to discuss potential or pending litigation.
*	B. Closed Session pursuant to NRS 281A.440(7) to hear testimony, receive evidence, deliberate and render an advisory opinion regarding Confidential First-Party Request for Opinion No. 14-46A , submitted pursuant to NRS 281A.440(1). This agenda item will not be available to the public.
*	C. Closed Session pursuant to NRS 281A.440(7) to hear testimony, receive evidence, deliberate and render an advisory opinion regarding Confidential First-Party Request for Opinion No. 14-49A , submitted pursuant to NRS 281A.440(1). This agenda item will not be available to the public.

***A meeting or hearing held by the Commission pursuant to NRS 281A.440 to receive information or evidence regarding the conduct of a public officer or employee, and deliberations of the Commission regarding such a public officer or employee, are exempt from the provisions of NRS Chapter 241, known as The Open Meeting Law. As a result, these agenda items, or any portion of them, may be heard in closed session.**

NOTES:

- ❖ The Commission is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada Commission on Ethics, in writing at 704 W. Nye Lane, Ste. 204, Carson City, Nevada 89703; via email at ncoe@ethics.nv.gov or call 775-687-5469 as far in advance as possible.
- ❖ To request an advance copy of the supporting materials for any open session of this meeting, contact Executive Director Caren Cafferata-Jenkins, Esq. at ncoe@ethics.nv.gov or call 775-687-5469.
- ❖ This Agenda and supporting materials are posted and are available not later than the 3rd working day before the meeting at the Commission's office, 704 W. Nye Lane, Ste. 204, Carson City, Nevada, or on the Commission's website at www.ethics.nv.gov. A copy also will be available at the meeting location on the meeting day.

This Notice of Public Meeting and Agenda was posted in compliance with NRS 241.020 before 9:00 a.m. on the third working day before the meeting at the following locations:

- Nevada Commission on Ethics, 704 W. Nye Lane, Suite 204, Carson City
- Nevada Commission on Ethics' website: <http://ethics.nv.gov>
- Nevada Public Notice Website: <http://notice.nv.gov>
- State Library & Archives Building, 100 North Stewart Street, Carson City
- Blasdel Building, 209 E. Musser Street, Carson City
- Washoe County Administration Building, 1001 East 9th Street, Reno
- Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas

AGENDA ITEM NO. 3

AGENDA ITEM NO. 3



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

NOTICE OF INTENT TO ACT UPON A REGULATION

(NRS 233B.060)

The Nevada Commission on Ethics will hold a public hearing to adopt, amend and repeal permanent regulations (LCB File R048-14) as follows:

DATE: Wednesday, June 11, 2014

TIME: 8:30 a.m.

**PLACE: Grant Sawyer State Office Building
555 E. Washington Avenue
Suite 4412
Las Vegas, NV 89101**

The purpose of the hearing is to receive comments from all interested persons regarding the Commission's intent to adopt, amend and repeal regulations that pertain to chapter 281A of the Nevada Administrative Code.

The following information is provided pursuant to the applicable requirements of NRS 233B.0603:

1. The need for and purpose of the proposed regulations are to reflect amendments to NRS Chapter 281A enacted by Senate Bill 228 of the 2013 Legislative Session (Chapter 551, 2013 Statutes of Nevada), including provisions relating to Commission procedures regarding jurisdiction, notice and investigations of third-party requests for opinion, confidentiality of certain information and documents, the applicability of certain relationships as those within the third degree of consanguinity and other matters related thereto. (NRS 233B.0603(1)(a)(1))

2. In accordance with NRS 233B.0608, the proposed permanent regulations do not impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. Rather, the Commission and the Ethics Law govern only the conduct of public officers and employees to ensure that public officers and employees commit themselves to avoid conflicts between their private interests and those of the general public whom they serve. Based on the foregoing, Commission Staff concluded that the regulations

proposed by the Commission have no effect on small business. See Statement Regarding Small Business Impact. (NRS 233B.0603(1)(a)(4) and (5))

3. The Commission will not incur any cost to enforce the proposed regulations. (NRS 233B.0603(1)(a)(6))

4. The proposed regulations do not overlap or duplicate any other state, local or federal government regulation. However, NRS 281A.470 authorizes local governments to establish local ethics committees to complement the functions of the Commission and establish standards of ethical conduct that may not be less restrictive than NRS 281A. (233B.0603(1)(a)(7)).

5. The proposed regulations are not more stringent than any federal regulation that regulates the same activity, and are not required pursuant to any federal law. (NRS 233B.0603(1)(a)(8) and (9))

6. Persons wishing to comment upon the proposed action of the Commission may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Commission at ncoe@ethics.nv.gov or to 704 W. Nye Street, Suite 204, Carson City, Nevada 89703, on or before **June 2, 2014**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Commission may proceed immediately to act upon any written submissions. (NRS 233B.0603(1)(a)(10)).

7. Pursuant to 233B.064, upon adoption of any regulation, the Commission, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption. (NRS 233B.0603(1)(c)).

8. The regulations do not establish any new fee or increase any existing fee. (NRS 233B.0603(1)(d)).

In accordance with NRS 233B.0607 and 233B.0603(1)(a)(3), members of the public may obtain a copy of this notice and the text of the regulations approved by the Legislative Counsel pursuant to NRS 233B.064 at the State Library and Archives, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and regulations will be available at the Nevada Commission on Ethics, 704 W. Nye Lane, Suite 204, Carson City, Nevada 89703 and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us/> pursuant to NRS 233B.0601. Pursuant to NRS 233B.0603(1)(e), copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. Pursuant to NRS 233B.061(5), the Commission will prepare and post an agenda for its June 11, 2014 Meeting in compliance with NRS Chapter 241.

This notice of hearing and the text of the proposed regulations have been posted at the following locations:

- The Nevada Commission on Ethics website: <http://ethics.nv.gov>
- Nevada Register of Administrative Regulations website: <http://www.leg.state.nv.us/>
- The Nevada Legislature's Administrative Regulations Notices website: <http://www.leg.state.nv.us/App/Notice/A/>
- Nevada Public Notice Website: <http://notice.nv.gov>
- State Library & Archives Building, 100 North Stewart Street, Carson City
- Blasdel Building, 209 E. Musser Street, Carson City
- Washoe County Administration Building, 1001 East 9th Street, Reno
- Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas
- The Following County Libraries:

CARSON CITY LIBRARY
900 NORTH ROOP ST
CARSON CITY NV 89701

CHURCHILL COUNTY
LIBRARY
553 SOUTH MAINE ST
FALLON NV 89406

CLARK COUNTY/LAS VEGAS
LIBRARY
833 LAS VEGAS BLVD NORTH
LAS VEGAS NV 89101-2602

DOUGLAS COUNTY LIBRARY
1625 LIBRARY LANE
MINDEN NV 89423

ELKO COUNTY LIBRARY
720 COURT ST
ELKO NV 89801

ESMERALDA COUNTY LIBRARY
FOURTH & CROOK ST
P O BOX 430
GOLDFIELD NV 89013-0430

EUREKA COUNTY LIBRARY
210 SOUTH MONROE ST
EUREKA NV 89316

HUMBOLDT COUNTY
LIBRARY
85 EAST 5TH ST
WINNEMUCCA NV 89445

LANDER COUNTY/BATTLE MT
BRANCH LIBRARY
625 SOUTH BROAD ST
BATTLE MTN NV 89820

LINCOLN COUNTY LIBRARY
63 MAIN ST
PIOCHE NV 89043

LYON COUNTY LIBRARY
20 NEVIN WAY
YERINGTON NV 89447-2399

MINERAL COUNTY LIBRARY
FIRST & A ST
P O BOX 1390
HAWTHORNE NV 89415

NYE COUNTY
TONOPAH PUB LIBRARY
167 CENTRAL ST
P O BOX 449
TONOPAH NV 89049-0449

PERSHING COUNTY
LIBRARY
1125 CENTRAL AVE
P O BOX 781
LOVELOCK NV 89419

STOREY COUNTY
TREASURER/CLERK'S OFFICE
DRAWER D
VIRGINIA CITY NV 89440

WASHOE COUNTY LIBRARY
301 SOUTH CENTER ST
P O BO 2151
RENO NV 89505

WHITE PINE COUNTY
LIBRARY
950 CAMPTON ST
ELY NV 89301



**SECOND REVISED PROPOSED REGULATION
OF THE COMMISSION ON ETHICS**

LCB File No. R048-14

May 7, 2014

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-23, NRS 281A.290.

A REGULATION relating to ethics in government; revising provisions relating to the procedures of the Commission on Ethics and the staff of the Commission; revising provisions relating to the confidentiality of certain information and documents which are used by the Commission and the staff of the Commission; revising provisions relating to the determination of a commitment in a private capacity of a public officer or employee; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides a code of ethical standards which prohibits a public officer or employee from using the public officer’s or employee’s position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. (NRS 281A.400) Senate Bill No. 228 of the 77th Session of the Nevada Legislature revised the definition of the term “commitment in a private capacity” to include, with respect to the interests of another person, a commitment, interest or relationship of a public officer or employee to: (1) a person who is the domestic partner of the public officer or employee; and (2) a person who is related to the domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity. (NRS 281A.065)

Section 9 of this regulation revises a chart used by the Commission on Ethics to determine relationships within the third degree of consanguinity or affinity to include relationships based on domestic partnership and adoption. (NAC 281A.310)

Under existing law, the Commission is required to render an opinion interpreting the statutory ethical standards and apply the standards to a given set of facts and circumstances upon its own motion or upon receiving a request for such an opinion from certain persons and entities. Upon receipt of such a request for an opinion, the Executive Director of the Commission is required to first investigate the facts and circumstances relating to the request to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter.

(NRS 281A.440) Under existing regulations, when the request for an opinion is from a person making a third-party request relating to a public officer or employee, the Executive Director must confer with the Commission Counsel to determine whether the Commission has jurisdiction concerning the request and whether the third-party request was properly filed. (NAC 281A.400, 281A.403, 281A.405) If the Executive Director and the Commission Counsel determine that the Commission has jurisdiction concerning the request and the third-party request was properly filed, the Executive Director is required to begin an investigation. If the Executive Director and the Commission Counsel determine that the Commission does not have jurisdiction concerning the request or that the third-party request was not properly filed, the Executive Director must notify the requester of that determination. The requester may appeal the determination by requesting a review of the determination by an investigatory panel appointed by the Chair of the Commission. (NAC 281A.405) **Section 13** of this regulation revises this procedure. First, **section 13** provides that the Executive Director and Commission Counsel must notify: (1) both the requester and the subject of the request if a determination is made that the Commission has jurisdiction and the request was properly filed; and (2) only the requester if a determination is made that the Commission does not have jurisdiction or that the request was not properly filed. Second, **section 13** allows a person who receives such a notification to request a review of the determination by the entire Commission instead of an investigatory panel of the Commission. Third, **section 13** prescribes a list of documents which must be provided to a person who requests such a review and provides that the Commission may, based on the findings of the Commission after conducting the review, dismiss the matter with or without prejudice or accept jurisdiction of the matter.

Existing law provides for the confidentiality of certain proceedings, information, documents and other materials related to an investigation of certain requests for an opinion of the Commission. (NRS 281A.440) Senate Bill No. 228 revised those provisions to provide that the investigative file of the Commission is confidential and generally defined the term “investigative file” to include any information obtained by the Commission during the course of an investigation and any records, documents or other materials created or maintained during the course of an investigation which relate to the public officer or employee who is the subject of the investigation. **Section 15** of this regulation revises a provision relating to the confidentiality of information relating to a third-party request for an opinion to reflect the confidentiality in statute of the investigative file. (NAC 281A.420)

Existing regulations provide that the proceedings of an investigatory panel to determine whether there is just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion are closed to all persons except the parties to the third-party request for an opinion and any other person the investigatory panel deems necessary to the proceedings. (NAC 281A.425) **Section 16** of this regulation revises that provision to make such proceedings closed to all persons except the staff of the Commission.

Existing law prohibits the Commission Counsel from issuing written opinions concerning the applicability of the statutory ethical standards to a given set of facts and circumstances except as directed by the Commission. (NRS 281A.260) Existing law also provides that each opinion rendered by the Commission in response to a request for an opinion from a public officer or employee is confidential unless the public officer or employee: (1) acts in contravention of the

opinion; (2) discloses the contents of the opinion; or (3) requests the Commission to disclose the contents of the opinion. (NRS 281A.440, 281A.550) Existing regulations require the Commission Counsel to prepare a written opinion for requests for an opinion that are heard by the Commission. (NAC 281A.185) **Section 23** of this regulation repeals that requirement, and **section 20** of this regulation authorizes the Commission to direct the Commission Counsel to prepare written opinions of requests for an opinion that are heard by the Commission. Existing regulations provide requirements for the contents of any written opinion of the Commission and requirements for the provision of copies of the written opinion to each person who is a party to the matter, the posting of the written opinion on the Internet website of the Commission and the delivery of a copy of the written opinion to any person who requests such a copy. (NAC 281A.550) **Section 20** authorizes the Commission to direct the Commission Counsel to prepare an abstract for a written opinion which is confidential under the applicable statute. The abstract is defined as a version of a confidential written opinion that has been redacted or amended to keep the identity of the requester of the opinion confidential. **Section 20** also revises the requirements for the posting of written opinions on the Commission’s Internet website to include the posting of abstracts and to prohibit the posting of a written opinion which is confidential.

Section 1. NAC 281A.060 is hereby amended to read as follows:

281A.060 “Party” means the subject *or his or her counsel, any staff of the Commission who investigate a third-party request for an opinion* and any other person who the Commission reasonably determines will be treated as a party in a matter before the Commission.

Sec. 2. NAC 281A.075 is hereby amended to read as follows:

281A.075 “Proceedings of an investigatory panel” means ~~1:~~

~~1.—A review and determination by an investigatory panel pursuant to NAC 281A.405 as to whether the Commission has jurisdiction over a third-party request for an opinion.~~

~~—2.—A] a~~ review pursuant to NAC 281A.430 and determination by an investigatory panel as to whether there is just and sufficient cause for the Commission to render an opinion on a matter presented in a third-party request for an opinion.

~~{→}~~ For the purposes of this chapter, the proceedings of an investigatory panel do not constitute a hearing.

Sec. 3. NAC 281A.090 is hereby amended to read as follows:

281A.090 “Requester” means a person ~~[or group of persons]~~ who ~~[file]~~ *files* with the Commission a third-party request for an opinion.

Sec. 4. NAC 281A.195 is hereby amended to read as follows:

281A.195 1. If any member of the Commission participates in an ex parte communication, the member must disclose to the Commission that he or she participated in an ex parte communication.

2. If a member of the Commission discloses that he or she participated in an ex parte communication or the Commission otherwise determines that a member of the Commission participated in an ex parte communication, the Commission may require the member to abstain from participating with the Commission in any hearing or determination to be made by the Commission concerning the matter that was the subject of the ex parte communication.

3. As used in this section, “ex parte communication” means any written or oral communication between *a party or* a person who has any *interest in a* matter pending before the Commission, or any agent of such *party or* person, and a member of the Commission which:

- (a) Is communicated outside the presence of the entire Commission;
- (b) Is not communicated during a formal proceeding of the Commission; and
- (c) Includes any comment, response or argument regarding any:
 - (1) Ongoing investigation by the Commission; or
 - (2) Matter that is pending before the Commission.

Sec. 5. NAC 281A.250 is hereby amended to read as follows:

281A.250 1. Except as otherwise provided in subsection 3, the provisions of NAC 281A.250 to ~~[281A.290,]~~ **281A.310**, inclusive, govern all practice and procedure before the Commission.

2. The Commission will liberally construe the provisions of NAC 281A.250 to ~~[281A.290,]~~ **281A.310**, inclusive, to determine all matters before the Commission in a just, speedy and economical manner.

3. For good cause shown, the Commission may deviate from the provisions of NAC 281A.250 to ~~[281A.290,]~~ **281A.310**, inclusive, if the deviation will not materially affect the interests of the ~~[party who is the]~~ subject of the request.

Sec. 6. NAC 281A.255 is hereby amended to read as follows:

281A.255 1. Each written communication or document filed with the Commission must:

(a) Be ~~[in proper]~~ **on the** form ~~[;]~~ **provided by the Commission;**

(b) Be ~~[clearly and legibly typed or printed on 8 1/2 by 11 inch paper, on one side only;~~

~~—(c) Be addressed to the principal office of the Commission;]~~ **submitted in the manner prescribed on the form;** and

~~[(d)]~~ (c) Include any ~~[duplicate]~~ :

(1) **Duplicate** copy required to be included with the form, as specified on the form ~~[;]~~ ;

and

(2) **Necessary exhibits in a form and format, including, without limitation, digital or electronic format, which is reasonably accessible to the Commission.**

2. Except as otherwise provided in NRS 281A.410 and 281A.500, the Commission will consider a written communication or document which is required to be filed with the

Commission to have been filed with the Commission on the date on which the communication or document is received at the principal office of the Commission. ~~[A written communication or document that is required to be filed with the Commission may not be submitted via facsimile transmission.]~~

Sec. 7. NAC 281A.265 is hereby amended to read as follows:

281A.265 1. Motions related to a third-party request for an opinion may only be made:

(a) After an investigatory panel has made a determination that there is just and sufficient cause for the Commission to render an opinion pursuant to NRS 281A.220; and

(b) Before the hearing on the matter unless the cause for the motion arises for the first time during the hearing on the matter.

2. A motion that is made before the hearing on the matter must be in writing and must be filed at the principal office of the Commission not later than ~~[15 days before the date of the hearing.]~~ *the close of business on the date set by an order of the Commission after the investigatory panel has made a determination that there is just and sufficient cause for the Commission to render an opinion.*

3. A written motion must contain:

(a) A brief statement of the facts and the points and authorities upon which the motion is based;

(b) A description of the relief sought; and

(c) A certificate of mailing which indicates that the motion was served upon all other parties to the matter.

4. The Commission, in its discretion, may allow a party making a motion to argue the motion before the Commission.

5. The Commission, in its discretion, may allow a party or any other person to respond to a motion.

6. The Chair, in his or her discretion, may accept and rule upon a motion on a matter, except a motion for disposition of a matter, at any time before, during or after the hearing by the Commission on the matter.

7. A motion for rehearing or for the reconsideration of an opinion on a third-party request for an opinion issued by the Commission must be filed with the Commission not later than 15 days after the date on which the opinion of the Commission is served.

Sec. 8. NAC 281A.285 is hereby amended to read as follows:

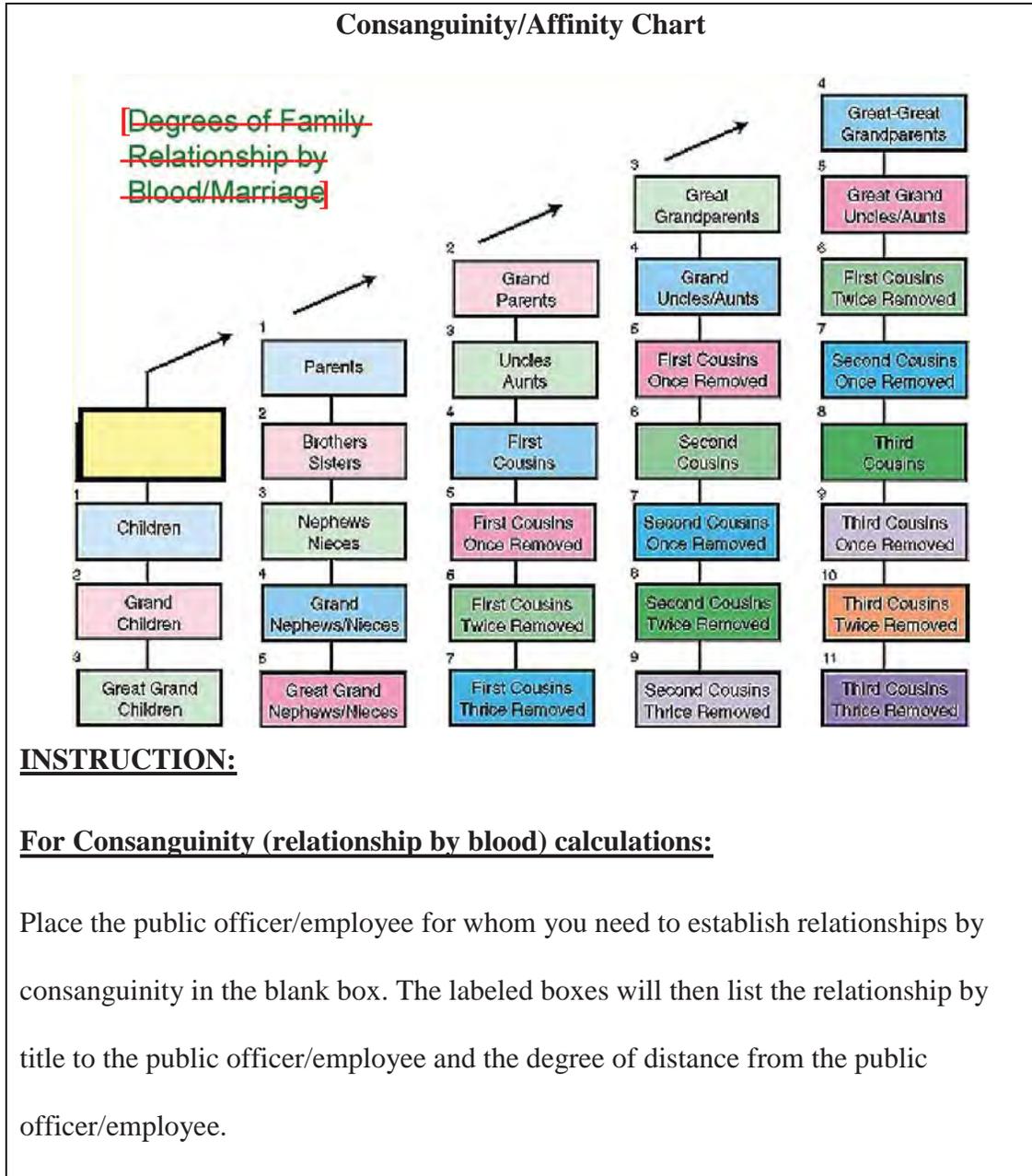
281A.285 ~~{H.}~~ A subject of a third-party request for an opinion may request that a subpoena be issued by filing a written request for a subpoena at the principal office of the Commission. A subject of a third-party request for an opinion who requests the issuance ~~{and service}~~ of a subpoena pursuant to this section shall *serve the subpoena in accordance with NRS 281A.300 and* pay ~~{all expenses}~~ *the costs* related to the ~~{issuance and}~~ service of the subpoena.

~~{2.— Service of a subpoena issued pursuant to this section or NRS 281A.300 must be made in the manner provided by Rule 45 of the Nevada Rules of Civil Procedure.}~~

Sec. 9. NAC 281A.310 is hereby amended to read as follows:

281A.310 *1.* For the purposes of NRS ~~{281.571 and 281A.420,}~~ *281A.065*, the Commission will determine *the* relationships *of a public officer or employee, or the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic*

partnership within the third degree of consanguinity or affinity pursuant to the following chart and instructions:



Anyone in a box numbered 1, 2, or 3 is within the third degree of consanguinity.

~~[Nevada Ethics in Government Law addresses consanguinity within the third degree by blood, adoption or marriage.]~~

For Affinity (relationship by *adoption, marriage* ~~[]~~ or *domestic partnership*)

calculations:

Place the spouse *or domestic partner* of the public officer/employee for whom you need to establish relationships by affinity in the blank box. The labeled boxes will then list the relationship by title to the spouse *or domestic partner* and the degree of distance from the public officer/employee by affinity.

~~[A husband and wife]~~ *Spouses* are related in the first degree *of affinity* by marriage ~~[]~~ *and domestic partners are related in the first degree of affinity by domestic partnership.* For *adoption and* other relationships by marriage ~~[]~~ *or domestic partnership,* the degree of relationship is the same as the degree of underlying relationship by blood.

2. As used in this section:

- (a) *“Domestic partner” has the meaning ascribed to it in NRS 281A.085; and*
- (b) *“Domestic partnership” has the meaning ascribed to it in NRS 281A.086.*

Sec. 10. NAC 281A.350 is hereby amended to read as follows:

281A.350 The Commission will only consider a first-party request for an opinion filed by a public officer or public employee that is ~~submitted to the Commission in proper~~ *on the* form ~~[-]~~ *provided by the Commission and submitted in the manner prescribed on the form.*

Sec. 11. NAC 281A.365 is hereby amended to read as follows:

281A.365 1. The Chair or presiding officer of a hearing concerning a first-party request for an opinion shall:

(a) Ascertain whether the subject of the first-party request for an opinion and all persons requested by the subject to testify are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room before the hearing begins.

(b) Ensure that an oath is administered, in accordance with NAC 281A.280, to the subject of the first-party request for an opinion and all persons whose testimony will be taken.

2. ~~The~~ *Except as otherwise provided in subsection 3 of NAC 281A.353, the* subject of the first-party request for an opinion must be present at the hearing.

3. The Chair or presiding officer shall allow the subject of the first-party request for an opinion to:

(a) Present opening comments;

(b) Present any evidence on his or her own behalf; and

(c) Examine any witnesses on his or her own behalf.

4. The subject of the first-party request for an opinion, any witnesses or any counsel retained by the subject may be questioned by any member of the Commission at any time during the proceeding.

5. Upon the conclusion of the presentation of evidence by the subject of the first-party request for an opinion and the examination of any witnesses, the Chair or presiding officer shall allow the subject to present closing comments.

6. Upon the conclusion of the closing comments by the subject of the first-party request for an opinion, the Commission will:

(a) Deliberate the issues of fact presented at the hearing, make a final determination of the findings of fact and apply the applicable law to the findings of fact;

(b) Render an opinion on the matter; and

(c) Submit a copy of the opinion to the subject.

7. The opinion rendered by the Commission ~~shall be~~ *is* binding upon the subject of the first-party request for an opinion as to his or her future conduct pursuant to subsection 1 of NRS 281A.440.

8. The Commission may waive any provision of this section if the Commission determines that such a waiver is necessary to expedite the hearing or is in the interest of justice.

9. The first-party request for an opinion and the information presented during the proceedings set forth in this section must be kept confidential, unless the subject of the opinion acts in a manner set forth in subsection 7 of NRS 281A.440 to waive the confidentiality of such information.

Sec. 12. NAC 281A.400 is hereby amended to read as follows:

281A.400 1. The Commission will only consider a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440 which is ~~submitted in proper~~

on the form ~~[with the Executive Director at the principal office of]~~ provided by the Commission ~~[.]~~ and submitted in the manner prescribed on the form.

2. A third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440 must contain:

(a) The original completed form for a third-party request for an opinion ; ~~[in the format required by the Commission;]~~

(b) Two copies of the completed form; and

(c) Three copies of all supporting documents and evidence.

3. A third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440 must be accompanied by evidence which supports the allegation that the subject has violated a statutory ethical standard set forth in the third-party request for an opinion and demonstrates that the alleged conduct of the subject would constitute a violation of chapter 281A of NRS.

4. Once a third-party request for an opinion has been filed with the Commission pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440, the requester may only withdraw the third-party request for an opinion with the consent of the Executive Director.

5. A request to withdraw a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440 must be in writing and set forth the specific reasons for requesting the withdrawal of the third-party request for an opinion.

6. As used in this section, “evidence which supports the allegation” means any reliable and competent form of proof provided by witnesses, public and private records, audio or visual recordings, documents, exhibits, concrete objects and other such forms of proof that support a

reasonable belief in the truth of the allegation made in the third-party request for an opinion. The term includes any evidence which is offered that corroborates a newspaper article or other media report. The term does not include a newspaper article or other media report if the article or report is offered as the only evidence to support the allegation.

Sec. 13. NAC 281A.405 is hereby amended to read as follows:

281A.405 1. The Executive Director shall confer with the Commission Counsel to determine whether:

(a) The Commission has jurisdiction concerning a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440; and

(b) The third-party request for an opinion was ~~[properly]~~ filed with the Commission in ~~[accordance]~~ *compliance* with *the requirements of subsections 1, 2 and 3 of* NAC 281A.400.

2. If the Executive Director and Commission Counsel determine *pursuant to subsection 1* that the Commission has jurisdiction concerning the third-party request for an opinion and that the third-party request for an opinion was ~~[properly]~~ filed ~~[pursuant to]~~ *in compliance with the requirements of subsections 1, 2 and 3 of* NAC 281A.400, the Executive Director shall ~~[investigate and proceed in the matter pursuant to NRS 281A.440.]~~ *notify the requester and the subject of the request of the determination.*

3. The Executive Director shall notify the requester *of the determination* if the Executive Director and Commission Counsel determine *pursuant to subsection 1* that:

(a) The Commission lacks jurisdiction concerning the third-party request for an opinion pursuant to subsection 1; or

(b) The third-party request for an opinion was not ~~properly~~ filed with the Commission in ~~accordance~~ *compliance* with *the requirements of subsections 1, 2 and 3 of* NAC 281A.400.

4. A person who receives a notice pursuant to ~~paragraph (a) of~~ subsection *2 or 3* may request a review *by the Commission* of the determination ~~regarding jurisdiction by an investigatory panel.~~ *made pursuant to subsection 1.* Such a request must be submitted to the principal office of the Commission in writing not later than 10 days after the date on which the person received notification. ~~The Chair will appoint an investigatory panel to conduct the review of the determination regarding jurisdiction.~~

5. ~~If an investigatory panel appointed pursuant to subsection 4 determines that the Commission has jurisdiction concerning a third party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440, the Executive Director shall investigate and proceed in the matter pursuant to NRS 281A.440. Upon conclusion of the investigation, the Executive Director shall, to the extent possible, submit his or her recommendation regarding whether there is just and sufficient cause for the Commission to render an opinion to the same investigatory panel that determined that the Commission has jurisdiction concerning the third party request for an opinion.~~ *Upon receipt of a request for a review pursuant to subsection 4, the Executive Director shall notify the subject if the request for a review was made by the requester of the third-party request for an opinion, or the requester of the third-party request for an opinion if the request for a review was made by the subject. Such notification must include, without limitation:*

(a) The third-party request for an opinion;

(b) The determination of the Executive Director and Commission Counsel made pursuant to subsection 1;

(c) The request for a review made pursuant to subsection 4;

(d) The date on which the Commission will conduct its review; and

(e) Instructions for filing a response to the request for a review, which must be filed not less than 5 business days before the date on which the Commission will conduct its review.

6. The Commission will review a determination made by the Executive Director and the Commission Counsel pursuant to subsection 1 on the date provided in the notification made pursuant to subsection 5. Action taken by the Commission pursuant to this subsection is a final decision. The Commission will:

(a) Dismiss the matter without prejudice upon a finding that the third-party request for an opinion was not filed in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400;

(b) Dismiss the matter upon a finding that the Commission lacks jurisdiction concerning the third-party request for an opinion pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440; or

(c) Accept jurisdiction of the matter upon a finding that the third-party request for an opinion was filed in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400 and that the Commission has jurisdiction concerning the third-party request for an opinion pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440.

7. The Executive Director shall:

(a) Notify the subject and the requester of the third-party request for an opinion of the action taken by the Commission pursuant to subsection 6; and

(b) If the Commission accepts jurisdiction of the matter, provide the notification required by NAC 281A.410.

Sec. 14. NAC 281A.410 is hereby amended to read as follows:

281A.410 1. Once a third-party request for an opinion has been ~~properly~~ filed with the Commission by a requester *in compliance with the requirements of subsections 1, 2 and 3 of NAC 281A.400* or initiated on the motion of the Commission and the Commission has determined that the Commission has jurisdiction over the matter presented in the third-party request for an opinion ~~;~~ *pursuant to NAC 281A.405*, the Executive Director shall forthwith ~~notify~~ :

(a) Notify the public officer or public employee who is the subject of the third-party request for an opinion ~~and provide~~ ;

(b) Provide the public officer or public employee an opportunity to respond to the allegations contained in the third-party request for an opinion ~~Such a~~ ; *and*

(c) Investigate and proceed in the matter pursuant to NRS 281A.440.

2. A notification *made pursuant to subsection 1* must ~~be~~ :

(a) Be in writing and sent to the subject of the third-party request for an opinion by:

~~(a)~~ (1) Personal delivery;

~~(b)~~ (2) Certified mail, return receipt requested; or

~~(c)~~ (3) Overnight delivery service in which proof of delivery is documented.

~~2. A notice of a third-party request for an opinion made pursuant to this section must include,]~~

(b) *Include*, without limitation:

~~(a)~~ (1) All information filed by the requester or information upon which the Commission based its motion, as appropriate;

~~(b) A copy of chapter 281A of NRS;~~

~~(c) A copy of this chapter;~~

~~(d)~~ (2) An outline of the process used by the Commission to resolve third-party requests for opinions; and

~~(e)~~ (3) A form prescribed by the Commission for waiving the time limits set forth in subsections 4, 5 and 6 of NRS 281A.440.

3. The subject of a third-party request for an opinion may, within the time limit set forth in subsection 3 of NRS 281A.440, file with the Commission a written response to the allegations contained in the third-party request for an opinion. If the subject of a third-party request for an opinion files with the Commission a waiver of the time limits set forth in subsections 4, 5 and 6 of NRS 281A.440, the Executive Director may, for good cause shown, authorize one or more extensions, of not more than 30 days each, of the time limit set forth in subsection 3 of NRS ~~281.440~~ **281A.440** for the subject to file a written response to the allegations contained in the third-party request for an opinion.

Sec. 15. NAC 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in NRS 281A.440, until the conclusion of the proceedings of an investigatory panel to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter:

(a) The Commission will not confirm or deny whether a third-party request for an opinion has been filed by a requester, or initiated upon the motion of the Commission, against a public officer or public employee; and

(b) All information related to the third-party request for an opinion in the possession of the Commission and its staff is confidential.

2. Upon the conclusion of the proceedings of an investigatory panel on a third-party request for an opinion, ~~the~~ *any* information related to the third-party request for an opinion, *except the investigative file of the Commission as described in subsection 16 of NRS 281A.440*, is a public record available for public review during normal business hours at the principal office of the Commission.

Sec. 16. NAC 281A.425 is hereby amended to read as follows:

281A.425 The proceedings of an investigatory panel to determine whether there is just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion are confidential and closed to all persons except the ~~[parties to the third-party request for an opinion and any other person the investigatory panel deems necessary to the proceedings of the investigatory panel.]~~ *staff of the Commission.*

Sec. 17. NAC 281A.445 is hereby amended to read as follows:

281A.445 The Executive Director shall provide and make arrangements for a *written* record *or audio recording* to be made of any proceedings of an investigatory panel.

Sec. 18. NAC 281A.475 is hereby amended to read as follows:

281A.475 The Commission will only consider those requests for an opinion filed pursuant to subsection 6 of NRS 281A.550 that are ~~submitted to the Commission in proper~~ *on the* form ~~provided by the Commission and submitted in the manner prescribed on the form.~~

Sec. 19. NAC 281A.495 is hereby amended to read as follows:

281A.495 1. The Chair or presiding officer of a hearing concerning a request for an opinion filed pursuant to subsection 6 of NRS 281A.550 shall:

(a) Ascertain whether the subject of the request for an opinion and all persons requested by the subject to testify are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room before the hearing begins.

(b) Ensure that an oath is administered, in accordance with NAC 281A.280, to the subject of the request for an opinion and all persons whose testimony will be taken.

2. ~~The~~ *Except as otherwise provided in subsection 3 of NAC 281A.480, the* subject of the request for an opinion must be present at the hearing.

3. The Chair or presiding officer shall allow the subject of the request for an opinion to:

(a) Present opening comments;

(b) Present any evidence on his or her own behalf; and

(c) Examine any witnesses on his or her own behalf.

4. The subject of the request for an opinion, any witnesses or any counsel retained by the subject may be questioned by any member of the Commission at any time during the proceeding.

5. Upon the conclusion of the presentation of evidence by the subject of the request for an opinion and the examination of any witnesses, the Chair or presiding officer shall allow the subject to present closing comments.

6. Upon the conclusion of the closing comments by the subject of the request for an opinion, the Commission will:

(a) Deliberate the issues of fact presented at the hearing, make a final determination of the findings of fact and apply the applicable law to the findings of fact;

(b) Render an opinion on the matter; and

(c) Submit a copy of the opinion to the subject.

7. The Commission may waive any provision of this section if the Commission determines that such a waiver is necessary to expedite the hearing or is in the interest of justice.

8. The request for an opinion and the information presented during the proceedings set forth in this section must be kept confidential, unless the subject of the request for an opinion acts in a manner set forth in subsection 7 of NRS 281A.550 to waive the confidentiality of such information.

Sec. 20. NAC 281A.550 is hereby amended to read as follows:

281A.550 1. *The Commission Counsel shall, if directed by the Commission, prepare:*

(a) A written opinion of the Commission regarding a first-party request for an opinion, a third-party request for an opinion or a request for an opinion submitted pursuant to subsection 6 of NRS 281A.550; and

(b) An abstract of any written opinion which is confidential pursuant to subsection 7 of NRS 281A.440 or subsection 7 of NRS 281A.550.

2. A written opinion *or abstract* of the Commission must plainly state:

(a) If the opinion concerns a third-party request for an opinion, each violation alleged against the public officer or public employee who is the subject of the third-party request for an opinion;

(b) Except as otherwise provided in subsection 7 of NRS 281A.440, if the opinion concerns a first-party request for an opinion, each question for which the public officer or employee seeks guidance concerning the interpretation of a statutory ethical standard;

(c) If the opinion concerns a request for an opinion filed pursuant to subsection 6 of NRS 281A.550, the relevant facts in the case that do or do not justify relief from the strict application of the provisions of subsection 3 or 5 of NRS 281A.550, as applicable;

(d) The determination of the Commission with regard to each allegation, question or fact, as applicable; and

(e) The applicable findings of fact and conclusions of law and any specific guidance concerning the interpretation of a statutory ethical standard provided by the Commission to a public officer or public employee who is the subject of a first-party request for an opinion.

~~[2.]~~ 3. Each written opinion *and abstract* must be numbered, dated and signed by the Chair or presiding officer.

~~[3.]~~ 4. The Commission will:

(a) Provide a copy of each written opinion *and abstract* to each person who is a party;

(b) Post a copy of each written opinion *which is not confidential and each abstract* on the *Internet* website of the Commission at <http://ethics.nv.gov>; and

(c) Deliver a copy of a written opinion *which is not confidential or an abstract, as applicable*, to any person who requests such a copy.

5. *As used in this section, “abstract” means a version of a confidential written opinion that has been redacted or amended to keep the identity of the requester of the opinion confidential.*

Sec. 21. NAC 281A.560 is hereby amended to read as follows:

281A.560 1. Except as otherwise provided in this section, ~~[to obtain copies of public records from]~~ the Commission ~~[- a person must:~~

~~—(a) File a written request at the principal office of the Commission or appear personally at an office of the Commission; and~~

~~—(b) Before the copies are made, pay the actual cost of the copies or an estimate of the actual cost, as determined by the Commission’s staff, unless the Commission’s staff, in its discretion and based upon its experience with the person requesting the copies, allows the person to pay the actual cost of the copies when the copies are provided to the person.~~

~~—2. Except as otherwise provided in this section, the cost of obtaining copies of]~~ *will make* public records ~~[from]~~ *of* the Commission ~~[is 25 cents for each page of the public record that is copied.~~

~~—3.]~~ *available for inspection and copying in accordance with the provisions of chapter 239 of NRS.*

2. Except as otherwise provided in this section, to obtain copies of a transcript concerning a matter that was recorded by the Commission, a person must file a written request at the principal office of the Commission and make arrangements directly with the court reporter.

~~[4.— A person may not obtain]~~

3. *The Commission will not authorize a court reporter to provide* copies of a transcript concerning a matter that was recorded by the Commission *to a person seeking such a transcript pursuant to subsection 2* unless the contents of the proceedings concerning that matter may be disclosed to that person pursuant to the provisions of chapter 281A of NRS and NAC 281A.250 to ~~[281A.290,]~~ *281A.310*, inclusive.

~~[5.]~~ 4. A court reporter ~~[may]~~ *shall* not provide to a person copies of a transcript concerning a matter that was recorded by the Commission or any other documents unless the court reporter has received written permission from the Commission . ~~[to do so.]~~

~~—6.]~~ 5. The Commission may waive all or a portion of the cost of obtaining copies of public records *made available pursuant to subsection 1* if the person requesting the copies files a written request for such a waiver at the principal office of the Commission and the Commission determines that:

- (a) The copies requested are reasonable in quantity; and
- (b) The person requesting the copies is a party to a matter before the Commission and does not have the financial ability to pay for all or a portion of the cost of the copies.

Sec. 22. NAC 281A.615 is hereby amended to read as follows:

281A.615 1. The following documents must be ~~[filed in proper form:]~~ *on the form provided by the Commission and submitted in the manner prescribed on the form:*

- (a) A disclosure of representation and counseling required pursuant to NRS 281A.410; and
- (b) An acknowledgment of the statutory ethical standards required pursuant to NRS 281A.500.

2. The form for each document specified in subsection 1 is available at the principal office of the Commission and on the *Internet* website of the Commission.

Sec. 23. NAC 281A.040, 281A.080, 281A.085 and 281A.185 are hereby repealed.

TEXT OF REPEALED SECTIONS

281A.040 “Information related to the third-party request for an opinion” defined.

(NRS 281A.290) “Information related to the third-party request for an opinion” includes, without limitation:

1. A third-party request for an opinion;
2. All investigative materials and information related to the third-party request for an opinion, including, without limitation, any investigation report;
3. Each document in the possession of the Commission or its staff related to the third-party request for an opinion; and
4. The record of the proceedings of an investigatory panel related to the third-party request for an opinion.

↪ The term does not include any confidential information unless the confidentiality of the information has been expressly or impliedly waived.

281A.080 “Proper form” defined. (NRS 281A.290) “Proper form” means a form, available from an office or website of the Commission, which is:

1. Created by the Commission for the intended purpose of the form; and
2. Submitted to the Commission at the principal office of the Commission with all required information clearly and legibly printed or typed on the form.

281A.085 “Record of the proceedings of an investigatory panel” defined. (NRS 281A.290) “Record of the proceedings of an investigatory panel” means written or audio documentation memorializing the deliberations of an investigatory panel during the proceedings of the investigatory panel.

281A.185 Preparation of written opinions by Commission Counsel. (NRS 281A.290)

In addition to any other duties imposed on him or her by the Commission, the Commission Counsel shall, in a timely manner, prepare a written opinion for each third-party request for an opinion, first-party request for an opinion and request for an opinion filed pursuant to subsection 6 of NRS 281A.550 that is heard by the Commission.



STATE OF NEVADA
COMMISSION ON ETHICS
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STATEMENT REGARDING SMALL BUSINESS IMPACT
(NRS 233B.0608 and 233B.0609)

I, Caren Cafferata-Jenkins, being the duly appointed Executive Director of the Nevada Commission on Ethics, do hereby certify that, to the best of my knowledge or belief:

1. The proposed regulations reflect amendments to NRS Chapter 281A made pursuant to Senate Bill 228 of the 2013 Legislative Session (Chapter 551), which include provisions relating to Commission procedures for jurisdiction, notice and investigations of third-party requests for opinion, confidentiality of certain information and documents, the applicability of certain relationships as those within the third degree of consanguinity or affinity, and other matters related thereto.

2. The proposed regulations are not likely to: (a) impose a direct or significant economic burden upon a small business, or (b) directly restrict the formation, operation or expansion of a small business. (NRS 233B.0608(1))

3. Commission staff analyzed whether the proposed regulations could cause small business any economic burden, and none of the proposals were found to directly or significantly affect business in Nevada. Only in the narrow circumstance where a public officer or public employee holds a significant pecuniary interest in a business would the Ethics regulations apply at all.

In fact, this occasional indirect effect will not increase with the proposed regulation; by incorporating the effect of SB 228 of the 2013 Legislative Session which changed the interest triggering the Ethics Law from a public officer or public employee having *any* pecuniary interest to the requirement of *a significant* pecuniary interest before requiring action or abstention, the regulations will have even less of an impact.

The Nevada Ethics in Government Law in NRS and NAC Chapters 281A does not directly govern or affect any small business in Nevada. Rather, the Commission and the Ethics Law govern only the conduct of public officers and employees to ensure that they commit themselves to avoid conflicts between their private interests and those of the general public whom they serve. Based on the foregoing, Commission staff concluded that the proposed regulations will have no effect on small business. (NRS 233B.0608(3))

4. Comment by small business has not been solicited or summarized. Because small businesses generally are not likely to be affected by the adoption of these proposed regulations, no assessment of the burden or economic impact can be completed. (NRS 233B.0608(2)(a))

Respectfully submitted,

DATED: May 6, 2014



CAREN CAFFERATA-JENKINS, ESQ.
Executive Director

AGENDA ITEM NO. 5

AGENDA ITEM NO. 5



State of Nevada
Commission on Ethics

Overview of Current FY14 Statistics and Staff Processes
Presented for the Purpose of the Nevada Certified Public Manager Program
"Quality Improvement Project"

Prepared by Valerie M. Carter, Executive Assistant

Nevada Certified Public Manager (CPM) Program

Quality Improvement Project

Why is it important?



CPM – “Quality Improvement Project”

Project Criteria:

- Lead a change
- Improve efficiency/effectiveness of organization
- Directly relates to the agency’s mission
- Has high organizational impact or priority
- Demonstrated definable results for the organization, including cost savings (even if \$20)

CPM - “Quality Improvement Project”

- ▶ **Problem:** How can we streamline our current processes to eliminate the Opinion Backlog and issue more timely Opinions?
- ▶ **Vision:** Review current processes related to Request for Opinion hearings and composing written Opinions to see how streamlining will increase efficiency, *ultimately eliminating the backlog and creating a better process for composing/issuing timely Opinions.*
- ▶ **Potential Savings & Efficiencies:** Changing how often the Commission holds meetings will save the agency money, and allow staff more time to write Opinions and work on pending cases and issues.

CPM – “Quality Improvement Project”

▶ How will we know if the project is successful?

- Work output improvements:
 - The backlog will be eliminated
 - Opinions will be issued within 45-60 days of hearing
 - Ability to demonstrate a true cost savings
 - Data is and will be collected on these goals over the next year and provided to the Commission quarterly

CPM – “Quality Improvement Project”

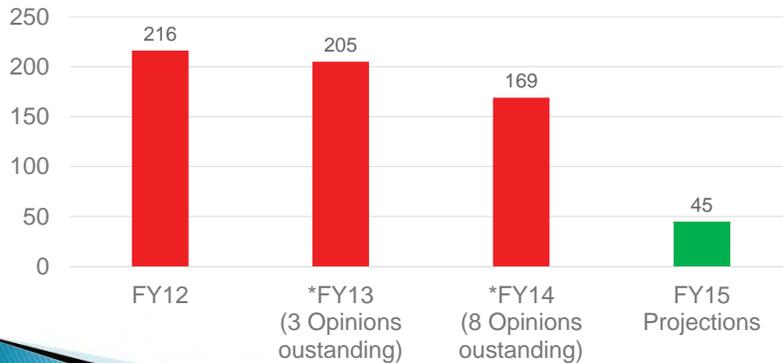
▶ Quantification:

- Measure the average number of days from the hearing to the issuance/publication of the final Opinion. This number should significantly decrease over the next Fiscal Year with new processes in place.

Nevada Commission on Ethics- RFO Opinion Statistics

Average # of Days from Hearing to Final Published
Opinion (non-abstract)

* If all 11 outstanding Opinions are finalized by July 1, 2014 &
Today's two 1st Party RFOs are finalized by August 11, 2014



What is the Goal?

- ▶ Eliminating the backlog and creating a better process for composing/issuing timely Opinions.

How Can We Achieve the Goal?

1. Review and revise current Opinion writing/issuing process
2. Review and revise (as necessary) current Commission Meeting processes
3. Examine frequency of commission meetings and how interim time can be spent

How Can We Achieve the Goal?

1. Review and revise current Opinion writing/issuing process:
 - Implement target deadlines between meetings to issue draft Opinions to Commissioners/parties
 - Revise first-party fact gathering process
 - Revise draft Opinion layout/language
 - Increase time between meetings to allow staff to operate efficiently and dedicate time to Opinion writing

How Can We Achieve the Goal?

2. Review and revise (as necessary) current Commission Meeting processes

- First-party RFO hearing preparation
 - More detailed, fact specific preparation and draft Opinion
- First-Party RFO Commission hearing
 - Commissioners review materials and submit additional question/concerns to Commission Counsel prior to hearing date
 - Limit questioning time to streamline meetings
 - Limit number of questions per Commissioner

How Can We Achieve the Goal?

And last... but not least:

3. Examine frequency of Commission meetings and how interim time can be spent

Bi-Monthly Commission Meetings:

- ▶ Focus is on **efficiency**, not necessarily cost savings
- ▶ The goal is to continue holding 1-day Commission meetings, but every-other-month
- ▶ NOT to hold 2-day meetings, except as absolutely necessary
- ▶ Commission may add brief telephonic meetings between bi-monthly meetings to address time sensitive or urgent matters
- ▶ Staff may provide an interim update regarding current cases and expected upcoming meeting agenda items, travel arrangements, etc. via email

Bi-Monthly Commission Meetings:

- ▶ Many other agencies follow a similar meeting schedule:
 - Nevada State Board of Accountancy
 - Nevada Equal Rights Commission (NERC)
 - Board of Agriculture
 - P.O.S.T. Commission
 - State Board of Medical Examiners
 - Commission on Economic Development
 - State Board of Engineers and Land Surveyors
 - State Board of Education
 - Nevada Indian Commission
 - Commission on Post-Secondary Education
 - Board of State Prison Commissioners
 - Board of Pharmacy
 - State Board of Cosmetology

Bi-Monthly Commission Meetings:



- ▶ How Commissioners will benefit from bi-monthly meetings:
 - More in-person meetings with all Commission members in one location
 - Increased time between meetings to attend to personal business
 - Meeting preparation and review of materials 6/year instead of 12/year
 - More availability/flexibility in scheduling Subcommittees and Panels
 - Telephonic meetings, subcommittees and panels

Bi-Monthly Commission Meetings:

- ▶ How the agency will benefit from a bi-monthly meeting schedule:
 - Appropriate time between meetings to write Opinions, conduct business and prepare for next meeting
 - More efficient use of staff
 - Elimination of backlog
 - Better reputation for Agency and Commission
 - Higher staff morale
 - Cost Savings

Potential Cost Savings:



- Estimated Cost Savings:
 - Meeting Costs
 - Court Reporter Appearance Fee \$150/day x 6= \$900
 - LCB room rental \$200/day x 6= \$1,200
 - Commissioner Pay \$80/Commissioner = \$640 x 6 = \$3,840
 - Staff hours finalizing and organizing meeting materials 6x vs. 12x
 - Approximately (at minimum) 100 staff hours x 6 meetings = 600 hours
 - 600 hours x \$36 (Avg. hourly rate of all employees) = \$21,600/year

Possible time/money savings of \$27,000/year

These changes streamline the process so a large amount of staff time is spent attending to other important tasks, including writing Opinions.

How Staff will benefit from bi-monthly meetings:

Having 60 days instead of 30 between meetings will:

1. Allow for appropriate time for staff to take care of business resulting from the previous Commission meeting
 - Follow-up with Opposing Counsel on any substantive language changes requested by the Commission upon approval of Stipulations;
 - Finalize Stipulation and circulate for execution
 - Distribute final, executed Stipulation to all appropriate parties
 - Publish Stipulation on NCOE Website, provide to LCB and media list
 - Compose, circulate and finalize Opinions resulting from RFOs heard by Commission
 - Prepare Minutes
 - Receive and respond to inquiries from media and public about cases heard
2. Allow for appropriate time for staff to prepare for next Commission meeting.

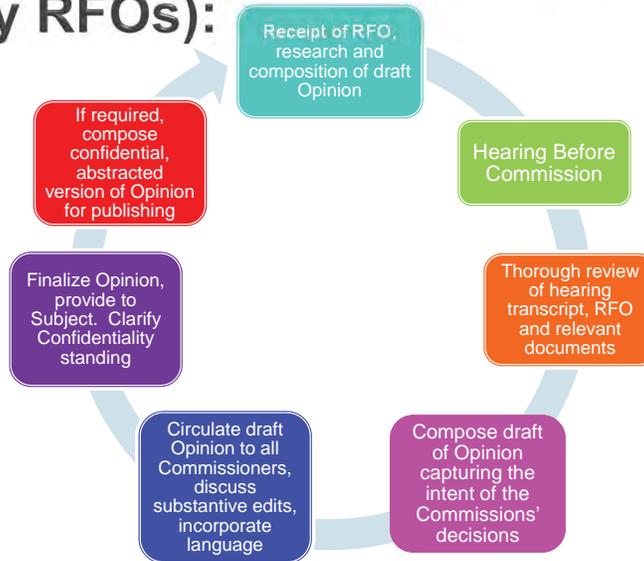
Monthly Meeting Preparation:

- ▶ What do we mean when we say “Meeting Preparation”:
 - Finalizing all substantive documents for review by Commissioners in preparation for hearings and other agenda items:
 - Research First-Party RFO details, facts, related statutes, and discuss/clarify same with requester
 - Prepare Draft Opinion (memo) to Commission
 - Prepare Memoranda regarding legal questions, jurisdictional concerns, administrative/legislative issues in preparation for Legislative Sessions, Subcommittee reports, Regulation changes
 - Compose Stipulations and work with Subject’s counsel to negotiate terms and language, gather relevant background materials related to RFO
 - Compose and finalize administrative reports by/for the Executive Director
 - Redact and update RFO log provided Quarterly to Commission

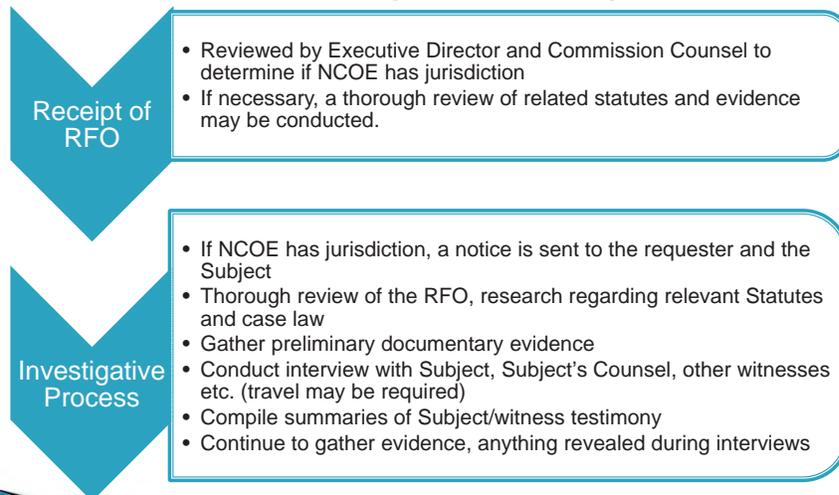
Monthly Meeting Preparation:

- ▶ What do we mean when we say “Meeting Preparation”:
 - Discussing, drafting, editing, revising and posting Public Notice and Meeting Agenda according to Open Meeting Law
 - Scheduling appearances by Requesters and their counsel, witnesses etc.
 - Coordinating meeting locations and video-conferencing sites between Carson City, Las Vegas and Elko
 - Coordinating travel with Staff and Commissioners
- ▶ What we are not ONLY referring to:
 - Staff coordination of all agenda items: Printing and copying several thousands of pages of materials, binding them and mailing to Commissioners (Although this gets done as well, and takes a lot of time, the above mentioned steps are much more lengthy and substantive in scope.)

Opinion Writing Process (First-Party RFOs):



Third-Party RFO from receipt to Disposition (When the NCOE has jurisdiction):



Third-Party RFO from receipt to Disposition (When the NCOE has jurisdiction):

Preparation for Panel Hearing

- Compile relevant documents/evidence for Panel Book, while continuing to analyze case law and the NRS
- AC prepares detailed report to ED regarding investigative findings
- ED prepares Report & Recommendation to Panel
- Panel either dismisses RFO for lack of evidence/jurisdiction or forwards the RFO to hearing before the Commission

Settlement Negotiations

- Compose settlement letter, begin negotiations
- Carefully craft Stipulation language
- Requires input, discussions and approval from Subject, Subject's Counsel, Executive Director, Commission Counsel, and ultimately the Commission. This is very time consuming. (sometimes done pre-panel)

Third-Party RFO from receipt to Disposition (When the NCOE has jurisdiction):

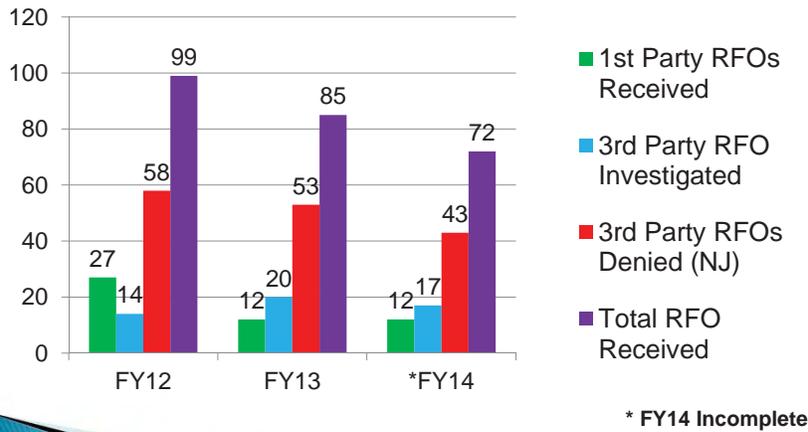
Hearing

- If all parties were able to come to an agreement, the facts and legal conclusions are vetted before the Commission for approval
- This process often involves additional negotiations between the Commission, AC and the subject's attorney
- If settlement negotiations fail, CC begins hearing preparation
- Meeting materials are prepared for either the consideration of a Stipulated Agreement or a full hearing
- Attendance and representation at hearing

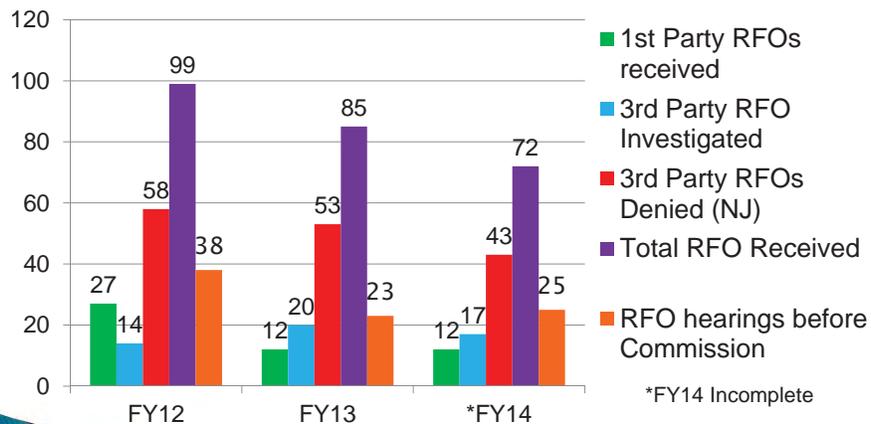
Opinion

- If the matter goes to hearing, a detailed Opinion will be composed by Commission Counsel

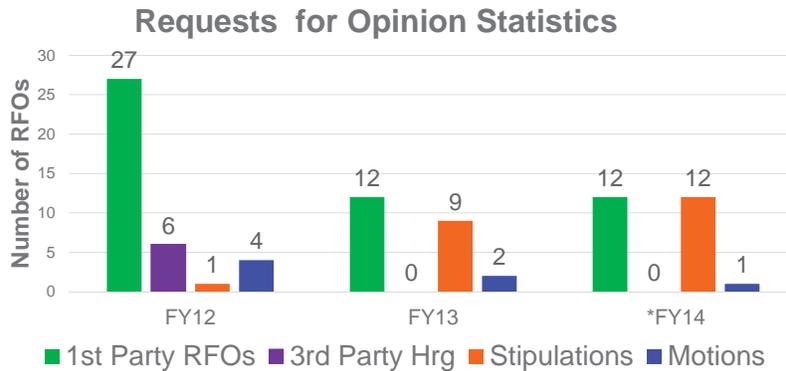
Nevada Commission on Ethics – Review of Current and Past Caseload



Nevada Commission on Ethics – Review of Current and Past Case Load

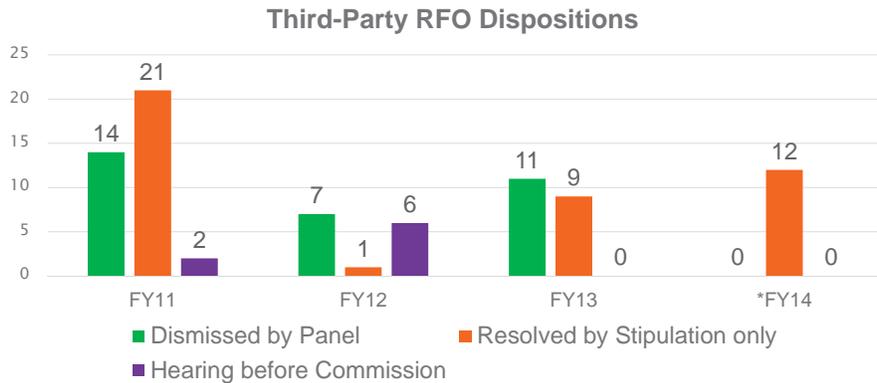


What Came Before the Commission for Decision FY12 – FY14:



*FY14 Incomplete

* With the addition of Associate Counsel (AC), once an investigation is complete and if the facts are not disputed, AC takes time to negotiate settlement with the Subject prior to a Panel Hearing and prior to a public hearing before the Commission, for minor infractions. This saves the Commission a great deal of time and resources, while continuing to appropriately and swiftly serve the Public.

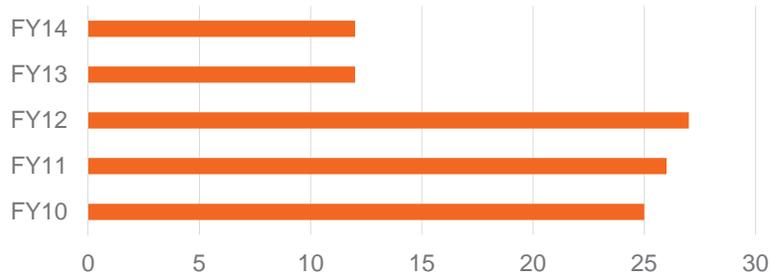


*FY14 Incomplete

Changes in NCOE Case Load

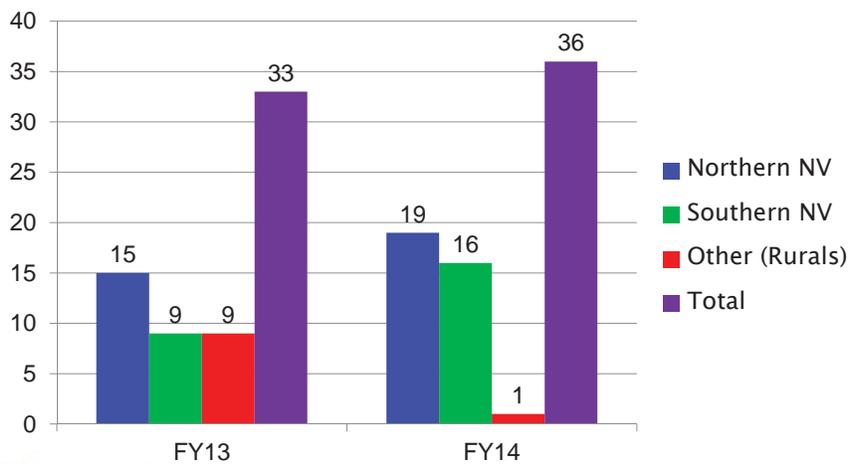
- ▶ The Commission has received close to half of the amount of 1st party RFOS as it did in FY10 and FY11 and FY12

of 1st Party RFOS By Fiscal Year



NCOE Training & Outreach

FY13 & FY14 Training Frequency and Location



AGENDA ITEM NO. 6

AGENDA ITEM NO. 6



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

March 19, 2014

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts of the open sessions are available for public inspection at the Commission's office in Carson City.

The Commission on Ethics held a public meeting on Wednesday, March 19, 2014, at 8:30 a.m. at the following locations:

**Nevada Legislative Building
Room 3143
401 S. Carson Street
Carson City, NV 89701**

and via video-conference to:

**Grant Sawyer State Building
Room 4401
555 E. Washington Avenue
Las Vegas, NV 89101**

CLOSED SESSION:

1. Closed Session pursuant to NRS 281A.440(7) to hear testimony, receive evidence, deliberate and render an advisory opinion regarding Confidential First-Party Request for Advisory Opinion No. 14-09A, submitted pursuant to NRS 281A.440(1).

This agenda item was held in closed session and will not be available to the public.

2. Closed Session pursuant to NRS 281A.440(15) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 13-68C regarding Dale Derbidge, City Councilman, City of Ely, submitted pursuant to NRS 281A.440(2).

This agenda item was held in closed session and will not be available to the public.

3. Closed Session pursuant to NRS 281A.440(7) to consider jurisdictional matters regarding First-Party Requests for Opinion Nos. 14-14A and 14-18A, submitted pursuant to NRS 281A.440(1).

This agenda item was held in closed session and will not be available to the public.

4. Closed Session to discuss potential or pending litigation.

This agenda item was held in closed session and will not be available to the public.

OPEN SESSION:

1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.

Chairman Paul H. Lamboley, Esq. called the meeting into open session at 2:43 p.m.

Present in Las Vegas, Nevada were Chairman Paul H. Lamboley, Esq., Vice-Chairman Gregory J. Gale, CPA, Commissioners Tim Cory, Esq. and Keith Weaver, Esq., Commission Counsel Yvonne Nevarez-Goodson, Esq. and Associate Counsel Jill C. Davis, Esq.

Present in Carson City, Nevada were Commissioners Cheryl A. Lau, Esq. and Jim M. Shaw, and Executive Assistant Valerie M. Carter.

Commissioner John C. Carpenter appeared via video teleconference from Elko, Nevada.

Commissioner Magdalena Groover was excused from this meeting.

2. Open Session for Public Comment.

No public comment.

3. Open Session pursuant to NRS 281A.440(8) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 13-68C regarding Dale Derbidge, City Councilman, City of Ely, submitted pursuant to NRS 281A.440(2).

Richard Sears, Esq., counsel for Subject Dale Derbidge appeared via telephone. Associate Counsel Jill C. Davis, Esq. appeared on behalf of the Commission. Both Mr. Sears and Ms. Davis stated that they are in agreement with the most recent version of the Stipulated Agreement which included minor modifications made by the Commission during the closed session to consider the Stipulation.

Commissioner Lau moved to approve the proposed Stipulation, including the amendments discussed in the closed session, regarding RFO 13-68C. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously.

4. Open Session for consideration and approval of Minutes of the January 15, 2014 and February 12, 2014 Commission meetings.

Commissioner Gale noted a typographical error in the January 15, 2014 Minutes, and stated he had notified Ms. Carter of the same. Commissioner Lau moved to approve the (corrected) January 15, 2014 and February 12, 2014 meeting Minutes. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously.

5. Open Session to consider proposed regulatory amendments to Nevada Administrative Code Chapter 281A for submission to the Legislative Counsel Bureau.

Commission Counsel Yvonne Nevarez-Goodson, Esq., with vice-Chairman Gregg Gale, provided the Commission with a detailed review of the proposed amendments/additions to NAC 281A. Ms. Nevarez-Goodson also gave an overview of the NAC change process, which has strict deadlines, and stated she will keep the Commissioners informed of the progress as staff moves forward.

A discussion ensued regarding the proposed amendments. (See attached mark-up of NAC 281A.)

Commissioner Shaw moved to accept the proposed regulatory changes to NAC 281A as presented by Vice-Chairman Gale and Commission Counsel Yvonne Nevarez-Goodson, Esq.,

and to forward the same to LCB for review and approval. The Motion was seconded by Commissioner Weaver. The Motion was put to a vote and carried unanimously.

Chairman Lamboley introduced the proposed *new* regulation regarding the Executive Director, the Chair, Vice-Chair or two Commissioners acting on their own volition to move a matter forward to investigation, should a possible violation come to their attention outside of the formal RFO process. Commission Counsel explained the proposal as outlined in the materials provided to Commissioners.

Commissioner Gale discussed some of the suggested procedural details and checks and balances. A lengthy discussion ensued regarding the pros and cons of the proposed regulation.

Commissioner Lau moved to not include the new regulation in the package to LCB. Commissioner Shaw seconded the motion. The Motion was put to a vote and carried as follows:

Commissioner Carpenter:	Aye.
Commissioner Lau:	Aye.
Commissioner Shaw:	Aye.
Commissioner Gale:	No.
Commissioner Weaver:	No.
Commissioner Cory:	Aye.
Commissioner Lamboley:	Aye.

6. Open Session for report by Executive Director and Commission Counsel on agency status and operations.

Commission counsel discussed the current status of the opinion backlog and her hope to eliminate the outstanding opinions as soon as reasonably possible.

The Executive Director was excused from this meeting and therefore did not provide a report.

7. Open Session for Commissioner comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.

No commissioner comments.

8. Open Session for Public Comment.

No public comment.

9. Adjournment.

Commissioner Lau moved to adjourn the meeting. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously. The meeting was adjourned at 4:11 p.m.

Minutes prepared by:

Minutes approved: June 11, 2014:

Valerie M. Carter
Executive Assistant

Paul H. Lamboley, Esq.
Chairman



**STATE OF NEVADA
NEVADA COMMISSION ON ETHICS**

PROPOSED REGULATORY CHANGES – 2014

NAC CHAPTER 281A - ETHICS IN GOVERNMENT

GENERAL PROVISIONS

- [281A.010](#) Definitions.
- [281A.020](#) “Chair” defined.
- [281A.023](#) “Commission” defined.
- [281A.025](#) “Commission Counsel” defined.
- [281A.033](#) “Executive Director” defined.
- [281A.034](#) “First-party request for an opinion” defined.
- [281A.035](#) “Hearing” defined.
- [281A.040](#) ~~“Information related to the third-party request for an opinion” defined.~~
- [281A.045](#) “Investigate” defined.
- [281A.047](#) “Investigatory panel” and “panel” defined.
- [281A.050](#) “Opinion” defined.
- [281A.060](#) “Party” defined.
- [281A.065](#) “Presiding officer” defined.
- [281A.070](#) “Principal office of the Commission” defined.
- [281A.075](#) “Proceedings of an investigatory panel” defined.
- [281A.080](#) “Proper form” defined.
- [281A.085](#) ~~“Record of the proceedings of an investigatory panel” defined.~~
- [281A.090](#) “Requester” defined.
- [281A.100](#) “Subject” defined.
- [281A.103](#) “Third-party request for an opinion” defined.
- [281A.105](#) “Vice Chair” defined.
- [281A.110](#) Severability.

COMMISSION ON ETHICS

Administration

- [281A.150](#) Election of Chair and Vice Chair.
- [281A.155](#) Duties of Chair; delegation of assignments.
- [281A.160](#) Duties of Vice Chair.
- [281A.165](#) Vacancy in office of Chair.
- [281A.170](#) Vacancy in office of Vice Chair.
- [281A.175](#) Appointment of temporary Acting Chair or Vice Chair in certain circumstances.
- [281A.180](#) Duties of Executive Director.
- [281A.185](#) Preparation of written opinions by Commission Counsel.

- [281A.190](#) Principal office of Commission: Designation; primary location for conduct of business.
- [281A.195](#) Participation of member of Commission in ex parte communication.
- [281A.200](#) Meetings of Commission: Majority required; necessary quorum reduced for ineligible member.

General Practice and Procedure Before Commission

- [281A.250](#) Provisions governing practice and procedure: Applicability; construction; deviation.
- [281A.255](#) Written communications and documents: Form and contents; date and manner of filing.
- [281A.260](#) Consolidation of matters.
- [281A.265](#) Motions.
- [281A.270](#) Discovery.
- [281A.275](#) Stipulations of fact; resolution of matter without hearing.
- [281A.280](#) Oaths.
- [281A.285](#) Subpoenas.
- [281A.290](#) Testimony in person required; exception.
- [281A.295](#) Conduct of persons at meetings and hearings; consequences of improper conduct.
- [281A.300](#) Representation of subject by legal counsel.
- [281A.310](#) Determination of relationships within third degree of consanguinity or affinity.

First-Party Requests for Opinions

- [281A.350](#) Proper form required.
- [281A.353](#) Hearings.
- [281A.355](#) Withdrawal.
- [281A.360](#) Determination of jurisdiction: Duties of Executive Director; request for review.
- [281A.365](#) Conduct of hearings; action by Commission; effect of opinion; confidentiality.

Third-Party Requests for Opinions

- [281A.400](#) Proper form required; submission; contents; withdrawal.
- [281A.XXX](#) ***NEW SECTION: Preliminary Inquiries.***
- [281A.403](#) Recommendation to initiate request upon motion of Commission.
- [281A.405](#) Duties of Executive Director; review of determination regarding jurisdiction.
- [281A.410](#) Notification of subject; filing of response.
- [281A.415](#) Investigation of additional issues and facts by Executive Director; provision of additional notice to subject.
- [281A.420](#) Confidentiality and availability of information.
- [281A.425](#) Confidentiality of proceedings of investigatory panel.
- [281A.430](#) Considerations of investigatory panel.

- [281A.435](#) Basis for finding by investigatory panel; unanimous finding required for determination that there is not just and sufficient cause to render opinion.
- [281A.440](#) Recording and contents of determination by investigatory panel that there is just and sufficient cause to render opinion.
- [281A.445](#) Record of proceedings of investigatory panel.
- [281A.450](#) Hearings: Advance written notice.
- [281A.455](#) Hearings: Continuance.
- [281A.460](#) Hearings: Conduct; action by Commission.
- [281A.465](#) Hearings: Admission and exclusion of evidence.
- [281A.470](#) Failure of subject to appear at hearing or reply to notice.

Opinions Concerning Employment of Certain Former Public Officers or Employees by Regulated Businesses

- [281A.475](#) Proper form required for requests.
- [281A.480](#) Hearings.
- [281A.485](#) Withdrawal of request.
- [281A.490](#) Determination of jurisdiction: Duties of Executive Director; request for review.
- [281A.495](#) Conduct of hearings; action by Commission; confidentiality.

General Procedures for Hearings

- [281A.500](#) Executive Director to provide information to Commission.
- [281A.505](#) Motion to disqualify member of Commission for good cause.
- [281A.510](#) Commission to determine order of proceedings.
- [281A.515](#) Testimony: Oath or affirmation required.
- [281A.520](#) Participation by subject of hearing; questioning of witnesses.

Miscellaneous Provisions

- [281A.550](#) Written opinions: Contents; dissemination.
- [281A.555](#) Petitions to adopt, file, amend or repeal regulations.
- [281A.560](#) Obtaining copies of public records or transcripts; payment of costs of public records.
- [281A.615](#) Filing of certain documents in proper form; availability of form.

REVISER'S NOTE.

[NAC 281.005](#) to [281.242](#), inclusive, have been renumbered and moved to [chapter 281A](#) of NAC in accordance with chapter 195, Statutes of Nevada 2007, at page 641, which required the related provisions of [chapter 281](#) of NRS to be renumbered and moved to [chapter 281A](#) of NRS.

GENERAL PROVISIONS

NAC 281A.010 Definitions. ([NRS 281A.290](#)) As used in this chapter, unless the context otherwise requires, the words and terms defined in [NAC 281A.020](#) to [281A.105](#), inclusive, have the meanings ascribed to them in those sections.

(Added to NAC by Comm'n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000; R111-03, 10-30-2003; R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.005)

NAC 281A.020 “Chair” defined. ([NRS 281A.290](#)) “Chair” means the Chair of the Commission.

(Added to NAC by Comm'n on Ethics by R038-98, eff. 4-17-98)—(Substituted in revision for NAC 281.011)

NAC 281A.023 “Commission” defined. ([NRS 281A.290](#)) “Commission” means the Commission on Ethics.

(Added to NAC by Comm'n on Ethics by R084-08, eff. 9-18-2008)

NAC 281A.025 “Commission Counsel” defined. ([NRS 281A.290](#)) “Commission Counsel” means the legal counsel to the Commission appointed by the Commission pursuant to [NRS 281A.250](#).

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000)—(Substituted in revision for NAC 281.0151)

NAC 281A.033 “Executive Director” defined. ([NRS 281A.290](#)) “Executive Director” means the Executive Director appointed by the Commission pursuant to [NRS 281A.230](#).

(Added to NAC by Comm'n on Ethics by R084-08, eff. 9-18-2008)

NAC 281A.034 “First-party request for an opinion” defined. ([NRS 281A.290](#)) “First-party request for an opinion” means a request for an opinion filed pursuant to subsection 1 of [NRS 281A.440](#).

(Added to NAC by Comm'n on Ethics by R134-10, eff. 10-26-2011)

NAC 281A.035 “Hearing” defined. ([NRS 281A.290](#)) “Hearing” means a hearing concerning:

1. The merits of a third-party request for an opinion;
2. A first-party request for an opinion; or
3. A request for an opinion filed pursuant to subsection 6 of [NRS 281A.550](#).

(Added to NAC by Comm'n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000; R111-03, 10-30-2003; R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.016)

~~[**NAC 281A.040** “**Information related to the third-party request for an opinion**” defined. **(NRS 281A.290)** “Information related to the third-party request for an opinion” includes, without limitation:~~

- ~~— 1. A third-party request for an opinion;~~
- ~~— 2. All investigative materials and information related to the third-party request for an opinion, including, without limitation, any investigation report;~~
- ~~— 3. Each document in the possession of the Commission or its staff related to the third-party request for an opinion; and~~
- ~~— 4. The record of the proceedings of an investigatory panel related to the third-party request for an opinion.~~

~~□ The term does not include any confidential information unless the confidentiality of the information has been expressly or impliedly waived.~~

~~— (Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000; A by R084-08, 9-18-2008; R134-10, 10-26-2011)— (Substituted in revision for NAC 281.0162)}~~

This Section may be deleted. The phrase is only used in NAC 281A.420 which is being amended. It also referred to provisions of former NRS 281A.440(8), which were amended in SB 228.

NAC 281A.045 “Investigate” defined. (NRS 281A.290) “Investigate” means to examine and inquire into a matter and to marshal evidence according to those methods and employing those services that the Executive Director determines are reasonable and necessary under the relevant facts and circumstances presented by the matter.

(Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000)—(Substituted in revision for NAC 281.0163)

NAC 281A.047 “Investigatory panel” and “panel” defined. (NRS 281A.290) “Investigatory panel” or “panel” has the meaning ascribed to it in [NRS 281A.108](#).

(Added to NAC by Comm’n on Ethics by R186-05, eff. 5-4-2006; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281A.055)

NAC 281A.050 “Opinion” defined. (NRS 281A.290)

1. “Opinion” means an oral or written quasi-judicial decision rendered by the Commission pursuant to [NRS 281A.440](#) or [281A.550](#).

2. The term includes, without limitation, the disposition of a third-party request for an opinion by stipulation, agreed settlement, consent order or default as authorized by [NRS 233B.121](#).

(Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.0167)

NAC 281A.060 “Party” defined. ([NRS 281A.290](#)) “Party” means the subject or his counsel, Commission staff which investigates a third-party request for opinion and any other person who the Commission reasonably determines will be treated as a party in a matter before the Commission.

(Added to NAC by Comm’n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.017)

Does the Commission want to identify Commission staff (Executive Director and/or Associate Counsel and Investigator) which investigates a Third-Party RFO as a party? Other similarly situated administrative agencies identify such agency staff as parties; i.e., Public Utilities Commission.

NAC 281A.065 “Presiding officer” defined. ([NRS 281A.290](#)) “Presiding officer” means a member of the Commission appointed by the Chair to preside over a hearing.

(Added to NAC by Comm’n on Ethics by R186-05, eff. 5-4-2006)—(Substituted in revision for NAC 281.0173)

NAC 281A.070 “Principal office of the Commission” defined. ([NRS 281A.290](#)) “Principal office of the Commission” means the office of the Commission designated by the Commission pursuant to [NAC 281A.190](#) as the office in which the business of the Commission must be primarily conducted.

(Added to NAC by Comm’n on Ethics by R186-05, eff. 5-4-2006)—(Substituted in revision for NAC 281.0177)

NAC 281A.075 “Proceedings of an investigatory panel” defined. ([NRS 281A.290](#)) “Proceedings of an investigatory panel” means:

1. A review and determination by an investigatory panel pursuant to [NAC 281A.405](#) as to whether the Commission has jurisdiction over a third-party request for an opinion.
2. A review pursuant to [NAC 281A.430](#) and determination by an investigatory panel as to whether there is just and sufficient cause for the Commission to render an opinion on a matter presented in a third-party request for an opinion.

For the purposes of this chapter, the proceedings of an investigatory panel do not constitute a hearing.

(Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.0182)

NAC 281A.080 “Proper form” defined. ([NRS 281A.290](#)) “Proper form” means a form, available from an office or website of the Commission, which is:

1. Created by the Commission for the intended purpose of the form; and
2. Submitted to the Commission at the principal office of the Commission with all required information clearly and legibly printed or typed on the form.

(Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006)—(Substituted in revision for NAC 281.0184)

~~[**NAC 281A.085** “Record of the proceedings of an investigatory panel” defined. (**NRS 281A.290**) “Record of the proceedings of an investigatory panel” means written or audio documentation memorializing the deliberations of an investigatory panel during the proceedings of the investigatory panel.
—(Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000; A by R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.0189)]~~

This section may be deleted because we deleted NAC 281A.040 and this term now only appears in NAC 281A.445. The language is now replaced in NAC 281A.445.

NAC 281A.090 “Requester” defined. ([NRS 281A.290](#)) “Requester” means a person ~~[or group of persons]~~ who files s with the Commission a third-party request for an opinion.

(Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.0192)

NAC 281A.100 “Subject” defined. ([NRS 281A.290](#)) “Subject” means a public officer or public employee:

1. With respect to whom a third-party request for an opinion has been filed;
2. Who files a first-party request for an opinion; or
3. Who files a request for an opinion pursuant to subsection 6 of [NRS 281A.550](#).

(Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.0198)

NAC 281A.103 “Third-party request for an opinion” defined. ([NRS 281A.290](#)) “Third-party request for an opinion” means a request for an opinion:

1. Filed with the Commission pursuant to paragraph (a) or (b) of subsection 2 of [NRS 281A.440](#); or
2. Initiated by the Commission on its own motion pursuant to paragraph (c) of subsection 2 of [NRS 281A.440](#).

(Added to NAC by Comm’n on Ethics by R134-10, eff. 10-26-2011)

NAC 281A.105 “Vice Chair” defined. ([NRS 281A.290](#)) “Vice Chair” means the Vice Chair of the Commission.

(Added to NAC by Comm’n on Ethics by R038-98, eff. 4-17-98)—(Substituted in revision for NAC 281.021)

NAC 281A.110 Severability. ([NRS 281A.290](#))

1. The provisions of this chapter are hereby declared to be severable.
2. If any provision of this chapter is held invalid, or if the application of any such provision to any person, thing or circumstance is held invalid, such invalidity does not affect any other provision of this chapter that can be given effect without the invalid provision or application.

(Added to NAC by Comm’n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000; R111-03, 10-30-2003; R186-05, 5-4-2006)—(Substituted in revision for NAC 281.024)

COMMISSION ON ETHICS

Administration

NAC 281A.150 Election of Chair and Vice Chair. ([NRS 281A.290](#)) The Commission will elect a Chair and a Vice Chair from among its members at its first meeting of each new fiscal year.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003)—(Substituted in revision for NAC 281.0245)

NAC 281A.155 Duties of Chair; delegation of assignments. ([NRS 281A.290](#))
The Chair:

1. Shall preside over the meetings and hearings of the Commission.
 2. May delegate assignments of work to the staff of the Commission as necessary and appropriate, including, without limitation, the scheduling of investigatory panels.
- (Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.0246)

NAC 281A.160 Duties of Vice Chair. ([NRS 281A.290](#)) The Vice Chair shall perform the duties of the Chair during the absence of the Chair.

(Added to NAC by Comm'n on Ethics, eff. 12-24-85; A by R038-98, 4-17-98; R102-00, 8-28-2000)—(Substituted in revision for NAC 281.027)

NAC 281A.165 Vacancy in office of Chair. ([NRS 281A.290](#)) If the office of Chair becomes vacant, the Vice Chair shall serve as the Acting Chair until the next meeting of the Commission, at which time the Commission will elect a successor to fill the unexpired term of the Chair.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000)—(Substituted in revision for NAC 281.029)

NAC 281A.170 Vacancy in office of Vice Chair. ([NRS 281A.290](#)) If the office of the Vice Chair becomes vacant, a successor will be elected by the Commission at its next meeting to fill the unexpired term of the Vice Chair.

(Added to NAC by Comm'n on Ethics, eff. 12-24-85; A by R102-00, 8-28-2000)—(Substituted in revision for NAC 281.035)

NAC 281A.175 Appointment of temporary Acting Chair or Vice Chair in certain circumstances. ([NRS 281A.290](#)) If both the Chair and Vice Chair are disqualified or recused from participating in a matter, the Commission may appoint a temporary Acting Chair or Vice Chair, or both, for the matter.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000)—(Substituted in revision for NAC 281.038)

NAC 281A.180 Duties of Executive Director. ([NRS 281A.290](#)) In addition to any other duties of the Executive Director required by this chapter or [chapter 281A](#) of NRS, or as otherwise imposed by the Commission, the Executive Director shall:

1. Pursuant to paragraph (e) of subsection 1 of [NRS 281A.240](#), create a curriculum for training and conduct training for public officers and employers of public employees on the requirements of this chapter, [chapter 281A](#) of NRS and previous opinions of the Commission that have been determined by the Commission to have broad educational value.

2. At the first meeting of the Commission of each new fiscal year, report to the Commission on the state of the fiscal, regulatory and legislative matters and any other business matters of the Commission for the prior fiscal year and on the goals for the Commission for the new fiscal year.

3. Adhere to the policies and procedures adopted by the Commission for its internal governance and external dealings.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R084-08, 9-18-2008)—(Substituted in revision for NAC 281.053)

NAC 281A.185 Preparation of written opinions by Commission Counsel. ([NRS 281A.290](#)) In addition to any other duties imposed on him or her by the Commission, the Commission Counsel shall, in a timely manner, prepare a written opinion for each third-party request for an opinion, first-party request for an opinion and request for an opinion filed pursuant to subsection 6 of [NRS 281A.550](#) that is heard by the Commission.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.056)

NAC 281A.190 Principal office of Commission: Designation; primary location for conduct of business. ([NRS 281A.290](#))

1. The Commission will designate which office of the Commission will serve as the principal office of the Commission.

2. The business of the Commission must be primarily conducted in the principal office of the Commission, including, without limitation, the submission of any documents and any requests for an opinion from the Commission.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006)—(Substituted in revision for NAC 281.066)

NAC 281A.195 Participation of member of Commission in ex parte communication. ([NRS 281A.290](#))

1. If any member of the Commission participates in an ex parte communication, the member ~~must~~ **shall** disclose to the Commission that he or she participated in an ex parte communication.

2. If a member of the Commission discloses that he or she participated in an ex parte communication or the Commission otherwise determines that a member of the Commission participated in an ex parte communication, the Commission may require the member to abstain from participating with the Commission in any hearing or determination to be made by the Commission concerning the matter that was the subject of the ex parte communication.

3. As used in this section, “ex parte communication” means any written or oral communication between a party ~~[a person who has any matter pending before the Commission, or any agent of such person,]~~ and a member of the Commission which:

- (a) Is communicated outside the presence of the entire Commission;
- (b) Is not communicated during a formal proceeding of the Commission; and
- (c) Includes any comment, response or argument regarding any:
 - (1) Ongoing investigation by the Commission; or
 - (2) Matter that is pending before the Commission.

(Added to NAC by Comm’n on Ethics by R186-05, eff. 5-4-2006)—(Substituted in revision for NAC 281.076)

Does Commission want to preclude ex-parte communication with Commission staff (ED and/or Associate Counsel/Investigator) as a Party? See also amendment to definition of “party” to include Commission staff which investigates a matter. Other administrative agencies which have staff that investigate contested matters have similar provisions; i.e., Public Utilities Commission.

NAC 281A.200 Meetings of Commission: Majority required; necessary quorum reduced for ineligible member. ([NRS 281A.290](#))

1. A meeting of the Commission will not proceed without a majority of the appointed and sworn members of the Commission present. Except as otherwise provided in this chapter, a majority vote of the members present and eligible to vote at a meeting is sufficient to carry out all business of the Commission.

2. If the Commission is considering a matter on which a member of the Commission is ineligible to participate pursuant to subsection 4 of [NRS 281A.220](#), subsection 3 of [NRS 281A.420](#) or [NAC 281A.505](#), the necessary quorum to act upon and the number of votes necessary to act upon the matter is reduced as though the member who is disqualified is not a member of the Commission.

(Added to NAC by Comm’n on Ethics, eff. 12-24-85; A by R038-98, 4-17-98; R102-00, 8-28-2000; R111-03, 10-30-2003; R186-05, 5-4-2006; R084-08, 9-18-2008)—(Substituted in revision for NAC 281.085)

General Practice and Procedure Before Commission

NAC 281A.250 Provisions governing practice and procedure: Applicability; construction; deviation. ([NRS 281A.290](#))

1. Except as otherwise provided in subsection 3, the provisions of [NAC 281A.250](#) to ~~[281A.290](#)~~ [281A.310](#), inclusive, govern all practice and procedure before the Commission.

2. The Commission will liberally construe the provisions of [NAC 281A.250](#) to ~~[281A.290](#)~~ [281A.310](#), inclusive, to determine all matters before the Commission in a just, speedy and economical manner.

3. For good cause shown, the Commission may deviate from the provisions of [NAC 281A.250](#) to ~~[281A.290](#)~~ [281A.310](#), inclusive, if the deviation will not materially affect the interests of the party who is the subject of the request.

(Added to NAC by Comm’n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000; R111-03, 10-30-2003)—(Substituted in revision for NAC 281.093)

NAC 281A.255 Written communications and documents: Form and contents; date and manner of filing. (NRS 281A.290)

1. Each written communication or document filed with the Commission must:

(a) Be in proper form as provided pursuant to the relevant provisions of this chapter;

(b) Be clearly and legibly typed or printed on 8 1/2- by 11-inch paper~~[-, on one side only]~~;

(c) Be addressed to the principal office of the Commission; ~~and~~

(d) Include any duplicate copy required to be included with the form, as specified on the form~~[-]~~; and

(e) Include any necessary exhibits in a form and format reasonably accessible to the Commission, including digital or electronic media.

2. Except as otherwise provided in NRS 281A.410 and 281A.500, the Commission will consider a written communication or document which is required to be filed with the Commission to have been filed with the Commission on the date on which the communication or document is received at the principal office of the Commission.

3. A written communication or document that is ~~required to be~~ filed with the Commission, other than a first-party request for opinion, a request for opinion filed pursuant to subsection 6 of NRS 281A.550 and a third-party request for opinion, may ~~not~~ be submitted via facsimile transmission.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.097)

SB 228 amended NRS 281A.410(6) and 281A.500(6) to authorize transmission of agency representation forms and acknowledgment forms by facsimile. No reason why other documents may not be filed by fax except for Requests for Opinions.

NAC 281A.260 Consolidation of matters. (NRS 281A.290) The Commission may consolidate, in whole or in part, two or more matters into one hearing if the Commission determines that the matters share common facts and issues.

(Added to NAC by Comm'n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000)—(Substituted in revision for NAC 281.101)

REVISER'S NOTE.

Section 36 of LCB File No. R102-00 duplicated former NAC 281.101 (cf. NAC 281A.260) with minor changes. Thus, former NAC 281.101 (cf. NAC 281A.260) has been amended during codification to reflect this new language.

NAC 281A.265 Motions. (NRS 281A.290)

1. Motions related to a third-party request for an opinion may only be made:

(a) After an investigatory panel has made a determination that there is just and sufficient cause for the Commission to render an opinion pursuant to NRS 281A.220; and

(b) Before the hearing on the matter unless the cause for the motion arises for the first time during the hearing on the matter.

2. A motion that is made before the hearing on the matter must be in writing and must be filed at the principal office of the Commission ~~not later than 15 days before~~

~~the date of the hearing.]~~ before the close of business on a date to be designated by the Commission after the investigatory panel has made a determination.

3. A written motion must contain:
 - (a) A brief statement of the facts and the points and authorities upon which the motion is based;
 - (b) A description of the relief sought; and
 - (c) A certificate of mailing which indicates that the motion was served upon all other parties to the matter.
4. The Commission, in its discretion, may allow a party making a motion to argue the motion before the Commission.
5. The Commission, in its discretion, may allow a party or any other person to respond to a motion.
6. The Chair, in his or her discretion, may accept and rule upon a motion on a matter, except a motion for disposition of a matter, at any time before, during or after the hearing by the Commission on the matter.
7. A motion for rehearing or for the reconsideration of an opinion on a third-party request for an opinion issued by the Commission must be filed with the Commission not later than 15 days after the date on which the opinion of the Commission is served.

(Added to NAC by Comm'n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000; R111-03, 10-30-2003; R186-05, 5-4-2006; R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.103)

Given our scheduling demands and meeting dates as well as the new processes with Associate Counsel which require written responses to motions and an opportunity for Commission Counsel to review the materials, it is better to provide deadlines for motions in the Scheduling Order issued with the Notice of Hearing.

NAC 281A.270 Discovery. ([NRS 281A.290](#)) The provisions for civil discovery set forth in [N.R.C.P. 26](#) to [37](#), inclusive, do not apply to matters before the Commission. Upon the request of a party, for good cause shown, the Chair may allow discovery on a matter before the Commission to the extent which he or she deems appropriate.

(Added to NAC by Comm'n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000; R111-03, 10-30-2003)—(Substituted in revision for NAC 281.106)

NAC 281A.275 Stipulations of fact; resolution of matter without hearing. ([NRS 281A.290](#))

1. A party in a matter before the Commission may stipulate to any fact in issue. The stipulation must be in writing or made by oral statement on the record.
2. At its discretion and with the agreement of the subject of a third-party request for an opinion, the Commission may, in lieu of holding a hearing, resolve a matter before the Commission with a stipulation, agreed settlement, consent order or default as authorized pursuant to [NRS 233B.121](#). Such a resolution must be in writing or made by oral statement on the record.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.109)

NAC 281A.280 Oaths. ([NRS 281A.290](#))

1. The Chair and Vice Chair, including an Acting Chair and Acting Vice Chair, if any, may administer oaths.
2. A court reporter present at meetings and hearings may administer oaths.
(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003)—(Substituted in revision for NAC 281.112)

NAC 281A.285 Subpoenas. ([NRS 281A.290](#))

1. A subject of a third-party request for an opinion may request that a subpoena be issued by filing a written request for a subpoena at the principal office of the Commission.
2. A subject of a third-party request for an opinion who requests the issuance and service of a subpoena pursuant to this section shall serve the subpoena in accordance with [NRS 281A.300\(2\)](#) and pay [all expenses] the costs related to the ~~[issuance and]~~ service of the subpoena.

~~[2. Service of a subpoena issued pursuant to this section or [NRS 281A.300](#) must be made in the manner provided by [Rule 45](#) of the Nevada Rules of Civil Procedure.]~~

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.1125)

Consistent with the SB 228 amendment to [NRS 281A.300\(2\)](#), the Commission may issue a subpoena to the Subject of an RFO (if appropriate). Upon the request, the Commission staff drafts the subpoena for the Chair's approval and issues it to the Subject. The Subject then has the obligation to serve the subpoena and pay costs related to the service. The statute doesn't require Subject to pay the Commission for the issuance of the Subpoena. Unless we want to provide specifics and deadlines for requesting a subpoena, this regulation is redundant to [NRS 281A.300](#) and unnecessary.

NAC 281A.290 Testimony in person required; exception. ([NRS 281A.290](#)) A subject or witness before the Commission shall testify in person, except that the Commission may, for good cause shown, allow a witness to testify by telephone or videoconference.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006)—(Substituted in revision for NAC 281.1127)

NAC 281A.295 Conduct of persons at meetings and hearings; consequences of improper conduct. ([NRS 281A.290](#))

1. All persons appearing before, or attending a meeting or hearing of, the Commission shall conduct themselves in a polite, respectful and orderly manner. Smoking is not allowed at any meeting or hearing of the Commission.
2. The Commission will require a person who does not comply with subsection 1 to leave the room where the meeting or hearing is being held, and the person will be barred from attending the remainder of the meeting or hearing.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000)—(Substituted in revision for NAC 281.1129)

NAC 281A.300 Representation of subject by legal counsel. (NRS 281A.290)

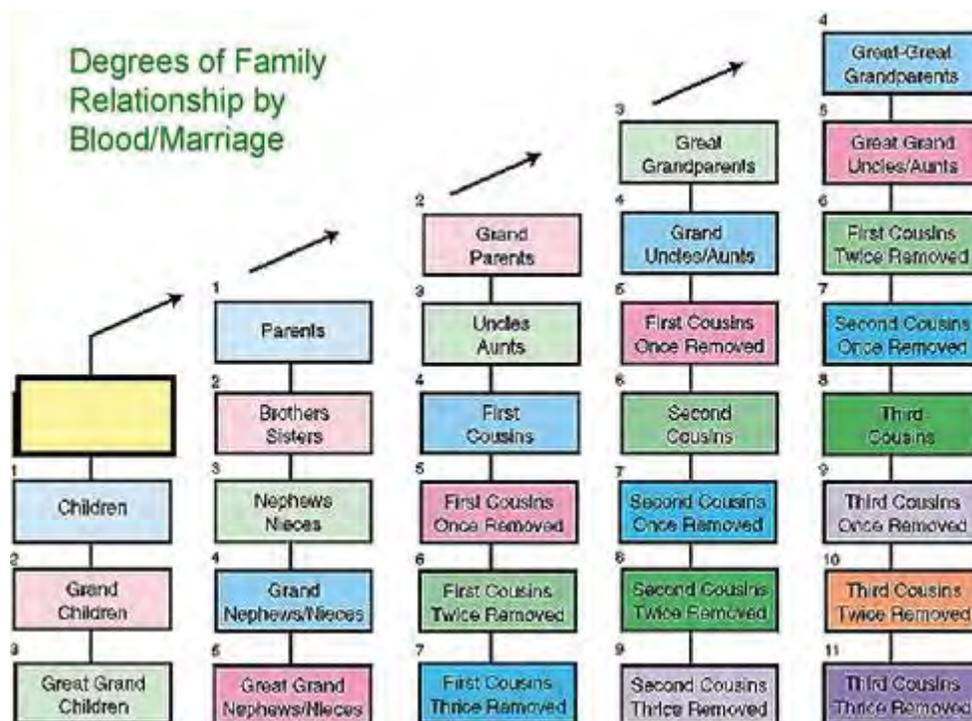
A subject may retain legal counsel to represent him or her during:

1. Any investigation of a third-party request for an opinion; or
2. Any hearing.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.1131)

NAC 281A.310 Determination of relationships within third degree of consanguinity or affinity. (NRS 281A.290) For the purposes of ~~[NRS 281.571 and 281A.420,]~~ **281A.065**, the Commission will determine relationships within the third degree of consanguinity or affinity pursuant to the following chart and instructions:

Consanguinity/Affinity Chart



INSTRUCTION:

For Consanguinity (relationship by blood) calculations:

Place the public officer/employee for whom you need to establish relationships by consanguinity in the blank box. The labeled boxes will then list the relationship by title to the public officer/employee and the degree of distance from the public officer/employee.

Anyone in a box numbered 1, 2, or 3 is within the third degree of consanguinity. Nevada Ethics in Government Law addresses consanguinity within the third degree by blood, adoption or marriage.

For Affinity (relationship by marriage *or domestic partnership*) calculations:

Place the spouse *or domestic partner* of the public officer/employee for whom you need to establish relationships by affinity in the blank box. The labeled boxes will then list the relationship by title to the spouse *or domestic partner* and the degree of distance from the public officer/employee by affinity.

A husband and wife *and domestic partners* are related in the first degree by marriage *or domestic partnership*. For other relationships by marriage *or domestic partnership*, the degree of relationship is the same as the degree of underlying relationship by blood.

As used in this chart, “domestic partner” has the meaning ascribed to it in NRS 281A.085 and “domestic partnership” has the meaning ascribed to it in NRS 281A.086.

(Added to NAC by Comm’n on Ethics by R084-08, eff. 9-18-2008)

First-Party Requests for Opinions

NAC 281A.350 Proper form required. (NRS 281A.290) The Commission will only consider a first-party request for an opinion filed by a public officer or public employee that is submitted to the Commission ~~[in proper]~~ on the form prescribed by the Commission.

(Added to NAC by Comm’n on Ethics by R102-00, eff. 8-28-2000; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.1135)

The section does not identify what constitutes the proper form. The Commission has forms for first-party RFOs which are required to be filed by a requester.

NAC 281A.353 Hearings. (NRS 281A.290)

1. Except as otherwise provided in subsection 2, a first-party request for an opinion will be heard by the Commission within 45 days after receipt of the first-party request for an opinion by the Commission.

2. If a public officer or public employee who files a first-party request for an opinion cannot appear before the Commission for a hearing on the first-party request for an opinion within 45 days after receipt of the first-party request for an opinion by the Commission, the public officer or public employee may submit a written statement acknowledging that he or she cannot appear before the Commission for the hearing and, if applicable, requesting a waiver of the 45-day period within which the hearing must be held. A request for a waiver must be received not later than 7 business days before the expiration of the 45-day period.

3. If the public officer or public employee does not request a waiver pursuant to subsection 2 and fails to appear at the hearing scheduled by the Commission within 45 days after receipt of the first-party request for an opinion, the first-party request for an opinion will be deemed withdrawn by the public officer or public employee making the request.

(Added to NAC by Comm’n on Ethics by R084-08, eff. 9-18-2008; A by R134-10, 10-26-2011)

NAC 281A.355 Withdrawal. ([NRS 281A.290](#)) At any time before the Commission renders an opinion relating to a first-party request for an opinion, the public officer or public employee who filed the first-party request for an opinion may withdraw the first-party request for an opinion by providing a notice of withdrawal to the Commission.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.1145)

NAC 281A.360 Determination of jurisdiction: Duties of Executive Director; request for review. ([NRS 281A.290](#)) The Executive Director shall confer with the Commission Counsel to determine jurisdiction concerning a first-party request for an opinion. If the Commission Counsel determines that the Commission lacks jurisdiction in the matter, the Executive Director shall so notify the requesting public officer or public employee. A public officer or public employee who receives a notice pursuant to this section may request the Commission to review the determination regarding jurisdiction. Such a request must be submitted to the principal office of the Commission in writing not later than 10 days after the date on which the public officer or public employee received notification.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.1155)

NAC 281A.365 Conduct of hearings; action by Commission; effect of opinion; confidentiality. ([NRS 281A.290](#))

1. The Chair or presiding officer of a hearing concerning a first-party request for an opinion shall:

(a) Ascertain whether the subject of the first-party request for an opinion and all persons requested by the subject to testify are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room before the hearing begins.

(b) Ensure that an oath is administered, in accordance with [NAC 281A.280](#), to the subject of the first-party request for an opinion and all persons whose testimony will be taken.

2. The subject of the first-party request for an opinion ~~{must}~~ **shall** be present at the hearing.

3. The Chair or presiding officer shall allow the subject of the first-party request for an opinion to:

(a) Present opening comments;

(b) Present any evidence on his or her own behalf; and

(c) Examine any witnesses on his or her own behalf.

4. The subject of the first-party request for an opinion, any witnesses or any counsel retained by the subject may be questioned by any member of the Commission at any time during the proceeding.

5. Upon the conclusion of the presentation of evidence by the subject of the first-party request for an opinion and the examination of any witnesses, the Chair or presiding officer shall allow the subject to present closing comments.

6. Upon the conclusion of the closing comments by the subject of the first-party request for an opinion, the Commission will:

- (a) Deliberate the issues of fact presented at the hearing, make a final determination of the findings of fact and apply the applicable law to the findings of fact;
- (b) Render an opinion on the matter; and
- (c) Submit a copy of the opinion to the subject.

7. The opinion rendered by the Commission shall be binding upon the subject of the first-party request for an opinion as to his or her future conduct pursuant to subsection 1 of [NRS 281A.440](#).

8. The Commission may waive any provision of this section if the Commission determines that such a waiver is necessary to expedite the hearing or is in the interest of justice.

9. The first-party request for an opinion and the information presented during the proceedings set forth in this section must be kept confidential, unless the subject of the opinion acts in a manner set forth in subsection 7 of [NRS 281A.440](#) to waive the confidentiality of such information.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.1175)

Third-Party Requests for Opinions

NAC 281A.400 Proper form required; submission; contents; withdrawal. **([NRS 281A.290](#))**

1. The Commission will only consider a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of [NRS 281A.440](#) which is submitted ~~in proper~~ **on the** form **prescribed by the Commission** ~~[with the Executive Director]~~ at the principal office of the Commission.

2. A third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of [NRS 281A.440](#) must contain:

- (a) The original completed form for a third-party request for an opinion in the format required by the Commission;
- (b) Two copies of the completed form; and
- (c) Three copies of all supporting documents and evidence.

3. A third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of [NRS 281A.440](#) must be accompanied by evidence which supports the allegation that the subject has violated a statutory ethical standard set forth in the third-party request for an opinion and demonstrates that the alleged conduct of the subject would constitute a violation of [chapter 281A](#) of NRS.

4. Once a third-party request for an opinion has been filed with the Commission pursuant to paragraph (a) or (b) of subsection 2 of [NRS 281A.440](#), the requester may only withdraw the third-party request for an opinion with the consent of the Executive Director.

5. A request to withdraw a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of [NRS 281A.440](#) must be in writing and set forth the specific reasons for requesting the withdrawal of the third-party request for an opinion.

6. As used in this section, “evidence which supports the allegation” means any reliable and competent form of proof provided by witnesses, public and private records,

audio or visual recordings, documents, exhibits, concrete objects and other such forms of proof that support a reasonable belief in the truth of the allegation made in the third-party request for an opinion. The term includes any evidence which is offered that corroborates a newspaper article or other media report. The term does not include a newspaper article or other media report if the article or report is offered as the only evidence to support the allegation.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.186)

The section does not identify what constitutes the proper form. The Commission has forms for third-party RFOs which are required to be filed by a requester and which contain instructions on where and how to file the form.

NEW REGULATION:

1. Except as otherwise provided in this section, any commissioner, with the consent of the Chair, or the Executive Director, with the consent of the Chair and one other Commissioner who is not a member of the same political party as the Chair, may authorize a preliminary inquiry regarding the conduct of a public officer or employee to determine whether there is sufficient credible evidence for the Commission to initiate a third-party request for opinion on its own motion pursuant to subsection 2 of NRS 281A.440. The Chair, with the consent of the Vice-Chair, or in the absence of the Vice-Chair as described in subsection 3, a Commissioner who is not a member of the same political party as the Chair, may authorize a preliminary inquiry pursuant to this section.
2. Except as otherwise provided in subsection 3, if the consent of the Chair is required by subsection 1, a commissioner or the Executive Director seeking consent to authorize a preliminary inquiry shall instead obtain the consent of the Vice-Chair if the Chair:
 - (a) Is a member of the same political party as the commissioner seeking consent to authorize a preliminary inquiry;
 - (b) Is absent or unavailable;
 - (c) Abstains from participating as a result of a conflict of interest pursuant to NRS 281A.420; or
 - (d) Is disqualified pursuant to this chapter.
3. If the consent of the Vice-Chair is required by subsection 1 or 2, a commissioner seeking consent to authorize a preliminary inquiry may instead obtain the consent of any other commissioner who is not a member of the same political party as the commissioner and the Executive Director may instead obtain the consent of any two commissioners who are not members of the same political party if the Vice-Chair:
 - (a) Is a member of the same political party as the commissioner seeking consent to authorize a preliminary inquiry, as applicable;
 - (b) Is absent or unavailable;

- (c) Abstains from participating as a result of a conflict of interest pursuant to NRS 281A.420; or
- (d) Is disqualified pursuant to this chapter.
4. In the absence of consent required by this section, the Commission may authorize a preliminary inquiry in a closed, confidential meeting of the Commission pursuant to subsections 8 and 15 of NRS 281A.440.
 5. Upon notification that a preliminary inquiry has been authorized pursuant to subsection 1, the Executive Director shall conduct the preliminary inquiry to determine whether any evidence supports a reasonable belief by the Executive Director that the public officer or employee may have committed a violation of the Nevada Ethics in Government Law set forth in chapter 281A of NRS. The preliminary inquiry may include, without limitation, a request of the public officer or employee to respond to questions or produce documents.
 6. The Executive Director shall notify the Commissioners or the Commission, as applicable, which authorized the preliminary inquiry pursuant to subsection 1 regarding any evidence discovered during the preliminary inquiry and the belief of the Executive Director concerning whether the public officer or employee may have committed a violation of the Nevada Ethics in Government Law set forth in chapter 281A of NRS.
 7. If the Executive Director reasonably believes that the evidence discovered during a preliminary inquiry supports a finding that the public officer or employee may have committed a violation of the Nevada Ethics in Government Law set forth in chapter 281A of NRS, the Executive Director, in accordance with the requirements set forth in NAC 281A.403, shall recommend to the Commission that the Commission initiate a third-party request for opinion upon its own motion pursuant to subsection 2 of NRS 281A.440.
 8. If the Executive Director does not reasonably believe that the evidence discovered during a preliminary inquiry supports a finding that the public officer or employee may have committed a violation of the Nevada Ethics in Government Law set forth in chapter 281A of NRS:
 - (a) If the preliminary inquiry was authorized by the consent of commissioners pursuant to subsection 1, the Commissioners who authorized the preliminary inquiry may review the findings and recommend to the Commission that the Commission initiate a third-party request for opinion upon its own motion pursuant to subsection 2 of NRS 281A.440 or close the matter; or
 - (b) If the preliminary inquiry was authorized by the Commission pursuant to subsection 1, the Commission may initiate a third-party request for opinion upon its own motion pursuant to subsection 2 of NRS 281A.440 or close the matter.
 9. Upon receiving a recommendation from the Executive Director pursuant to subsection 4 or the Commissioners who initiated the preliminary inquiry pursuant to subsection 5, the Commission shall:
 - (a) Reject the recommendation without prejudice; or

- (b) Accept the recommendation and initiate a third-party request for an opinion upon its own motion pursuant to paragraph (c) of subsection 2 of NRS 281A.440.
- 10. A preliminary inquiry regarding the conduct of a public officer or employee pursuant to this section:
 - (a) May be based on information received by the Commissioner which leads the Commissioner reasonably to conclude that a public officer or public employee may have committed a violation of the Nevada Ethics in Government Law as set forth in chapter 281A of NRS;
 - (b) May be based on information provided in a newspaper article or other media report or otherwise available public information; and
 - (c) Must not be based solely upon an anonymous complaint.
- 11. A preliminary inquiry pursuant to this section is confidential pursuant to subsection 8 of NRS 281A.440 and any evidence received pursuant to the preliminary inquiry is part of the confidential investigatory file of the Commission pursuant to NRS 281A.440.

The Commission has previously discussed the process by which the Commission may initiate a third-party RFO on its own motion and the possibility of initiating activities just shy of a formal investigation to determine whether a formal investigation is necessary or warranted. Although the Executive Director may not rely solely upon a newspaper article or other publicly available information to recommend a third-party complaint, there are many publicly asserted allegations of misconduct by a public officer or employee regarding which a private person is not willing to file a request for opinion and be drawn into the process. The Commission may wish to have a process by which it can determine whether any readily available public information; i.e., documents or responses by a public officer, support a determination by the Commission to initiate an RFO on its own motion and conduct a formal investigation. This language attempts to strike a balance which allows a confidential preliminary inquiry of public allegations of misconduct and otherwise follows the strictures of NAC 281A.403.

NAC 281A.403 Recommendation to initiate request upon motion of Commission. (NRS 281A.290)

1. If the Executive Director receives evidence that leads the Executive Director reasonably to conclude that a public officer or public employee may have committed a violation of the Nevada Ethics in Government Law as set forth in [chapter 281A](#) of NRS, the Executive Director ~~may~~ **shall** recommend to the Commission that the Commission initiate:

(a) a third-party request for an opinion upon its own motion pursuant to paragraph (c) of subsection 2 of [NRS 281A.440](#); or

(b) [A preliminary inquiry pursuant to NAC 281A.XXX \(new section\).](#)

2. A recommendation or request from the Executive Director pursuant to subsection 1 must:

(a) Be submitted on a form prescribed by the Commission;

(b) Contain a written statement setting forth the information that supports the recommendation or request; and

~~[(c) Include any reliable and competent form of proof provided by witnesses, public and private records, audio or visual recordings, documents, exhibits, concrete objects and other such forms of proof that support the recommendation. Such forms of proof may include, without limitation, any evidence which is offered that corroborates a newspaper article or other media report but may not include a newspaper article or other media report if the article or report is offered as the only evidence to support the recommendation.]~~

3. ~~[The Executive Director shall not submit a]~~ **A** recommendation submitted to the Commission pursuant to paragraph (a) of subsection 1 :

(a) Must not be based solely upon:

~~[(a)]~~ 1. A statement other than a sworn statement; or

~~[(b)]~~ 2. An allegation submitted to the Commission with the intent to avoid disclosure of the identity of the person making the allegation.

(b) Must include any reliable and competent form of proof provided by witnesses, public and private records, audio or visual recordings, documents, exhibits, concrete objects and other such forms of proof that support the recommendation. Such forms of proof may include, without limitation, any evidence which is offered that corroborates a newspaper article or other media report but may not include a newspaper article or other media report if the article or report is offered as the only evidence to support the recommendation.

4. Upon receiving a recommendation from the Executive Director pursuant to subsection 1, the Commission will:

(a) Reject the recommendation without prejudice; or

(b) Accept the recommendation and initiate a third-party request for an opinion upon its own motion pursuant to paragraph (c) of subsection 2 of NRS 281A.440 or a preliminary inquiry pursuant to NAC 281A.XXX (new section).

5. A recommendation by the Executive Director and the Commission's decision to reject or accept the recommendation pursuant to this section are confidential pursuant to NRS 281A.440(8).

(Added to NAC by Comm'n on Ethics by R084-08, eff. 9-18-2008; A by R134-10, 10-26-2011)

NAC 281A.405 Duties of Executive Director; review of determination regarding jurisdiction. (NRS 281A.290)

1. The Executive Director shall confer with the Commission Counsel to determine whether:

(a) The Commission has jurisdiction concerning a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440; and

(b) The third-party request for an opinion was properly filed with the Commission in accordance with NAC 281A.400.

2. If the Executive Director and Commission Counsel determine that the Commission has jurisdiction concerning the third-party request for an opinion and that the third-party request for an opinion was properly filed pursuant to NAC 281A.400, the Executive Director shall notify the requester and the subject pursuant to NAC 281A.410 and investigate and proceed in the matter pursuant to NRS 281A.440.

3. The Executive Director shall notify the requester if the Executive Director and Commission Counsel determine that:

(a) The Commission lacks jurisdiction concerning the third-party request for an opinion pursuant to subsection 1; or

(b) The third-party request for an opinion was not properly filed with the Commission in accordance with [NAC 281A.400](#).

4. A person who receives a notice pursuant to [subsection 2 or](#) paragraph (a) of subsection 3 may request a review of the determination regarding jurisdiction by an investigatory panel. Such a request must be submitted to the principal office of the Commission in writing not later than 10 days after the date on which the person received notification. The Chair will appoint an investigatory panel to conduct the review of the determination regarding jurisdiction.

5. If an investigatory panel appointed pursuant to subsection 4 determines that the Commission :

(a) Does not have jurisdiction concerning a third-party request for opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440, the Executive Director shall notify the requester and the subject of the determination; or

(b) ~~has~~ Does have jurisdiction concerning a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of [NRS 281A.440](#), the Executive Director shall notify the requester and the subject of the determination and investigate and proceed in the matter pursuant to [NRS 281A.440](#). Upon conclusion of the investigation, the Executive Director shall, to the extent possible, submit his or her recommendation regarding whether there is just and sufficient cause for the Commission to render an opinion to the same investigatory panel that determined that the Commission has jurisdiction concerning the third-party request for an opinion.

6. A person who receives a notice pursuant to subsection 5 may request a review by the Commission of the determination regarding jurisdiction by investigatory panel. Such a request must be submitted to the principal office of the Commission in writing not later than 10 days after the date on which the person received notification. A determination regarding jurisdiction by the Commission is final.

12. If the Commission reviews a jurisdictional determination pursuant to subsection 6 and determines that it:

(a) Does not have jurisdiction concerning a third-party request for opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440, the Executive Director shall notify the requester and the subject of the determination and conclude the matter; or

(b) Has jurisdiction concerning a third-party request for an opinion filed pursuant to paragraph (a) or (b) of subsection 2 of NRS 281A.440, the Executive Director shall notify the requester and the subject of the determination and investigate and proceed in the matter pursuant to NRS 281A.440. Upon conclusion of the investigation, the Executive Director shall, to the extent possible, submit his or her recommendation regarding whether there is just and sufficient cause

for the Commission to render an opinion to the same investigatory panel that determined that the Commission has jurisdiction concerning the third-party request for an opinion.

(Added to NAC by Comm'n on Ethics by R111-03, eff. 10-30-2003; A by R186-05, 5-4-2006; R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.1865)

Previously, the Subject has not been authorized to appeal a jurisdictional determination of the ED/CC to an investigatory panel. The Commission has therefore received a few “jurisdictional” motions from the Subjects circumventing this regulatory oversight. If a panel could review the determination it may avoid additional proceedings before the entire Commission. However, the determination to overturn staff’s assertion of jurisdiction to investigate is often a significant legal question that may be better left for the entire Commission. In the alternative, the Commission may wish to include an appeal process to the Commission of the panel’s determination. The proposed language above provides for 2 appeal processes: the first to a panel and the second to the Commission.

NAC 281A.410 Notification of subject; filing of response. (NRS 281A.290)

1. Once a third-party request for an opinion has been properly filed with the Commission by a requester or initiated on the motion of the Commission and the Commission has determined that the Commission has jurisdiction over the matter presented in the third-party request for an opinion, the Executive Director shall forthwith notify the requester and the public officer or public employee who is the subject of the third-party request for an opinion and provide the public officer or public employee an opportunity to respond to the allegations contained in the third-party request for an opinion. Such a notification must be in writing and sent to the subject of the third-party request for an opinion by:

- (a) Personal delivery;
- (b) Certified mail, return receipt requested; or
- (c) Overnight delivery service in which proof of delivery is documented.

2. A notice of a third-party request for an opinion to the Subject made pursuant to this section must include, without limitation:

(a) All information filed by the requester or information upon which the Commission based its motion, as appropriate;

(b) ~~[A copy of chapter 281A of NRS;~~

~~—(c) A copy of this chapter;~~

~~—(d)]~~ An outline of the process used by the Commission to resolve third-party requests for opinions; and

~~[(e)]~~ (c) A form prescribed by the Commission for waiving the time limits set forth in subsections 4, 5 and 6 of NRS 281A.440.

3. The subject of a third-party request for an opinion may, within the time limit set forth in subsection 3 of NRS 281A.440, file with the Commission a written response to the allegations contained in the third-party request for an opinion. If the subject of a third-party request for an opinion files with the Commission a waiver of the time limits set forth in subsections 4, 5 and 6 of NRS 281A.440, the Executive Director may, for good cause

shown, authorize one or more extensions, of not more than 30 days each, of the time limit set forth in subsection 3 of [NRS 281.440](#) for the subject to file a written response to the allegations contained in the third-party request for an opinion.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.188)

The Commission should be able to refer the Subject to the provisions of NRS 281A and NAC 281A on its Website and reduce the cost of providing hard copies.

NAC 281A.415 Investigation of additional issues and facts by Executive Director; provision of additional notice to subject. ([NRS 281A.290](#))

1. The Executive Director may investigate relevant issues and facts beyond those presented in a third-party request for an opinion in determining his or her written recommendation of whether there is just and sufficient cause for the Commission to render an opinion on the third-party request for an opinion.

2. If the Executive Director includes issues and facts beyond those presented in the third-party request for an opinion in his or her written recommendations which are not included in the notice issued to the subject pursuant to [NAC 281A.410](#), the Executive Director ~~must~~ **shall** provide additional notice to the subject of the additional issues and facts and provide the subject with the same opportunity to respond to such issues and facts that is set forth in subsection 3 of [NRS 281A.440](#).

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.189)

NAC 281A.420 Confidentiality and availability of information. ([NRS 281A.290](#))

1. Except as otherwise provided in [this section and NRS 281A.440](#), until the conclusion of the proceedings of an investigatory panel to determine whether there is just and sufficient cause for the Commission to render an opinion in the matter:

(a) The Commission will not confirm or deny whether a third-party request for an opinion has been filed by a requester, or initiated upon the motion of the Commission, against a public officer or public employee; and

(b) All information related to the third-party request for an opinion in the possession of the Commission and its staff is confidential.

2. Upon the conclusion of the proceedings of an investigatory panel on a third-party request for an opinion, ~~the~~ **any** information related to the third-party request for an opinion **other than the investigatory file of the Commission** is a public record available for public review during normal business hours at the principal office of the Commission.

3. As used in this section, "investigatory file" has the meaning ascribed to it in subsection 16 of NRS 281A.440.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.191)

NRS 281A.440(8) and (9) now protect the Commission's Investigative File as confidential.

NAC 281A.425 Confidentiality of proceedings of investigatory panel. (NRS 281A.290) The proceedings of an investigatory panel to determine whether there is just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion are confidential and closed to all persons except the ~~[parties to the third party request for an opinion and any other person the investigatory panel deems necessary to the proceedings of the investigatory panel.]~~ Commission staff.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.192)

The Investigatory Panel has the duty of “concluding” the investigation. Upon receiving a report and recommendation from the ED, the panel may require the ED to engage in additional investigation before issuing its decision. NRS 281A.440(5) Because this process may still involve confidential investigation now protected by NRS 281A.440, the panel proceeding should not be available to the Subject.

NAC 281A.430 Considerations of investigatory panel. (NRS 281A.290) At the proceedings of an investigatory panel on a third-party request for an opinion, the investigatory panel shall consider:

1. The results of the investigation of the Executive Director and the recommendation of the Executive Director regarding whether there is just and sufficient cause for the Commission to render an opinion;
2. The third-party request for an opinion and all related information and material filed with the Commission by the requester or submitted on the motion of the Commission; and
3. The response, if any, of the public officer or public employee who is the subject of the third-party request for an opinion.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.193)

NAC 281A.435 Basis for finding by investigatory panel; unanimous finding required for determination that there is not just and sufficient cause to render opinion. (NRS 281A.290)

1. A finding by an investigatory panel as to whether there is just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion must be based on credible evidence.
2. A finding by an investigatory panel that there is not just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion must be unanimous.
3. As used in this section, “credible evidence” means the minimal level of any reliable and competent form of proof provided by witnesses, records, documents, exhibits, concrete objects, and other such similar means, that supports a reasonable belief by an investigatory panel that the Commission should hear the matter and render an opinion on the third-party request for an opinion. **The term does not include a newspaper article or other media report if the article or report is offered as the only evidence to support the allegation.**

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.194)

NAC 281A.440 Recording and contents of determination by investigatory panel that there is just and sufficient cause to render opinion. (NRS 281A.290) A determination issued by an investigatory panel pursuant to [NRS 281A.220](#) which specifies that there is just and sufficient cause for the Commission to render an opinion on a third-party request for an opinion must be recorded in writing and include, without limitation:

1. The findings of the investigatory panel; and
2. The statutes upon which the investigatory panel based its determination that there is just and sufficient cause for the Commission to render an opinion.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006; A by R134-10, 10-26-2011)—(Substituted in revision f

or NAC 281.1945)

NAC 281A.445 Record of proceedings of investigatory panel. (NRS 281A.290) The Executive Director shall provide and make arrangements for a record to be made of any proceedings of an investigatory panel~~;~~ **by written or audio documentation memorializing the deliberations of the investigatory panel during the proceedings of the investigatory panel.**

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.195)

This language is taken from earlier definition in NRS 281A.085 that was deleted.

NAC 281A.450 Hearings: Advance written notice. (NRS 281A.290)

1. Before the Commission holds a hearing concerning a third-party request for an opinion, the Commission ~~[must]~~ **shall** serve the subject with advance written notice of the hearing at least 10 days before the date on which the hearing is scheduled to commence which includes the date, time and location of the hearing.

2. The written notice required pursuant to this section must comply with:

- (a) The requirements for notice set forth in subsection 10 of [NRS 281A.440](#); and
- (b) Except as otherwise provided in this chapter and [chapter 281A](#) of NRS, the requirements for notice set forth in provisions concerning the adjudication in contested cases in [chapter 233B](#) of NRS.

3. A written record of the final determination of the investigatory panel issued pursuant to [NAC 281A.440](#) may serve as the written notice required pursuant to this section if it includes the date, time and location of the hearing and otherwise complies with the requirements set forth in this section.

4. Notice shall be deemed complete upon delivery personally to the subject or by mailing the notice by certified mail or overnight delivery service to the last known address of the subject.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.197)

NAC 281A.455 Hearings: Continuance. ([NRS 281A.290](#)) The procedures for obtaining and granting a continuance of a hearing concerning a third-party request for an opinion are as follows:

1. The date or time of the hearing may be continued for a reasonable time by the Executive Director:

(a) Upon the written petition of the subject for good cause shown; or

(b) By stipulation of the subject and the Commission, acting through the Executive Director.

2. A continuance will not be granted unless it is made in good faith, is reasonably necessary and is not sought merely for delay or by reason of inexcusable neglect of the subject.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006; A by R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.199)

NAC 281A.460 Hearings: Conduct; action by Commission. ([NRS 281A.290](#))

1. The Chair or presiding officer of a hearing concerning a third-party request for an opinion shall:

(a) Ascertain whether all persons commanded to appear under subpoena are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room before the hearing begins.

(b) Ensure that an oath is administered in accordance with [NAC 281A.280](#) to all persons whose testimony will be taken.

(c) Exclude from the hearing all witnesses scheduled to testify except during the testimony of the witness. To preserve the integrity of the process and the evidence presented during a proceeding, the Chair or presiding officer may request all witnesses not to discuss the case with any person during the pendency of the proceeding.

(d) Hear and rule on any procedural motions, approve any stipulations and address any administrative details.

(e) Designate a member of the staff of the Commission to present the third-party request for an opinion, the response to the third-party request for an opinion by the subject and the determination of the investigatory panel concerning whether there is just and sufficient cause for the Commission to render an opinion in the matter.

(f) Allow the subject to present opening comments.

(g) Call and question any witnesses, present any evidence on behalf of the Commission concerning the third-party request for an opinion, and allow any member of the Commission to question such witnesses.

2. The subject may remain present during the hearing.

3. The subject may question any witnesses.

4. Upon the conclusion of the presentation of any evidence and the examination of any witnesses on behalf of the Commission, the Chair or presiding officer shall request the subject to proceed with the introduction of evidence and calling of witnesses on his or her behalf.

5. The subject, any witnesses or any counsel retained by the subject may be questioned by any member of the Commission at any time during the proceeding.

6. Upon the conclusion of the presentation of evidence by the subject and the examination of any witnesses, the Chair or presiding officer shall allow the subject to present closing comments.

7. Upon the conclusion of the closing comments by the subject, the Commission will deliberate the issues of fact presented at the hearing, make a determination of the findings of fact, apply the applicable law to the findings of fact and render an opinion concerning whether the subject has violated any of the provisions of [chapter 281A](#) of NRS.

8. Upon a finding of a willful violation of any of the provisions of [chapter 281A](#) of NRS, the Commission may impose any civil penalties authorized pursuant to [NRS 281A.480](#) and will impose any other statutory remedies required pursuant to [NRS 281A.480](#).

9. The Commission may waive any provision of this section if necessary to expedite or ensure the fairness of the hearing.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006; A by R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.201)

NAC 281A.465 Hearings: Admission and exclusion of evidence. ([NRS 281A.290](#))

1. In conducting any hearing concerning a third-party request for an opinion, the rules of evidence of the courts of this State will be followed generally but may be relaxed at the discretion of the Commission.

2. The Chair or presiding officer may exclude immaterial, incompetent, cumulative or irrelevant evidence or order that the presentation of such evidence be discontinued.

3. A subject may object to the introduction of evidence if the subject:

(a) Objects to such evidence promptly; and

(b) Briefly states the grounds of the objection at the time the objection is made.

4. If an objection is made to the admissibility of evidence, the Chair or presiding officer may:

(a) Note the objection and admit the evidence;

(b) Sustain the objection and refuse to admit the evidence; or

(c) Receive the evidence subject to any subsequent ruling of the Commission.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.203)

NAC 281A.470 Failure of subject to appear at hearing or reply to notice. ([NRS 281A.290](#)) If a subject fails to appear at a hearing concerning a third-party request for an opinion which is scheduled by the Commission and a continuance has not been requested or granted, upon an offer of proof by the Executive Director that the subject was given proper notice and upon a determination by the Commission that proper notice was given, the Commission may proceed to consider the case without the presence of the absent subject and may dispose of the matter on the basis of the evidence before it. If the subject fails to appear at the hearing or fails to reply to the notice provided pursuant to [NAC 281A.410](#), the alleged violations specified in the determination of the investigatory panel that there is just and sufficient cause for the Commission to render an opinion may be considered as true.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006; A by R134-10, 10-26-2011)—(Substituted in revision for NAC 281.205)

Opinions Concerning Employment of Certain Former Public Officers or Employees by Regulated Businesses

NAC 281A.475 Proper form required for requests. ([NRS 281A.290](#)) The Commission will only consider those requests for an opinion filed pursuant to subsection 6 of [NRS 281A.550](#) that are submitted to the Commission in proper form.

(Added to NAC by Comm'n on Ethics by R134-10, eff. 10-26-2011)

NAC 281A.480 Hearings. ([NRS 281A.290](#))

1. Except as otherwise provided in subsection 2, a request for an opinion filed pursuant to subsection 6 of [NRS 281A.550](#) will be heard by the Commission within 45 days after receipt of the request by the Commission.

2. If a public officer or public employee who requests an opinion pursuant to subsection 6 of [NRS 281A.550](#) cannot appear before the Commission for a hearing on the request within 45 days after receipt of the request by the Commission, the public officer or public employee may submit a written statement acknowledging that he or she cannot appear before the Commission for the hearing and, if applicable, requesting a waiver of the 45-day period within which the hearing must be held. Such a request must be received not later than 7 business days before the expiration of the 45-day period.

3. If the public officer or public employee does not request a waiver pursuant to subsection 2 and fails to appear at the hearing scheduled by the Commission within 45 days after receipt of the request for an opinion, the request for an opinion will be deemed withdrawn by the public officer or public employee making the request.

(Added to NAC by Comm'n on Ethics by R134-10, eff. 10-26-2011)

NAC 281A.485 Withdrawal of request. ([NRS 281A.290](#)) At any time before the Commission renders an opinion on a request for an opinion filed pursuant to subsection 6 of [NRS 281A.550](#), the public officer or public employee who filed the request for the opinion may withdraw the request by providing a notice of withdrawal to the Commission.

(Added to NAC by Comm'n on Ethics by R134-10, eff. 10-26-2011)

NAC 281A.490 Determination of jurisdiction: Duties of Executive Director; request for review. ([NRS 281A.290](#)) The Executive Director shall confer with the Commission Counsel to determine jurisdiction concerning a request for an opinion filed pursuant to subsection 6 of [NRS 281A.550](#). If the Commission Counsel determines that the Commission lacks jurisdiction in the matter, the Executive Director shall so notify the requesting public officer or public employee. A public officer or public employee who receives a notice pursuant to this section may request the Commission to review the determination regarding jurisdiction. Such a request must be filed to the principal office of the Commission in writing not later than 10 days after the date on which the public officer or public employee received notification.

(Added to NAC by Comm'n on Ethics by R134-10, eff. 10-26-2011)

NAC 281A.495 Conduct of hearings; action by Commission; confidentiality.
(NRS 281A.290)

1. The Chair or presiding officer of a hearing concerning a request for an opinion filed pursuant to subsection 6 of [NRS 281A.550](#) shall:

(a) Ascertain whether the subject of the request for an opinion and all persons requested by the subject to testify are present and whether all documents, books, records and other evidence under subpoena are present in the hearing room before the hearing begins.

(b) Ensure that an oath is administered, in accordance with [NAC 281A.280](#), to the subject of the request for an opinion and all persons whose testimony will be taken.

2. The subject of the request for an opinion ~~must~~ **shall** be present at the hearing.

3. The Chair or presiding officer shall allow the subject of the request for an opinion to:

(a) Present opening comments;

(b) Present any evidence on his or her own behalf; and

(c) Examine any witnesses on his or her own behalf.

4. The subject of the request for an opinion, any witnesses or any counsel retained by the subject may be questioned by any member of the Commission at any time during the proceeding.

5. Upon the conclusion of the presentation of evidence by the subject of the request for an opinion and the examination of any witnesses, the Chair or presiding officer shall allow the subject to present closing comments.

6. Upon the conclusion of the closing comments by the subject of the request for an opinion, the Commission will:

(a) Deliberate the issues of fact presented at the hearing, make a final determination of the findings of fact and apply the applicable law to the findings of fact;

(b) Render an opinion on the matter; and

(c) Submit a copy of the opinion to the subject.

7. The Commission may waive any provision of this section if the Commission determines that such a waiver is necessary to expedite the hearing or is in the interest of justice.

8. The request for an opinion and the information presented during the proceedings set forth in this section must be kept confidential, unless the subject of the request for an opinion acts in a manner set forth in subsection 7 of [NRS 281A.550](#) to waive the confidentiality of such information.

(Added to NAC by Comm'n on Ethics by R134-10, eff. 10-26-2011)

General Procedures for Hearings

NAC 281A.500 Executive Director to provide information to Commission.
(NRS 281A.290) At least 1 week before the date on which the Commission is scheduled to hold a hearing on a matter, the Executive Director shall provide to the Commission:

1. A statement of the matter that sets forth the issues to be determined at the hearing;

2. A list of any witnesses and their expected testimony; and

3. Any other information which the Executive Director deems necessary to assist the Commission in hearing the matter.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000)—(Substituted in revision for NAC 281.213)

NAC 281A.505 Motion to disqualify member of Commission for good cause. (NRS 281A.290)

1. A subject may submit a motion to disqualify a member of the Commission from participating in a hearing for good cause.

2. Except as otherwise provided in this subsection, a motion to disqualify a member of the Commission must comply with the procedures concerning motions before the Commission which are set forth in [NAC 281A.265](#). A motion to disqualify a member of the Commission which is submitted pursuant to subsection 1 must be ruled upon by the Commission as a whole.

3. In considering a motion to disqualify a member of the Commission, the Commission will consider any grounds that would justify the disqualification of a judge pursuant to Canon 3E of the Nevada Code of Judicial Conduct.

4. If the Commission approves a motion to disqualify a member of the Commission, the necessary quorum to act upon and the number of votes necessary to act upon a matter before the Commission is reduced as though the member who is disqualified was not a member of the Commission.

(Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006)—(Substituted in revision for NAC 281.214)

NAC 281A.510 Commission to determine order of proceedings. (NRS 281A.290) Except as otherwise provided in [NRS 281A.440](#) and [NAC 281A.365](#), [281A.460](#) and [281A.495](#), the Commission will determine, as it deems appropriate, the order of proceedings for a hearing and will inform the parties thereof before the hearing commences.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.215)

NAC 281A.515 Testimony: Oath or affirmation required. (NRS 281A.290) All testimony received at a hearing before the Commission must be given under oath or affirmation.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000)—(Substituted in revision for NAC 281.217)

NAC 281A.520 Participation by subject of hearing; questioning of witnesses. (NRS 281A.290)

1. Except as otherwise provided in [NRS 281A.440](#) and [NAC 281A.365](#), [281A.460](#) and [281A.495](#), the Commission will provide the subject of a hearing before the Commission with the opportunity to appear and testify before the Commission and participate in the hearing. The subject of the hearing may be represented by counsel, hear the evidence presented to the Commission, respond and present evidence and testimony on his or her own behalf, examine and cross-examine witnesses, and make arguments.

2. The Commission will question witnesses at the hearing.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.219)

Miscellaneous Provisions

NAC 281A.550 Written opinions: Contents; dissemination. (NRS 281A.290)

1. Pursuant to NRS 281A.260, the Commission may direct the Commission Counsel to prepare:

(a) A written opinion of the Commission regarding a first-party request for opinion, third-party request for opinion or request for opinion submitted pursuant to subsection 6 of NRS 281A.550; and

(b) An abstract opinion of any written opinion which is confidential pursuant to subsection 7 of NRS 281A.440 or subsection 7 of NRS 281A.550. As used in this paragraph, an "abstract opinion" means a written opinion which redacts or amends information provided in a confidential written opinion to protect the identity of the requester.

2. A written opinion and abstract opinion of the Commission must plainly state:

(a) If the opinion concerns a third-party request for an opinion, each violation alleged against the public officer or public employee who is the subject of the third-party request for an opinion;

(b) Except as otherwise provided in subsection 7 of NRS 281A.440, if the opinion concerns a first-party request for an opinion, each question for which the public officer or employee seeks guidance concerning the interpretation of a statutory ethical standard;

(c) If the opinion concerns a request for an opinion filed pursuant to subsection 6 of NRS 281A.550, the relevant facts in the case that do or do not justify relief from the strict application of the provisions of subsection 3 or 5 of NRS 281A.550, as applicable;

(d) The determination of the Commission with regard to each allegation, question or fact, as applicable; and

(e) The applicable findings of fact and conclusions of law and any specific guidance concerning the interpretation of a statutory ethical standard provided by the Commission to a public officer or public employee who is the subject of a first-party request for an opinion.

~~[2.]~~ 3. Each written opinion and abstract opinion must be numbered, dated and signed by the Chair or presiding officer.

~~[3.]~~ 4. The Commission ~~[will]~~ shall:

(a) Provide a copy of each written opinion and abstract opinion to each person who is a party;

(b) Post a copy of each written opinion which is not confidential and abstract opinion on the website of the Commission at <http://ethics.nv.gov>; [and]

(c) Deliver a copy of a written opinion to any person who requests such a copy[.]; and

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R186-05, 5-4-2006; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.223)

It has been the practice of the Commission to abstract all confidential opinions for publication. There is no statutory requirement for the same. SB 228 removed the requirement that abstract opinions be included in its manual. If the Commission desires to maintain this practice, we can include a requirement in the Regulations.

NAC 281A.555 Petitions to adopt, file, amend or repeal regulations. (NRS 233B.100, 281A.290)

1. Any person may submit a written petition to the Commission at the principal office of the Commission to adopt, file, amend or repeal any regulation of the Commission.
 2. A petition submitted pursuant to subsection 1 must include, without limitation:
 - (a) The name and address of the petitioner;
 - (b) A clear and concise statement of the regulation to be adopted, filed, amended or repealed, including, without limitation, the text of the proposed language of the regulation to be adopted, filed, amended or repealed;
 - (c) The reason for the adoption, filing, amendment or repeal of the regulation; and
 - (d) The statutory authority for the adoption, filing, amendment or repeal of the regulation.
 3. The Commission may decline to act upon a petition submitted pursuant to this section if the petition does not contain the information required pursuant to subsection 2.
 4. The Commission will:
 - (a) Review and make a decision concerning the petition at the next scheduled meeting of the Commission in which consideration of the petition is feasible following the receipt of the petition; and
 - (b) Notify the petitioner in writing of the decision of the Commission concerning the petition within 30 days after the petition is considered by the Commission.
- (Added to NAC by Comm'n on Ethics by R186-05, eff. 5-4-2006)—(Substituted in revision for NAC 281.236)

NAC 281A.560 Obtaining copies of public records or transcripts; payment of costs of public records. (NRS 281A.290)

1. Except as otherwise provided in this section, to obtain copies of public records from the Commission, a person ~~[must]~~ **shall**:
 - (a) File a written request at the principal office of the Commission or appear personally at an office of the Commission; and
 - (b) Before the copies are made, pay the actual cost of the copies or an estimate of the actual cost, as determined by the Commission's staff, unless the Commission's staff, in its discretion and based upon its experience with the person requesting the copies, allows the person to pay the actual cost of the copies when the copies are provided to the person.
2. Except as otherwise provided in this section, the cost of obtaining copies of public records from the Commission is 25 cents for each page of the public record that is copied.
3. Except as otherwise provided in this section, to obtain copies of a transcript concerning a matter that was recorded by the Commission, a person ~~[must]~~ **shall** file a written request at the principal office of the Commission and make arrangements directly with the court reporter.
4. ~~[A]~~ **The Commission shall not authorize any** person ~~[may not]~~ to obtain copies of a transcript concerning a matter that was recorded by the Commission unless the contents of the proceedings concerning that matter may be disclosed to that person pursuant to the provisions of chapter 281A of NRS and NAC 281A.250 to 281A.290, inclusive.

5. A court reporter ~~may~~ **shall** not provide to a person copies of a transcript concerning a matter that was recorded by the Commission or any other documents unless the court reporter has received written permission from the Commission ~~to do so~~.

6. The Commission may waive all or a portion of the cost of obtaining copies of public records if the person requesting the copies files a written request for such a waiver at the principal office of the Commission and the Commission determines that:

(a) The copies requested are reasonable in quantity; and

(b) The person requesting the copies is a party to a matter before the Commission and does not have the financial ability to pay for all or a portion of the cost of the copies.

(Added to NAC by Comm'n on Ethics by R038-98, eff. 4-17-98; A by R102-00, 8-28-2000; R111-03, 10-30-2003; R186-05, 5-4-2006)—(Substituted in revision for NAC 281.242)

NAC 281A.615 Filing of certain documents in proper form; availability of form. ([NRS 281A.290](#))

1. The following documents must be filed in proper form:

(a) A disclosure of representation and counseling required pursuant to [NRS 281A.410](#); and

(b) An acknowledgment of the statutory ethical standards required pursuant to [NRS 281A.500](#).

2. The form for each document specified in subsection 1 is available at the principal office of the Commission and on the website of the Commission.

(Added to NAC by Comm'n on Ethics by R102-00, eff. 8-28-2000; A by R111-03, 10-30-2003; R186-05, 5-4-2006; R084-08, 9-18-2008; R134-10, 10-26-2011)—(Substituted in revision for NAC 281.227)



**STATE OF NEVADA
COMMISSION ON ETHICS**
<http://ethics.nv.gov>

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

April 16, 2014

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts of the open sessions are available for public inspection at the Commission's office in Carson City.

The Commission on Ethics held a public meeting on
Wednesday, April 16, 2014, at 8:30 a.m. at the following location:

**Grant Sawyer State Building
Room 4401
555 E. Washington Avenue
Las Vegas, NV 89101**

CLOSED SESSION:

1. Closed Session pursuant to NRS 281A.440(7) to hear testimony, receive evidence, deliberate and render an advisory opinion regarding Confidential First-Party Request for Advisory Opinion No. 14-33A, submitted pursuant to NRS 281A.440(1).

This agenda item was held in closed session and will not be available to the public.

2. Closed Session pursuant to NRS 281A.440(15) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 13-43C regarding Cam Walker, City Councilman, Boulder City, submitted pursuant to NRS 281A.440(2).

This agenda item was held in closed session and will not be available to the public.

3. Closed Session pursuant to NRS 281A.440(15) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 13-85C regarding Dean Bullock, Commissioner, Lander County, submitted pursuant to NRS 281A.440(2).

This agenda item was held in closed session and will not be available to the public.

4. Closed Session to consider a jurisdictional matter regarding Third-Party Request for Opinion No. 14-32C, submitted pursuant to NRS 281A.440(2).

This agenda item was held in closed session and will not be available to the public.

5. Closed Session to discuss potential or pending litigation.

This agenda item was held in closed session and will not be available to the public.

OPEN SESSION:

1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.

Chairman Paul H. Lamboley, Esq. called the meeting into open session at 1:28 p.m.

Present in Las Vegas, Nevada were Chairman Paul H. Lamboley, Esq., Vice-Chairman Gregory J. Gale, CPA, Commissioners Tim Cory, Esq., Keith Weaver, Esq., Magdalena Groover, Cheryl A. Lau, Esq., and James M. Shaw. Also present were Executive Director Caren Cafferata-Jenkins, Esq., Commission Counsel Yvonne Nevarez-Goodson, Esq., Associate Counsel Jill C. Davis, Esq., and Executive Assistant Valerie M. Carter.

Commissioner John C. Carpenter was excused from this meeting.

2. Open Session for Public Comment.

No public comment.

3. Open Session pursuant to NRS 281A.440(8) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 13-43C regarding Cam Walker, City Councilman, Boulder City, submitted pursuant to NRS 281A.440(2).

Vice Chairman Gale and Commissioner Groover were excused from participating in this agenda item as they served on the Panel.

Commissioner Lau made a disclosure regarding her friendship with the Subject's mother-in-law, and stated she had no knowledge of the allegations in the RFO until it was presented to the Commission, and stated she could be fair and objective in the consideration of the matter.

Brian Hardy, Esq., counsel for Subject Cam Walker, and Jill C. Davis, Esq., Associate Counsel to the Commission appeared before the body.

Commission Counsel Yvonne Nevarez-Goodson, Esq. gave a brief summary of the RFO and the Stipulated Agreement. Chairman Lamboley stated that the proposed Stipulated Agreement had been discussed in a prior closed session where a few changes were made to the language. Chairman Lamboley questioned whether Brian Hardy, Esq. had authority to accept the changes to the Stipulation on behalf of his client. Mr. Hardy explained that he had authority to accept the most recent Stipulation and believes his client will be agreeable to the terms as discussed. Associate Counsel stated she was in agreement with the language as well.

Commissioner Shaw moved to approve the Stipulated Agreement with the modifications discussed. Commissioner Lau seconded the Motion. Commission Counsel summarized the general terms of the Stipulated Agreement. The Motion was put to a vote and carried unanimously.

4. Open Session pursuant to NRS 281A.440(8) for discussion and consideration of a proposed Stipulation concerning Third-Party Request for Opinion No. 13-85C regarding Dean Bullock, Commissioner, Lander County, submitted pursuant to NRS 281A.440(2).

Appearing before the Commission via telephone were Dean Bullock, Subject of RFO 13-85C and his counsel, Rebecca Bruch, Esq. Also present was the Commission's Associate Counsel, Jill C. Davis, Esq.

Commission Counsel Yvonne Nevarez-Goodson, Esq. gave a brief summary of the factual background and the terms the Commission had agreed upon. Mr. Bullock and Ms. Bruch stated they both had reviewed the Stipulation in its entirety and were in agreement with the language. Associate Counsel Jill C. Davis, Esq. stated she agreed to the Stipulation.

Commissioner Lau moved to approve the Stipulated Agreement as presented. Commissioner Cory seconded the Motion. The Motion was put to a vote and carried unanimously.

5. Open Session for report and recommendation from the Commission on Ethics' 2015 BDR Subcommittee.

Commissioner Gale, Chairman of the BDR Subcommittee, introduced Commissioner Lau and Commissioner Weaver as appointed Subcommittee members. Commissioner Gale discussed the BDR Matrix that was provided to the Commission which detailed the recommendation of the Subcommittee to the full Commission (attached hereto). The Matrix detailed which items the Subcommittee identified as priority to bring to the 2015 Legislature. Commissioner Gale described the seven changes/additions in details. A brief discussion regarding the proposed amendments ensued.

Pursuant to BDR Subcommittee Chairman Gale's request, Commission Counsel Yvonne Nevarez-Goodson, Esq. discussed her memo to the Commission explaining the proposed language amendments for 2 of the 7 recommendations to provide the reasoning for the changes. She noted LCB will likely come up with different language, and that her memo was for informational/discussion purposes only. A discussion regarding the recommended amendments to NRS 281A ensued.

Commissioner Lau moved to adopt section I of the proposed amendments to NRS 281A for the 2015 Legislative Session. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously.

A brief recess was taken at 2:49 p.m. and the meeting was called back to order at 3:04 p.m.

6. Open Session for report by Executive Director and Commission Counsel on agency status and operations.

Commission Counsel Yvonne Nevarez-Goodson, Esq. discussed the current status of the opinion backlog and the RFO Log that is provided quarterly to the Commission. Ms. Nevarez-Goodson discussed the contents of the log, how long some of the Commission's processes take and how delayed things can become in the process. A lengthy discussion ensued regarding the backlog of Opinions and the probable causes of the same.

The Executive Director Caren Cafferata-Jenkins, Esq. reported that the agency recently underwent a routine audit by the Department of Administration- Division of Internal Audits with respect to our accounts payable/receivable. She stated there were only five, very minor, infractions which have been accepted and will be addressed.

Executive Director Cafferata-Jenkins stated that she and Commission Counsel have been invited, at the suggestion of Chairman Lamboley, to present at the Annual State Bar Conference in Newport Beach, CA in July. She reported that the topic for their presentation will be civility in the legal profession and she is looking forward to the conference.

Executive Director Cafferata-Jenkins, Esq. discussed her hopes of making her Ethics presentation available on video to provide to entities requesting training. She has been in contact with POOL PACT and they currently have the funds and desire to get an ethics presentation together for use on an individualized basis. She stated that her hope is that once it is completed, the NCOE will be able to point people to that web based training or obtain a copy to provide to entities or individuals requesting the same.

Executive Director Cafferata-Jenkins, Esq. reported that she met with Michon Martin at the Governor's office. She reported that she asked that the agency's BDR be adopted and endorsed by the Governor this session.

Executive Director Cafferata-Jenkins, Esq. stated that the Senior Investigator position is currently vacant, and will not be filled in any short amount of time, as the job description for that position is in need of being updated. She stated that once the description is updated, it may come before the commission or the Chair, depending on timing. She will provide an update at the next meeting regarding the position.

Executive Director Cafferata-Jenkins, Esq. reported that she and executive assistant Valerie Carter have begun to prepare for the FY15-FY17 biennial budget and will continue to do so over the next several months.

7. Open Session for presentation by Valerie M. Carter, participant in the Nevada Certified Public Manager Program, regarding her recommendations to increase agency efficiency.

Executive Director Cafferata-Jenkins introduced Valerie Carter and gave a brief overview of the Nevada CPM program. Ms. Carter summarized her memorandum to the Commission regarding her progress in the NVCPM program and her idea for the "Quality Improvement Project". Ms. Carter proposed holding bi-monthly meetings, the streamlining of staff processes, and eliminating the opinion backlog. A discussion ensued regarding the proposals.

Chairman Lamboley and Commissioner Cory expressed a desire to see more information to support the suggested changes. Commissioners explained they would like to see more data related to the agency's case load and Staff's time, and how the project's success will be measured. Ms. Carter agreed and stated she will gather more information for presentation at the next Commission Meeting as requested.

8. Open Session for Commissioner comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.

Commissioner Lau requested the Commission consider changing the date of the June 18th Commission meeting to June 11th. A discussion regarding scheduling ensued. Chairman Lamboley indicated the May and June meeting will be combined and held on June 11, 2014.

9. Open Session for Public Comment.

No public comment.

10. Adjournment.

Commissioner Shaw moved to adjourn the meeting. Commissioner Lau seconded the Motion. The motion was put to a vote and carried unanimously. The meeting was adjourned at 4:20 p.m.

Minutes prepared by:

Minutes approved: June 11, 2014:

Valerie M. Carter
Executive Assistant

Paul H. Lamboley, Esq.
Chairman

**NEVADA COMMISSION ON ETHICS’
2015 BDR SUBCOMMITTEE**

REPORT AND RECOMMENDATION TO THE FULL COMMISSION

The 2015 BDR Subcommittee considered a full range of potential changes to NRS 281A, including vetting a variety of new ideas and re-evaluating proposals that the Commission considered in 2013. All of those concepts are presented in this document, however, only the seven (7) concepts in Section I are recommended to the Commission to be pursued in the upcoming 2015 Legislative session. However, we have provided Section II (NRS 281A AMENDMENTS CONSIDERED FOR 2013 LEGISLATIVE SESSION (NOT recommended for 2015)), and Section III (*NEW* NRS 281A AMENDMENTS NOT RECOMMENDED FOR 2015) for your review, in the event a majority of the Commission wishes to move an item from one of those sections into the Bill Draft Request, or to move an item from Section I to another section.

SECTION I: PROPOSED NRS 281A AMENDMENTS RECOMMENDED FOR 2015 LEGISLATIVE SESSION:

Item #	Statute Change	Reason for Change
1	Amend NRS 281A.480(5) to provide that for safe harbor to apply, the subject must be able to prove that s/he sought specific legal advice related to the conduct, advice was given by the appropriate counsel and that subject determined that no prior commission opinion applied BEFORE taking action. Also <u>require request, date and advice to be memorialized or proven by substantial evidence.</u>	During a third-party request for opinion process, the Commission may at times determine that a public officer’s or employee’s past conduct violated NRS 281A, although if the subject relied in good faith on the advice of counsel and the advice was not contrary to a published Commission opinion, the violation could not be deemed "willful." Since this safe harbor provision was amended in 2013, many subjects and their attorneys have argued that the conduct was on the advice of counsel, though it was not clear whether the subject sought the advice or came by it second hand, and whether or when the attorney considered prior Commission opinions and statutes before offering the advice. Reasonable application of the "safe harbor" provisions is important, but should not be available unless both the subject and the attorney have acted within narrow circumstances and in good faith. If affidavits or other evidence are presented that attempts to manipulate the application of the intent of the safe harbor or are vague attempts to obtain safe harbor when the officer or employee knew the conduct violated ethics laws, safe harbor should not be offered.
2	Allow NCOE to accept anonymous Third-Party RFOs, so long as they contain sufficient supporting evidence. (NRS 281A.440(2)(c)) (NRS 281A.440(12))	Currently NRS 281A.440 (2)(c) prohibits the Commission from initiating an RFO based solely on an anonymous complaint. NRS 281A.440(12) prohibits the Commission from accepting an anonymous complaint from a third-party by requiring the requester to testify. The Legislature should delete NRS 281A.440(12)(b) and the language which prohibits the anonymous complaint in NRS 281A.440(2)(c). It has been the practice of the Commission to reject anonymous complaints as a matter of course; however should sufficient evidence come to its attention, such evidence should not be ignored.
3	Amend willful standards so not too restrictive. (NRS 281A.475) (NRS 281A.480(5))	NRS 281A.480(5) and NRS 281A.475 have made it nearly impossible for the Commission to find a willful violation. Change "shall" to "may" for Commission’s duty to consider the factors.

Item #	Statute Change	Reason for Change
4	Make materials provided to panels and panel transcripts confidential. (NRS 281A.440(8)(9) and (16))	NRS 281A.440 may need to be modified to determine when such materials become public records, if ever. Under current language, the record of the proceedings of the investigatory panel are confidential until the panel determination or waiver. The definition of "investigatory file" does not specify that (investigatory) panel materials are part of the investigatory file.
5	Amend NRS 281A.420 (3) and (4) to also discuss abstention by public <u>employees</u> .	These abstention laws, as written, are only directed to public officers. There may be instances (e.g., advisory board members who make recommendations to a governing body) where public employees may vote on agenda items or otherwise participate in decision-making actions. Therefore, these two paragraphs should be amended to include public employees.
6	Clarify NRS 281A.270 State and Local Government funding for Commission operations to address return of money during biennia. Our current process is not reflected in the statute, but is necessary to avoid IFC requests for 100% State funds (if needed) when unspent Local Government funds are available during a biennium.	SB 228 amended NRS 281A.270 consistent with Commission intent offered in 2011 legislative BDR solely to prevent budget reversions to local governments when the State imposed budget reductions. (In 2009/2010 the State imposed mandatory budget reductions, requiring the Commission to reimburse the local governments in proportion to the legislatively approved state/local distributions.) However, the language in SB 228 created confusion regarding reversions of excess local government funds, and the State Executive Budget Office and LCB Fiscal Division did not understand the original intent. The Commission should clarify the language to ensure that excess local government funds are reserved until after the following fiscal year in the event the Commission requests additional interim funds. (This structure will ensure proportionate distribution between the State General Fund and the Local Government shares)
7*	Amend NRS 281A.440(7)(b) and NRS 281A.550(7)(b) to allow a public officer or employee to disclose the results of an ethics opinion to certain individuals while retaining confidentiality.	After the Commission opines on a first-party opinion request, a public officer should be able to disclose the disposition of the request to an employer or agency attorney for internal use only, and still preserve the confidentiality of the opinion. Similarly, if a witness accompanies the public officer or employee to a first-party request for opinion Commission hearing, confidentiality should still be retained. NRS 281A.440(7) and NRS 281A.550(7)(b) currently deem such disclosures a waiver.

*= Initially presented in 2013, S.B. 228

**NEVADA COMMISSION ON ETHICS’
2015 BDR SUBCOMMITTEE**

REPORT AND RECOMMENDATION TO THE FULL COMMISSION

SECTION II: NRS 281A AMENDMENTS CONSIDERED FOR 2013 LEGISLATIVE SESSION (NOT recommended for 2015):

Item #	Statute Change	Reason for Change
A	Move the counseling disclosure filing requirement of NRS 281A.410(3) to a new section in NRS 281A.	The form filing requirements for counseling a private party before a State agency should be a separate section in law, rather than being a subsection of NRS 281A.410. This change should make NRS 281A more user friendly.
B	Clarify the “public officer” definition by adding words to explain how such position is created or allowed to be created. (NRS 281A.182)	For example, county school superintendents and county hospital administrators have been determined by the Commission <u>not</u> to be public officers due to the wording of the current definition. Accordingly, they are not required to comply with requirements that are unique to public officers (e.g., the filing of a financial disclosure statement). By expanding the definition, superintendents and hospital administrators, among other government positions of trust, will meet the public officer criteria. (S.B. 228 from 2013 included school administrators, but excluded county hospital administrators from definition of “Public Officer”. County hospital administrators should be added to the list of officers that were added by the 2013 Legislature at NRS 281A.182.)
C	Amend NRS 281A.290 to allow for <u>any</u> necessary regulations to be adopted by the Commission.	Current statute wording is too limiting regarding the Commission’s authority to adopt only certain types of <u>procedural</u> regulations.
D	Make several changes to the Code of Ethical Standards (NRS 281A.400)	Amend NRS 281A.400(3) and (10) to clarify potential conflicts involving contracts. Amend provisions to include “commitments in a private capacity” to all sections (same as conflicts involving pecuniary interests).
E	Amend NRS 281A.410(1)(a) to clarify that government employees can’t accept compensation from a private person to counsel that person on any issues pending before a government body. Also, reword NRS 281A.410(1)(b) for clarity.	Several public employees have requested guidance regarding NRS 281A.410(1) due to the current wording of this law. These changes should provide better guidance.

Item #	Statute Change	Reason for Change
F	Move NRS 281A.550 to NRS 281A.410.	By combining these statutes, all employment-related statutes (post government service) will be located in the same section. The one-year cooling off period for employment will also apply to local government officers and employees. The waiver provisions of NRS 281A.550(6) will be expanded to include waivers of NRS 281A.410(1) and (2).
G	Amend NRS 281A.500 to require all public officers to attend an ethics training class conducted by the Ethics Commission within 6 months of taking office. Statute should allow waivers or extensions of 6-month requirement for just cause.	Although reading the ethics laws is important, attending a course where such laws are explained and past Commission opinions are discussed is an important step in understanding the ethics requirements with which all new public officers must comply. Several times the Commission has observed that where ethics violations have occurred, the officer has not read the ethics laws and/or attended an ethics training class.
H	Expand definition of "unwarranted" in NRS 281A.400(2)	The Commission may wish to provide more guidance as to what is considered "unwarranted" based on past Commission opinions.
I	Define "personal interest".	A new "personal interest" definition was removed from the Commission's bill draft request before the introduction of SB 391 in the Senate in 2011. Reconsider defining this term, and using in the definition of "commitment in a private capacity to the interests of others" and throughout NRS 281A.400 and NRS 281A.420 (see Commission Counsel's BDR Request for 2011 Legislature for wording). This approach would clarify that other interests, not pecuniary in nature, may cause a conflict of interest (e.g., revenge, personal agendas)
J	Amend NRS 281A.230(4) and NRS 281A.250(4) to allow the Executive Director and Commission Counsel to have outside employment upon approval of the Commission.	The issue of outside employment for the Executive Director and Commission Counsel should be addressed either through Commission regulations or internal policies and procedures. However, these two statutes require amending to allow both individuals to pursue outside employment, and for the Commission to establish an approval process to include types of outside employment that cannot be pursued.
K	Amend NRS 281A.020 so that this statute may form the basis for a violation or be exempt from the same.	This statute currently reads as a statement of public policy. There may be times when the actions of a public officer or employee are a violation of the public trust, but such actions may not be a clear violation of a specific requirement within NRS 281A. Similarly, the Commission may also provide advice on future conduct through the request for first-party opinion process, and NRS 281A may not specifically address the future conduct. In such limited instances, it may be beneficial to cite NRS 281A.020(1)(b) as a basis for such advice or violation. This statute should be amended, as appropriate and if necessary, to provide the Commission with such regulatory discretion.

Item #	Statute Change	Reason for Change
L	Amend NRS 281A.410(1)(b) to clarify that no forms of counseling or representation may be performed for compensation for one year after leaving government service.	This cooling off law could be read to apply only to consultants or other professional advisors (e.g., attorney, CPA) providing direct counseling or representation. The law should clarify that if the former government employee accepts employment with a private advisory business (e.g., law firm, CPA firm, consulting practice), the former employee cannot provide counseling or representation on behalf of his firm on any issue that was under consideration by his former agency for one year after leaving government service, even if he does not bill the client for his services. This is because his firm provides him with a compensation package. Additionally, the Commission has opined that a former government employee who accepts private sector employment cannot counsel his new employer on any issue that was under consideration by his former agency since his salary is compensation for purposes of compliance with this statute. He would have to wait one year after leaving government service before he can counsel his employer.
M	Amend NRS 281A.400 to prohibit an officer or employee from concurrently holding two government agency positions where one position is in the chain of command of the other position ("boss of boss prohibition").	The Commission has rendered several opinions regarding this issue. For example, the Commission has advised that a school teacher may not concurrently serve as a School Board trustee. The Commission has also advised that a county hospital employee cannot also serve as an elected member of the hospital's Board of Trustees. In both situations, as an elected member of a Board, the person would technically be supervising the agency head, who is the elected official's "boss" when that person is performing his full-time public employee duties. Since this relationship has been determined to be a conflict of interest, the statute should clearly articulate and prohibit this conflict in the Code of Ethical Standards so that public employees who are contemplating a run for office will know they cannot hold both positions.
N	Amend NRS 281A.420 to address minimum requirements for a disclosure to be considered adequate. (NRS 281A.420(1))	This statute generally requires that "sufficient information" be disclosed, and the disclosure must be made at the time the matter is considered. The Commission has recently published materials to informally advise public officers how to make an adequate disclosure. However, there is no statutory or regulatory requirement that such guidelines be followed. This statute should be amended providing the Commission with the authority to adopt regulations that specify minimum standards for an adequate disclosure, and that a public officer must meet these minimum standards for his disclosure to be considered "sufficient". The Commission recently heard a request for third-party opinion where a disclosure did not disclose all pertinent information, and also the disclosure referred to a past disclosure. Should this law be amended, such a disclosure would not meet the minimum standards of disclosure.

Item #	Statute Change	Reason for Change
O	Define "gift"	The term "gift" is used in NRS 281A, but no definition currently exists in the chapter. The Commission should define the term, and provide general guidance as to what is and is not a gift. Immateriality of gifts should be addressed in the definition. Additionally, the Governor's Executive Order No. 2011-02 should be reviewed for examples of the types of gifts that can be accepted by a public officer or employee. Preferably, work with Governor and Sec. of State to develop a definition that might cross into FDS and campaigns. Consider researching gift definitions in other states' ethics statutes.
P	Define "public money".	This term "public money" is used in the definition of "public officer" in NRS 281A.160(1)(b)(2). Some high ranking government officials in this state are not classified as public officers only because their agencies are funded by fees instead of from general fund appropriations. Their agencies may collect hundreds of thousands of dollars in such fees. The definition of "public money" in this chapter should include these fee collections and, as a result, these individuals will be classified as public officers and must meet the requirements unique to public officers, such as the filing of financial disclosure statements.
Q	Amend NRS 281A to indicate that if, during a request for first-party opinion, it is determined that a violation of NRS 281A may have occurred, the Commission may determine that the officer or employee has a "safe harbor" from the consequences of such violation if the request was made in good faith.	During the first-party request for opinion process, the Commission may at times determine that a public officer's or employee's past conduct was in violation of NRS 281A. The Commission should have the authority to evaluate the circumstances of the request, and the past conduct, and determine whether the Commission should act on the violation, or provide "safe harbor" to the requestor for coming forward and requesting an opinion. Such "safe harbor" determination should be concluded only if the officer or employee acted in good faith. If it is determined that a first-party request for opinion is filed in order to obtain safe harbor when the officer or employee knows that an ethics violation has occurred, safe harbor will not be offered.
R	Define "employ" and "employment" for purposes of NRS 281A.550.	Since the Commission has determined that these terms relate to independent contractors in addition to employees on a company's payroll, such determination should be made clear through a definition of terms.
S	Amend NRS 281A.200 to address changing of political parties for commission members.	This statute should clarify that NRS 281.057 does not apply to commission member appointments. It is acceptable for a member to have changed political parties within the last two years.

**NEVADA COMMISSION ON ETHICS’
2015 BDR SUBCOMMITTEE**

REPORT AND RECOMMENDATION TO THE FULL COMMISSION

SECTION III: NEW NRS 281A AMENDMENTS NOT RECOMMENDED FOR 2015:

Item #	Statute Change	Reason for Change
T	Provide a more tangible measure for when abstention is required. (NRS 281A.420(4)(b))	NRS 281A.420(4)(b) currently requires abstention in a clear case when the independence of judgment of a reasonable person in the public officer's or employee's circumstances would be materially affected. Reasonable minds certainly have differed over the years as to when abstention is required under this standard. A more clear standard would assist the public officers and the NCOE.
U	Allow imposition of civil penalties, or required action, for non-willful violations. (NRS 281A.480)	NRS 281A.480 - Requiring civil penalties, disgorgement of benefits, restitution to damaged parties or attending ethics training are some potential penalties even if a violation is deemed non-willful.
V	Relief from the strict application of cooling off provisions for Public Utilities Commission members, Gaming Control Board members, and Gaming Commission members. (NRS 281A.550(1) and (2))	A waiver provision similar to those set forth in NRS 281A.410(3) and NRS 281A.550(6) should be made applicable to NRS 281A.550 (1) and (2), for the Commission to authorize former members of the Public Utilities Commission, Gaming Control Board and Nevada Gaming Commission to become consultants in certain circumstances. (This exemption should not extend to employment relationships.)
W	Specify the dates of service for Commission members' appointments. (NRS 281A.200)	NRS 281A.200 should provide for the staggering of Commission member terms so that no more than two members' terms expire in a year. Currently 5 of the 8 Commission members' terms expire in 2015 and 2 more in 2016. This creates an imbalance of new and more experienced members, and does not allow for a smooth transition process. The Legislature may need to grandfather in current members terms. (If a Commissioner is appointed to a new term prior to/during the Legislative Session/effective date of bill, those terms likely grandfathered.)
X	Expand reporting of Representation and Counseling before government bodies to all bodies. (NRS 281A.410(5))	NRS 281A.410(5) requires public officers to report to the Commission compensated work that goes before only State agencies of the Executive Branch. Public officers should also be required to report this type of work performed before local governments.

Item #	Statute Change	Reason for Change
Y	Expand narrow application of "incur an expense" and "make an expenditure" to support a ballot measure or candidate. (NRS 281A.520)	NRS 281A.520 should be expanded to prohibit using staff, email server, warehousing, and other existing government resources even if the agency doesn't expend additional government funds or incur an additional expense.
Z	Revise duties of Executive Director, Commission Counsel and Associate Counsel to conform to expected and current practices.	Many "E.D. shall" provisions in statute do not align with current practice and responsibility - - the Commission should take all specific tasks out of statute and refer to the staff responsibilities and Commission responsibilities. General descriptions of ED and CC positions are fine, but tasks are too specific to be in statute. Those can be in regulations if required at all.
AA	Amend NRS 281A.200(5)(b), 281A.230(5)(a), and 281A.250(5)(a) to specify whether these public officers may file for election and participate in their own campaigns.	"Be actively involved in the work of any political party or political campaign" be reworded to specifically address the issue of campaigning one way or the other. (Commission needs to decide on which approach to recommend.)



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS

WORKSHOP TO SOLICIT COMMENTS ON
PROPOSED REGULATIONS
(NRS 233B.061)

May 22, 2014

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. An audio recording of the open session is available for public inspection at the Commission's office in Carson City.

The Commission on Ethics held a public meeting on Thursday, May 22, 2014, at 10:00 a.m. at the following location:

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

1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.

Vice-Chairman Gregory J. Gale, CPA, called the meeting to order at 10:00 a.m.

Present in Carson City, Nevada, were Commissioners Cheryl A. Lau, Esq. and James M. Shaw. Present via telephone were Chairman Paul H. Lambole, Esq., Vice-Chairman Gregory J. Gale, CPA, Commissioners Tim Cory, Esq. and Magdalena Groover. Also present were Executive Director Caren Cafferata-Jenkins, Esq., Commission Counsel Yvonne Nevarez-Goodson, Esq., and Senior Legal Researcher Darci L. Hayden.

Commissioners John C. Carpenter and Keith A. Weaver, Esq. were excused from this meeting.

2. Open Session for Public Comment.

No public comment.

3. Open Session pursuant to NRS 233B.061 to conduct a workshop to solicit comments from interested persons regarding the Commission's intent to adopt, amend and appeal regulations set forth in NAC Chapter 281A to reflect amendments to NRS Chapter 281A enacted pursuant to Senate Bill 228 of the 2013 Legislative Session (Chapter 551, 2013 Statutes of Nevada), including provisions relating to Commission procedures regarding jurisdiction, notice and investigations of third-party requests for opinion, confidentiality of certain information and documents, the applicability of certain relationships as those within the third degree of consanguinity and other matters related thereto. (See Proposed Regulations set forth in LCB File No. R048-14)

Vice-Chairman Gale confirmed that a quorum of the Commission was present.

Commission Counsel Yvonne Nevarez-Goodson, Esq. gave a brief summary of LCB File No. R048-14's rulemaking procedural status and reminded the Commission that the proposed permanent regulations were approved by the Commission during the Commission's March 19, 2014 meeting. She noted that the approved proposed permanent regulations were forwarded to Legislative Counsel for review and approval, which resulted in the Second Revised Proposed Regulations that are the subject of and were noticed properly for today's workshop and meeting. Ms. Nevarez-Goodson stated that the workshop was held in accordance with the Open Meeting Law and NRS 233B to provide the opportunity for the public to comment on these proposed regulations.

Ms. Nevarez-Goodson reminded the Commissioners of the Public Hearing scheduled for June 11, 2014 where there will be another opportunity for the public to provide written and oral comments, which will be reviewed by the Commission, followed by an opportunity for the Commission to discuss any desired amendments and to act on the final results. Ms. Nevarez-Goodson also pointed out that should there be any substantive changes to the Second Revised Proposed Regulations as a result of public comment or Commission amendments, the regulations would need to go back to Legislative Counsel for review followed by another opportunity for the public to comment at a second, properly noticed public meeting.

Vice-Chairman Gale confirmed there was no one present from the public to offer comments and concurred with the summary offered by Commission Counsel.

4. Open Session for Commissioner comments on matters related to workshop.

Vice-Chairman Gale opened the item to comments from the Commissioners.

Commissioner Cory indicated he had some questions and would confer with Commission Counsel and the Executive Director prior the June 11 Public Hearing and meeting.

5. Open Session for Public Comment.

No public comment.

6. Adjournment.

Vice-Chairman Gale confirmed no further matters needed to be addressed and adjourned the meeting at 10:15 a.m.

Minutes prepared by: _____

Minutes approved: June 11, 2014:

Darci L. Hayden
Senior Legal Researcher

Gregory J. Gale, CPA
Vice-Chairman

AGENDA ITEM NO. 8

AGENDA ITEM NO. 8

14 Nov.2013

State of Nevada
Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City Nevada 89703

ETHICS COMMISSION
COMPLAINT REQUEST

13-81C

RECEIVED

NOV 18 2013

COMMISSION
ON ETHICS

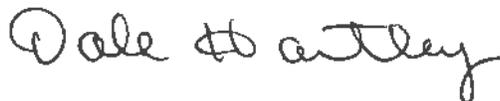
**RE: Request Review for Opinion No. 13-79N regarding Gary Wilson Member
McDermitt Fire District, conflict of interest**

Dear Sir,

I would like to request the Ethics Commission to review my complaint against Gary Wilson of McDermitt NV 89421 for Conflict of interest. Wilson who is a member of the McDermitt Fire District Board has a conflict due to renting a House that he owns at 335 Jaca Dr. to Humboldt General Hospital and he is voting on the next phase of the McDermitt Multiplex being built and HGH EMS is moving to a two story apartment being built in the Complex and Wilson has stated in the Oct. 4 Fire District Board minutes that the fire District is not signing any contract unless they know where the money is coming from .

I am providing Humboldt County Tax Assessor Data and Records Office records showing that Parcel # 003-591-50 located at 335 on Jaca Dr is owned by Gary Wilson . The Data and records are Public information. Map is included also.

Sincerely,



Dale Hartley
Quinn River TV District Director .

NOV 18 2013

13-81C

NEVADA COMMISSION ON ETHICS
THIRD-PARTY REQUEST FOR OPINION
NRS 281A.440(2)

COMMISSION ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

NAME: <small>(Last, First)</small>	Wilson Gary		TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>	Board Member McDermitt Fire District.
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>	Humboldt County NV 89445			
ADDRESS: <small>(Street number and name)</small>	P.O. Box 36	CITY, STATE, ZIP CODE	McDermitt NV 89421	
TELEPHONE:	<small>Work:</small> 775-532-8536	<small>Other: (Home, cell)</small> 775-5328762	E-MAIL:	Gary-patti@hotmail.com

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here if additional pages are attached.

I attended a 10 Oct.2013 McDermitt NV Fire District meeting and found that the Board has only 3 members on the Board . The Agenda stated the Fire Dist. Board was taking up the next phase of the CDBG application which is to build a 39x40 Ft. two story section apartment in the Multiplex for the Humboldt County Hospital EMS and Sheriff's dept. . The current EMS station is on Jaca Road In McDermitt owned by Board Member Wilson and Wilson is voting on a Project where the EMS will move to .This will be a loss of rental money to Wilson plus Wilson stated in the 4 Oct. minutes he is not voting for any contract since the McDermitt fire District has no money which is a true statement . Two County Commissioners where present at the 10 Oct. meeting Marlene Brissenden,Jim French plus HGH CEO Parish ,County Sheriff Kilgore and HGH EMS chief Pat Songer . Contacted Bill Deist the next week and stated I had a concern about a Board member having a conflict of interest on the McDermitt Fire District .Deist informed me the Fire Dist Board had only 3 members . Deist did not state what action was going to be taken but his email was sent to the county DA's office also and to Commissioner Brissenden . When I sent a request to the McDermitt Fire District for minutes from back meetings and the Agenda sent to me each month the same day I received the minutes my vehicles windows where shot out and had to file a Sheriff's report #131022071 . Wilson was on the street the same day . The County Commission is aware of the conflict of interest .

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:

Humboldt County commission is ware of the Conflict for months . The HGH CEO Parish I assume is aware also since HGH rents a House on Jaca Road from Gary Wilson Board Member Fire District . And contacted Comm. Brissenden on 13 Oct by phone and she is aware of the Conflict . And Maybe County DA's office .

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input checked="" type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input checked="" type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input checked="" type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input checked="" type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input checked="" type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input checked="" type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here if additional pages are attached.

NAME and TITLE: (Person #1)	Jeff Johnson Humboldt County Tax Assessor		
ADDRESS:	50 W. 5th St.	CITY, STATE, ZIP	Winnemucca NV 89445
TELEPHONE:	Work: 775-623-6310	Other: (Home, cell)	E-MAIL: Assessor@hcnv.us
NATURE OF TESTIMONY:	Jeff Johnson Humboldt County Assessor can confirm who owns the property located at 335 Jaca Dr. in McDermitt NV 89421, APN # 03-591-50		
NAME and TITLE: (Person #2)	Mary A. Hammond Humboldt County Recorder		
ADDRESS:	25 W. 4th St	CITY, STATE, ZIP	Winnemucca NV 89445
TELEPHONE:	Work: 775-623-6412	Other: (Home, cell)	E-MAIL: recorder@hcnv.us
NATURE OF TESTIMONY:	Mary A Hammond Humboldt County recorder can confirm who has the deed of trust to 335 Jaca Dr Document APN1 APN # 003-591-50 document year WEnesday Nov. 07 2007 ,Document Number 10082. House on lot 50 .		

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input checked="" type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input checked="" type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input checked="" type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input checked="" type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input checked="" type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here if additional pages are attached.

NAME and TITLE: (Person #1)	Marlene Brissenden Comm. Humboldt County		
ADDRESS:	50 W. 5th ST.	CITY, STATE, ZIP	Winnemucca NV 89445
TELEPHONE:	Work: 775-623-6300	Other: (Home, cell) 775-623-3988	E-MAIL:
NATURE OF TESTIMONY:	Met Comm. Brissenden at the 6 PM 10 Oct 2013 McDermitt Fire District meeting and asked if she had any Comments or talking points and she stated no .Then contacted her at 775-623-3988 On 13 Oct 2013 and asked her if she was aware of the Gary Wilson Conflict of interest and she stated she was . I was asked if I was going to file a complaint and stated no and did not have some of my facts correct and was not doing one at that time . Everything appeared to be legal except for Wilson stating he had a conflict of Interest . Did not ask what the county Commission was going to do or any action taken by the commissioners .		
NAME and TITLE: (Person #2)	Bill Deist Humboldt County Manager		
ADDRESS:	50 W. 5th ST.	CITY, STATE, ZIP	Winnemucca NV 89445
TELEPHONE:	Work: 775-623-6300	Other: (Home, cell)	E-MAIL: administrator@hcnv.us
NATURE OF TESTIMONY:	Contacted Mr. Deist County Manager by email to his office on 16 Oct. about my concern that a McDermitt Fire Dist. Board Member had a conflict of interest and some of my facts as to number of Board members was off by two .Deist confirmed the Board had only 3 members but sated nothing about the conflict or action the commission was taking on the matter and did not ask . His return email showed sending comments to Comm. Brissenden and to the County DA's office . I did not state any McDermitt Fire Dist. Board member in my email or give a name		

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. [NAC 281A.435\(3\)](#) defines credible evidence as 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. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 10.

7. REQUESTER'S INFORMATION:

YOUR NAME:	Dale E. Hartley		
YOUR ADDRESS:	P.O. Box 462	CITY, STATE, ZIP:	McDermitt NV 89421
YOUR TELEPHONE:	Day: 775-532-4140	Evening: 775-532-4140	E-MAIL: griprim12@yahoo.com

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

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Dale E Hartley
Signature:

14 NOV 2013
Date:

Dale E. Hartley
Print Name:

Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments 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\(3\)](#)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

335
Jaca
Dr.



Welcome to the
new home of

FGH EMS

Hospital
Emergency Service
EMS
RE
CF
1
VOT



Welcome to the
new home of
HGH EMS

General Hospital
and Service
EMS
PREPARED
BY
DATE

335
Jacoa Dr.



335
Jaca Dr.



Secured Tax Inquiry

Position List To:

Parcel # 8 digits, no dashes Partial Owner Name

examples: SMITH, M / ACME MARKETS

Search Results - Select for Detail				
Parcel #	Roll #	Assessed Owner Name	Parcel's Total Balance	Tax Service Code
010-542-03	017133	WILSON GARY C	408.00	
003-591-50	017134	WILSON GARY D/ALBISU PATRICIA M		
013-055-08	017135	WILSON GLEN L & LINDA M	524.00	
013-422-07	017136	WILSON JODI L	342.00	
010-695-11	017137	WILSON KEVIN G	552.14	
015-441-01	017138	WILSON KRAIG & SANDRA	784.00	
013-412-24	017139	WILSON MARK B	324.00	
014-262-05	017140	WILSON MICHAEL D & JESSI W	162.00	
005-553-04	017141	WILSON PAUL L	52.79	
007-291-57	017142	WILSON PAUL THOMAS & DEBRA LYNN		
003-491-29	017143	WILSON RANCH INC		
003-571-12	017144	WILSON RANCH INC	52.74	
003-571-31	017145	WILSON RANCH INC		
003-574-03	017146	WILSON RANCH INC		
003-574-04	017147	WILSON RANCH INC		
003-575-01	017148	WILSON RANCH INC	2.56	
Pink=Prior Year Taxes Owed				

iris on the web



▼ **LAND APPLICATION**

- LAND SEARCH
- DOCUMENT HEADER
- DOCUMENT NAMES
- SUBDIVISIONS
- SECTION LAND
- MINING CLAIMS
- DOCUMENT AFFECTED
- DOCUMENT APN
- LAND MAP INFORMATION

▼ **UCC APPLICATION**

- UCC SEARCH
- UCC HEADER
- UCC NAMES
- UCC COLLATERAL
- UCC AFFECTED NUMBER

Document Index Information

Document has been Certified on Wednesday, November 07, 2007

DOCUMENT HEADER 1

DOCUMENT YEAR: 2007
DOCUMENT NUMBER: 10082
FILING DATE: Friday, November 02, 2007
FILING TIME: 1:12:37 PM
PAGE COUNT: 14
DOCUMENT TYPE: DEED OF TRUST
RECORDING FEES: \$23.00
ADDITIONAL FEES: \$4.00
DOCUMENT INITIALS: JW
INSTRUMENT DATE: Tuesday, October 16, 2007

DOCUMENT NAMES 1

GRANTOR: ALBISU PATRICIA M
 WILSON GARY *
GRANTEE: BANK OF AMERICA NA
 PRLAP INC

SECTION LAND 1

SEC SECTION: 32
SEC TOWNSHIP: 48N
SEC RANGE: 38E
SEC PARCEL: 2
SEC REMARKS: LASA 1981 TRUST MAP
 254429

DOCUMENT AFFECTED NUMBER 1

AFF YEAR: 1985
AFF NUMBER: 254429
AFF REMARKS: MAP

DOCUMENT APN 1

APN NUMBER: 03-591-50
APN STREET: 335 JACA
 DRIVE/MCDERMITT NV

RETURN ADDRESS
 FISERV LENDING
 SOLUTIONS
 ENVELOPE
 ATTACHED
 PO BOX 2590
 CHICAGO, IL 60690

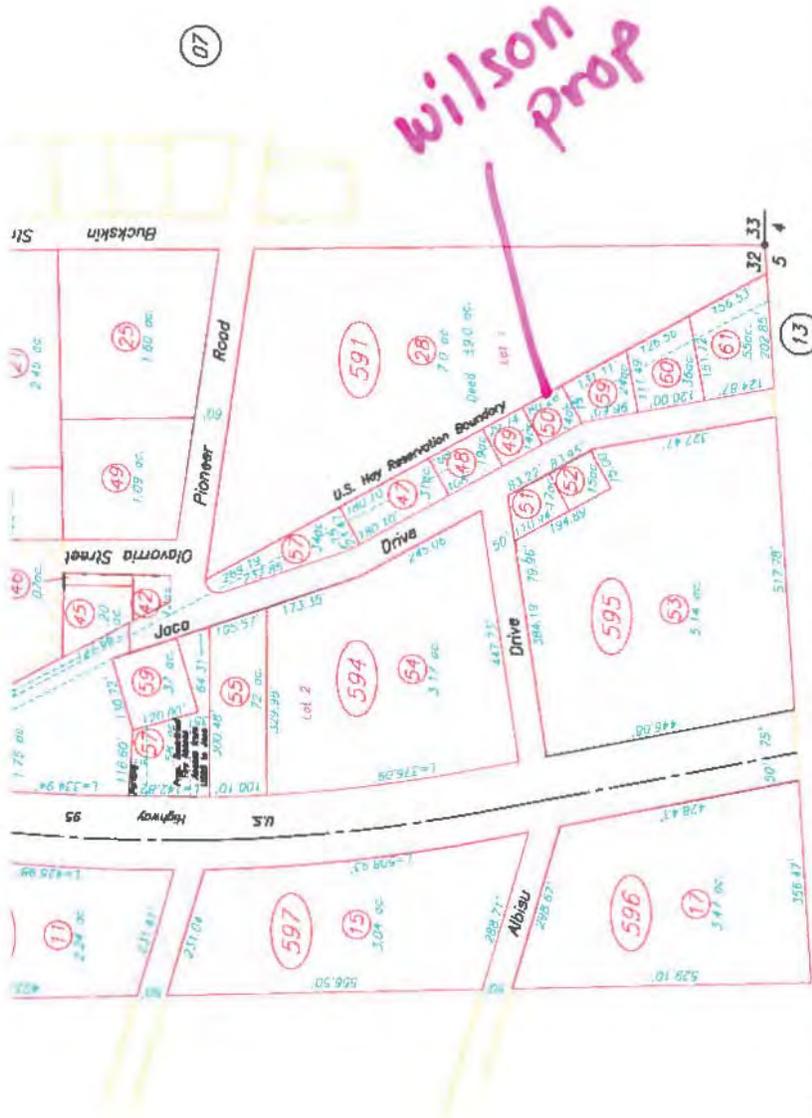
Account Type restricts viewing images for this Document.

1" = 200'
8.0.0.204

McDermitt
HUMBOLDT
COUNTY

NOTED: This plan is for informational purposes only and does not represent a warranty of the facts on this plan.

HUMBOLDT COUNTY ASSessor's OFFICE
HUMBOLDT, NEVADA 89301



07

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67

- (776 No. 178256 / July 20, 1977 / R.O.S. R.M.C.)
- (776 No. 254428 (Rev. 254430) / Nov. 20, 1983 / P.M. R.M.C.)
- (776 No. 315201 / Feb. 15, 1990 / P.M. R.M.C.)
- (776 No. 2012-1972 / April 1, 2012 / B.L.A. J.H.M. 40)



Assessor Data Inquiry

Back to Last Page

Secured Tax Inquiry Detail for Parcel # 003-591-50				
Property Location: 335 JACA DR Billed to: WILSON GARY D/ALBISU PATRICIA M PO BOX 27 MCDERMITT, NV 89421			Roll #: 017134	Tax Year: 2014
			District: 8.0	Tax Service:
			Land Use Code: 200	
Outstanding Taxes:				
Prior Year	Tax Penalty/Interest	Total	Amount Paid	Total Due
2011+	442.45	442.45	442.45	
2012	227.88	227.88	227.88	
2013	237.16	237.16	237.16	.00
<u>Current Year</u>				No Taxes Owning
08/19	64.18	64.18	64.18	.00
10/07	61.00	61.00	61.00	.00
01/06	61.00	61.00	61.00	.00
03/03	61.00	61.00	61.00	.00
Totals	247.18	.00	247.18	

Payment Cart

History



[Assessor Data Inquiry](#)

[Back to Last Page](#)

Secured Tax Inquiry Detail for Parcel # 003-591-50					
Property Location: 335 JACA DR			Roll #: 017134		
Billed to: WILSON GARY D/ALBISU PATRICIA M			Tax Year: 2014		
PO BOX 27			District: 8.0		
MCDERMITT, NV 89421			Tax Service:		
			Land Use Code: 200		
Outstanding Taxes:					
Prior Year	Tax	Penalty/Interest	Total	Amount Paid	Total Due
2011+	442.45		442.45	442.45	
2012	227.88		227.88	227.88	
2013	237.16		237.16	237.16	.00
Current Year					No Taxes Owing
08/19	64.18		64.18	64.18	00
10/07	61.00		61.00	61.00	00
01/06	61.00		61.00	61.00	00
03/03	61.00		61.00	61.00	.00
Totals:	247.18	.00	247.18	247.18	

[Payment Cart](#)

[History](#)

Re: Minor problem on the McDermitt Fire District Board

From: **Bill Deist** (administrator@hcnv.us) You moved this message to its current location.
Sent: Fri 10/18/13 3:07 PM
To: Dale Hartley (mapreader894@live.com)
Cc: Michael Macdonald (hcda-michael@hcnv.us); Marlene Brissenden (commissionermcb@hcnv.us)

Mr. Hartley,

Thank you for your e-mail expressing concerns with the McDermitt Fire District Board. I reading this I assume that you believe this is a 5 member Board. The Board was created in 1948 by a vote of the people in the District and the first board was elected at the same time. That Board was a three member board. This board was created under the statues in place at that time and they later became NRS 274 which we operate under today. NRS 474.070 allows for a three or five member board. As the original board was a three member board no one has suggested or requested a change to five members so the board continues as a three member board. As a result there is no vacancy on the board at this time.

Once again thank you for your concerns.

Bill Deist

----- Original Message -----

From: Dale Hartley
To: Bill Deist
Sent: Wednesday, October 16, 2013 11:22 AM
Subject: Minor problem on the McDermitt Fire District Board

Hello Mr. Deist

When I attended the 10 Oct McDermitt Fire District meeting on 10 Oct . I saw only 3 board members present and its a five member board .
And then noted one member has a conflict and is voting on a critical project the McDermitt Multiplex and the person is putting the project in Jeopardy. When I looked at the last meeting minutes saw on 3 members where present again . I went and read NRS 474.145 Vacancies , when a Vacancy occurs the local Board can appoint a member then after 30 days the County commission can step in and appoint a person to the local board . Its not clear if there is a 4th member but have checked and they are short a member or two . If there was a 4th or 5th member they could remove the person who has a conflict from the crosshair and then the person states they have a conflict and remove themselves from voting . Its a easy task do this and the other members pitch in . I asked Marlene last week if she was aware of the person on the local boards conflict and I was asked if I was going to do a complaint . I **stated no** . But the county needs to correct the problem so it does not put the McDermitt Multiplex project in Jeopardy . Its an easy task to appoint one or two people to the board . And if there is a person absent the NV Open Meeting law book states they can do a conference call as long as they use the books Guidelines . Have a good day

Sincerely,
Dale Hartley

Minor problem on the McDermitt Fire District Board

From: **Dale Hartley** (mapreader894@live.com)

Sent: Wed 10/16/13 12:22 PM

To: Bill Deist (administrator@hcnv.us)

Hello Mr. Deist

When I attended the 10 Oct McDermitt Fire District meeting on 10 Oct . I saw only 3 board members present and its a five member board .

And then noted one member has a conflict and is voting on a critical project the McDermitt Multiplex and the person is putting the project in Jeopardy. When I looked at the last meeting minutes saw on 3 members where present again . I went and read NRS 474.145 Vacancies , when a Vacancy occurs the local Board can appoint a member then after 30 days the County commission can step in and appoint a person to the local board . Its not clear if there is a 4th member but have checked and they are short a member or two . If there was a 4th or 5th member they could remove the person who has a conflict from the crosshair and then the person states they have a conflict and remove themselves from voting . Its a easy task do this and the other members pitch in . I asked Marlene last week if she was aware of the person on the local boards conflict and I was asked if I was going to do a complaint . I **stated no** . But the county needs to correct the problem so it does not put the McDermitt Multiplex project in Jeopardy . Its an easy task to appoint one or two people to the board . And if there is a person absent the NV Open Meeting law book states they can do a conference call as long as they use the books Guidelines . Have a good day

Sincerely,
Dale Hartley

**Notice of Public Meeting
of the
McDermitt Fire District Board**

The McDermitt Fire District Board will conduct a public meeting on Thursday, October 10, 2013 at 6:00 PM at the following location:

**McDermitt Community Hall
McDermitt, Nevada**

Below is an agenda of all items scheduled to be considered. Unless otherwise stated, items may be taken out of the order presented on the agenda at the discretion of the Chairperson.

Reasonable efforts will be made to assist and accommodate physical handicapped person desiring to attend the meeting. Please call Bruce Easterday at (775-532-8762) in advance so that arrangements may be conveniently made.

Public comments may be limited to ten (10) minutes per person at the discretion of the Chairperson.

AGENDA

(Action may be taken on those items denoted "Action")

1. Call to Order and Roll Call (Action)
2. Approval of agenda (Action)
3. Approval of minutes from previous meeting (Action)
4. Review/Approval of bills, if any (Action)
5. Business Impact: Determination that one or more agenda items do or do not impose a direct and significant economic burden on a business or directly restrict the formation, operation, or expansion of a business (Discussion/Action)
6. Review revised Agreement for Engineering & Construction Design Services with Iridium Consulting LLC (Bret Dowty), scope of work as stated in the CDBG application, Statement of Qualifications as advertised in Humboldt Sun, and additional costs to complete the McDermitt Community Services Multiplex (Discussion/Action)
7. Board commentary (Discussion only)
8. Public comment. No action may be taken on a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken.
9. Adjournment (Action)

This notice and agenda has been posted on or before 9:00 AM on the third working day before the meeting at the following locations:

- (1) Main office of McDermitt Combined School, 100 Olavarria Street, McDermitt, NV
- (2) McDermitt Post Office, Highway 95 North, McDermitt, NV
- (3) Ideal Market, Highway 95 South, McDermitt, NV
- (4) Say When Casino, Highway 95, McDermitt, NV
- (5) McDermitt Community Hall, 100 Jaca Road, McDermitt, NV

McDermitt Fire District is an equal opportunity provider

McDermitt Fire Board Minutes for October 4, 2013

Members present: Bruce Easterday, Gary Wilson and Hank Kershner

Guests present: None

The meeting was called to order at 6:04 P. M. Bruce made a motion to approve the agenda of October 4, 2013 and the minutes of the September 17, 2013 meeting. Gary seconded, 3-0 approved.

Gary stated that the balance in the budget for Service and Supplies is approximately \$9,500.00 at this time, and the end of the fiscal year is June 30, 2013. Hank made a motion to approve the bills, which include Chevron for fuel (\$102.83), and Merten's for batteries (\$235.62). Bruce seconded, 3-0 approved.

Bruce made a motion that there is no impact on any business in McDermitt from this meeting, Hank seconded, 3-0 approved.

wilson
*** Gary made a motion that the Board not sign an agreement until it has been determined what the additional costs will be in regards to scope of work, engineering fees, etc. in completing the Community Services Multiplex, and what source of funds will pay for it, due to the fact that the Fire District does not have the funds. Bruce seconded, 3-0 approved.

fire truck The structure fire truck was donated to the Fire District by Boulder City Fire Department, and since the McDermitt Fire District does not have any money invested in the truck, Bruce made a motion to put the structure fire truck on the public auction list, because the repair costs (approximately \$10,000) to replace the blower drive is not affordable within our budget. Hank seconded, 3-0 approved.

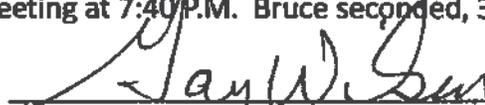
Gary suggested rescheduling the date of the BBQ/Public Auction/Raffle, due to conflict with Orovada's Fall Festival, and the Nevada Day weekend. Hank made a motion to reschedule it for Saturday, November 2nd, 2013 at noon, and lunch would include tri-tip and burgers with side dishes at a cost of \$10.00 per person (includes one ticket for raffle), no host bar will be provided @\$2.00 per drink, with public auction to follow. Bruce seconded, 3-0 approved.

Bruce made a motion to disregard the dispute with Web Steel regarding reimbursement to the Fire District for the fuel in the amount of \$348.97, because it was taken out of last year's budget. Gary seconded, 3-0 approved.

Board commentary – Bruce said, we need to have a meeting with Bret Dowty to discuss his intentions of engineering the Community Services Multiplex, his costs, and any additional costs to complete the Community Services Multiplex. Gary will check with Bret, and set up the meeting.

Public commentary – None

Gary made a motion to adjourn the meeting at 7:40 P.M. Bruce seconded, 3-0 approved.



Submitted by Gary Wilson, Secretary

AGENDA ITEM NO. 9

AGENDA ITEM NO. 9

JAN 30 2014

COMMISSION ON ETHICS

NEVADA COMMISSION ON ETHICS
 THIRD-PARTY REQUEST FOR OPINION
 NRS 281A.440(2)

14-122

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

NAME: <small>(Last, First)</small>	Garner Brian		TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>	County Commissioner
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>	Lander County			
ADDRESS: <small>(Street number and name)</small>	Po Box 595	CITY, STATE, ZIP CODE	Battle Mtn. NV 89820	
TELEPHONE:	<small>Work:</small> 775-374-0365	<small>Other: (Home, cell)</small>	E-MAIL:	

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here if additional pages are attached.

- Intention to bid on County Contract
- Did not declare personal conflict in renewal of existing contract.
- Made motion to not renew contract because of personal interest to bid on contract
- Did not abstain from discussion nor voting because of personal interest for the contract.
- Made false statement of "NO" personal interest to contract.

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:

NO

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input checked="" type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input checked="" type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input checked="" type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input checked="" type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input checked="" type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input checked="" type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here if additional pages are attached.

NAME and TITLE: (Person #1)	Steve Steinmetz Commissioner		
ADDRESS:			CITY, STATE, ZIP
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:	was present at commission meeting		
NAME and TITLE: (Person #2)	Nicole Ting Deputy District Attorney		
ADDRESS:			CITY, STATE, ZIP
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:	was present at commission meeting		

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. [NAC 281A.435\(3\)](#) defines credible evidence as 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. A newspaper article or other media report will not support your allegations if it is offered by itself.

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

7. REQUESTER'S INFORMATION:

YOUR NAME:	Scott Bullock		
YOUR ADDRESS:	340 Elquist Dr.	CITY, STATE, ZIP:	Battle Mtn. NV 89820
YOUR TELEPHONE:	Day: 775-741-0542	Evening:	E-MAIL:

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

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Scott Bullock
Signature:

Jan. 23rd 2014
Date:

Scott Bullock
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments 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\(3\)](#)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

Lander County Commissioners
315 South Humboldt Street
Battle Mountain, NV 89820

October 1, 2013

Lander County Commissioners:

This letter is to inform you of my intent to bid for the management position of the Mountain View Golf Course Clubhouse for season's 2014 and 2015.

I would like to be put on the Commissioners' meeting agenda to be considered for this position and to submit a proposed contract.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Garner", written in a cursive style.

Brian Garner
Brian's B-Bque Pit
10 N 2nd Street
Battle Mountain, NV
775-374-0365

Attachment #2

Lander County Commissionssioners
315 South Humboldt Street
Battle Mountain, NV 89820

September 20, 2013

Lander County Commissioners:

This letter is to inform you of my intent to bid for the management position at the Mountain View Golf Course clubhouse for the 2014 and 2015 seasons.

I would like to be put on the Commissioners' meeting agenda to be considered for this position and to submit a proposed contract.

Sincerely:



Fallon Hill
316 W 2nd Street
Battle Mountain, NV
775-385-5694

Attachment #2

Bullock Management
P.O. Box 246
Battle Mountain, NV 89820
(775)741-0542

September 30, 2013

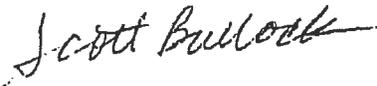
Jacob Edgar
Public Works Foreman
550 West Second Street
Battle Mountain, NV 89820

Re: Renewal of Contract for Mountain View Golf Course Management

The contract between Bullock Management and Lander County will be completed on November 1, 2013. I would like to request a renewal of our contract beginning March 1, 2014 with the following amendment. I request that the annual contract amount payable to Bullock Management be increased from \$10,000 to \$16,000 with the stipulation that Bullock Management provide 10 golf carts and routine cart maintenance. Previously, the carts were leased from The Cart Barn and maintenance was provided by Bullock Management. By allowing Bullock Management to provide the carts, the county would save a little over \$2,000 annually.

I would be happy to discuss this with you at your earliest convenience. If you have any questions or would like to schedule a meeting, please contact me at (775)741-0542.

Sincerely,



Scott Bullock
Bullock Management, Owner

Attachment #4

1 19) Discussion for possible action regarding renewal of the
2 Mountain View Golf Course Management contract between
3 Lander County and Scott Bullock, dba Bullock Management
4 Services, and other matters properly related thereto.
5

6 CHAIRMAN BULLOCK: Item Number 19, discussion for possible
7 action regarding renewal of the Mountain View Golf Course
8 Management contract between Lander County and Scott Bullock, dba
9 Bullock Management Services, and other matters properly related
10 thereto.

11 SCOTT BULLOCK: Good morning, Commissioners. Uh, Scott
12 Bullock. Um, I currently have the contract at the Mountain View
13 Golf Course to manage the clubhouse and just re -- wish to renew
14 that contract.

15 At this time, um, I feel we've done a good job in the last
16 two years getting a lot new faces out to the golf course and
17 seeing what facility the county has to offer, you know, out
18 there for the public.

19 COMMISSIONER GARNER: What -- are we opening this back up?
20 To bid?

21 We have people.

22 CHAIRMAN BULLOCK: Not if we negotiate it. We don't -- um,
23 let me read this before I say anything. Okay.

24 Pursuant to NRS 281A.420, I am disclosing that have an
25 interest in a private capacity in this decision because of my
26 son is Scott Bullock, and his company has a lease with the golf
27 course. Even though I have an interest in a private capacity in
28 this matter, because my son is Scott Bullock, I believe my
29 decision will not be affected by that interest. And any
30 decision would not give me any more financial and/or personal
31 gain or loss than anyone else that would be affected by this
32 decision. Therefore, I will not be abstaining from this
33 decision.

34 It's no -- this -- now that I've said that. This is no
35 different than the lawns, the airport, the janitorial. We give
36 them to option to renew. And that's the way -- that's -- that's
37 kind of the precedence that's been set. I mean, it's up to the
38 Commission if they want to renew it or go back out for bids.
39 That's why it's here.

40 COMMISSIONER WAITS: I have a couple concerns. I certainly

1 don't have any problem with the renewal. I think we've had
2 some -- some excellent feedback on the type of establishment
3 that -- that Scott has been doing and the dedication that he's
4 put in. But I do have a couple of concerns on, again, taking a
5 look at the contract and perhaps tightening it up a little bit.

6 One, I don't understand, we're -- we're getting green fees
7 and cart rental. And I don't know -- I asked Rogene how often
8 we were getting those and what was set, because all it said was
9 what was proper bookkeeping. And she said the -- that we get
10 them at different periods. I want to know if there was any kind
11 of an audit done. And she said Jane gets all the information
12 from you, but like this last time she got it, it was almost a
13 three-month delay before she got it. And I think that puts
14 extra pressure on her when she should be getting it on a more
15 routine basis: weekly, bi-weekly, whatever we decide. But I
16 think we should tighten that up.

17 The other thing I looked at was the collection fee. It
18 says, Lander County shall pay to Bullock, per year, the sum of
19 10,000 as payment for collecting these fees. I think it is a
20 little bit different than when we go out to bid for other
21 janitorial services, because we're -- we're giving you the
22 actual rental. And we're supposedly taking care of the building
23 and the repairs. And we take care of -- of utilities. And yet,
24 I don't understand if you're getting that, I think that's a
25 great plus for a business, but why are we still giving you
26 \$10,000 a year?

27 So I did ask on the background on that. And Rogene was
28 kind enough to fill me in, if you would like to make --

29 ROGENE HILL: Okay, basically, the way the contract has
30 always read, before this last contract, was the 10,000 was just
31 paid to a new contractor the first year. Basically, that was to
32 help them get their license, get their inventory. And it was
33 just a one shot for that first year. It was never set up to be
34 a yearly payment. And the -- and I believe in that contract, it
35 reads the 10,000 is for collecting the fees. That was not a
36 fact, the \$10,000 was basically just to help that contractor get
37 set up in their business.

38 The -- in return for collecting the fees for the county,
39 that was for the -- basically, getting your free rent, your
40 utilities paid, and the repair and maintenance being paid. So

1 -- just a clarification of the contract before this last
2 contract.

3 SCOTT BULLOCK: Before my contract, um, the people that ran
4 it, all they had do was collect the green fees, fill out one
5 form, deposit it in the bank, hand that form over to Grace.
6 Now, the process to collect the fees, you have to fill out
7 different reports, provide a bunch more information in that
8 report, and turn it over to --

9 ROGENE HILL: No, that's been ongoing since Falzones were
10 out there.

11 SCOTT BULLOCK: No, I talked to Jeannie and she told me how
12 it was done.

13 ROGENE HILL: I -- come to the office. I've got the --

14 SCOTT BULLOCK: I -- so it takes at least three hours a
15 week to do each one of them reports. But to do the report, take
16 to the bank, take it to all the officers. So just like they get
17 paid to do reports in the Financial Department, I thought 10,000
18 was fair to collect your money and do your reports.

19 COMMISSIONER WAITS: And you don't feel the offset of the
20 rent and utilities and the repairs is enough offset? Is that
21 it?

22 SCOTT BULLOCK: I mean. I -- no.

23 COMMISSIONER STIENMETZ: But I feel --

24 SCOTT BULLOCK: I feel -- I feel I'm collecting the money
25 for the county. I'm providing services. I advertise for the
26 county to get people out there to golf, all part of, you know,
27 to help the county get more money. So -- I'm not asking for a
28 ton of money to collect money and do reports just like you
29 already pay people to. If you want to get rid of the 10,000,
30 all I have to do is collect the money, fill out one paper, and
31 put it in the bank, and they can do the reports, great. I'm
32 happy.

33 NICOLE TING: I'm Nicole Ting, for the record. Scott, what
34 also is in here? You do all the special events in here, too?

35 SCOTT BULLOCK: Yeah. Yeah.

36 COMMISSIONER GARNER: But like -- all contracts we've had
37 for grass and everything else, if anybody's interested in the --
38 we've put them back out the bid, correct?

39 CHAIRMAN BULLOCK: No. We've always give the contractor
40 the option to renew.

1 COMMISSIONER GARNER: Since when?

2 CHAIRMAN BULLOCK: That's been set for years. I don't
3 think anybody's bid the airport in I don't know how many years.

4 COMMISSIONER GARNER: But we've never had a letter of
5 intent for anybody to bid it.

6 CHAIRMAN BULLOCK: Well, I know personally there was a
7 letter of intent to do the lawns and that never got put out to
8 the bid.

9 COMMISSIONER GARNER: Why not?

10 CHAIRMAN BULLOCK: Because that's just been the precedent.
11 That's just what I'm saying. It's always been the option to
12 give the contractor that option, unless there's -- there's
13 problems. That's just been the way it -- the precedence has
14 been set for years.

15 COMMISSIONER STIENMETZ: But in here, you're asking to
16 raise that fee from 10,000 to 16,000.

17 SCOTT BULLOCK: Right, but eliminate -- I will provide ten
18 golf carts. Right now the county provides five golf carts for
19 me, which costs them in the range of \$7- to \$8,000 a year. So I
20 would get rid of that part of my contract, save the county a
21 couple thousand dollars, and make sure that there's five more
22 carts than normal for people to golf with. I'd have ten carts
23 out there at all times for people to use to golf on the course.
24 And the county would no longer need to provide the five golf
25 carts that they already do. So it would be saving you money.

26 ROGENE HILL: Well, basically, we would be renting them
27 from -- we would just change our lease. I would not say that
28 you would put that in this contract. It would be no different
29 than we have the rental with the Cart Barn, I think, --

30 SCOTT BULLOCK: No --

31 ROGENE HILL: -- is where we get it from.

32 SCOTT BULLOCK: On my -- on my request for renewal, I put
33 that as a change in there, to just change the amount of money I
34 get and to get away with -- with the county renting that.

35 ROGENE HILL: No, I think you need a separate -- I think
36 you're talking two different things. Right now, you provide the
37 five carts --

38 SCOTT BULLOCK: You --

39 ROGENE HILL: -- on your own.

40 SCOTT BULLOCK: You provide the five carts.

1 CHAIRMAN BULLOCK: No. No. The county does.
2 ROGENE HILL: We do. Yes. But then he bought some carts
3 too.
4 CHAIRMAN BULLOCK: Which we didn't have to.
5 SCOTT BULLOCK: I don't have to.
6 ROGENE HILL: No, he didn't have to. That was -- that was
7 for him, and he collects the fees.
8 SCOTT BULLOCK: Right.
9 COMMISSIONER MASON: If -- if we sign this, you do have to.
10 SCOTT BULLOCK: Yeah, I --
11 CHAIRMAN BULLOCK: Yeah, he's required to.
12 SCOTT BULLOCK: -- ten carts.
13 COMMISSIONER MASON: Now we don't have to supply the five
14 carts and maintain them.
15 SCOTT BULLOCK: Right. Correct.
16 ROGENE HILL: Right. You're just doing -- the five cart
17 part, you would just be eliminating your lease that you have
18 with the Cart Barn out of Reno. And instead, you would be
19 leasing the carts from Scott.
20 SCOTT BULLOCK: It wouldn't be a lease. It's just the
21 contract provides more.
22 ROGENE HILL: A monthly -- or not a monthly. It's not a
23 lease. We do a yearly -- Jake, what is it?
24 JAKE EDGAR: But he's saying -- he's saying something
25 completely different.
26 CHAIRMAN BULLOCK: Yeah, just put it in the contract that
27 we don't provide anything. He's just --
28 JAKE EDGAR: We don't provide anything anymore. He's
29 providing it.
30 CHAIRMAN BULLOCK: It's no lease. It's no nothing.
31 JAKE EDGAR: But what he's asking for to me, and I'm not
32 saying -- you're going to save the county an extra couple
33 thousand dollars, but you're really not, because you're asking
34 for 16,000 instead of 10,000. So --
35 ROGENE HILL: But the --
36 JAKE EDGAR: We're only going to save 2,000 bucks. But
37 really, you're doing the maintenance and all that anyway. So, I
38 mean, it's pretty much a wash. So -- I'm just saying.
39 SCOTT BULLOCK: No. Two thousand's --
40 JAKE EDGAR: Doesn't matter what you look upon --

1 SCOTT BULLOCK: Two thousand's two thousand. I guess.
2 COMMISSIONER WAITS: Okay, clarify for me then -- because
3 I'm still a bit confused on this. Right now we have five golf
4 carts, and you have -- personally.
5 SCOTT BULLOCK: I personally own by my own golf carts.
6 COMMISSIONER WAITS: How many?
7 SCOTT BULLOCK: Eight, ten.
8 COMMISSIONER WAITS: Okay. So when we rent those five, you
9 collect the money for us and send it to the county?
10 SCOTT BULLOCK: No.
11 CHAIRMAN BULLOCK: Cart fees have always --
12 SCOTT BULLOCK: You get the green fees, the trail fees, and
13 the Cart Barn storage fees. That's what the county gets.
14 COMMISSIONER WAITS: Okay. Okay.
15 COMMISSIONER MASON: The extra carts are his.
16 COMMISSIONER WAITS: So it doesn't make any difference if
17 you rent your carts or our carts. It all goes to you on the
18 carts.
19 SCOTT BULLOCK: Yeah.
20 COMMISSIONER WAITS: So now you're saying that if we rented
21 them from you, if we --
22 SCOTT BULLOCK: I'm not even saying rent them. I'm just
23 saying --
24 COMMISSIONER WAITS: We pay you an additional 6,000 --
25 SCOTT BULLOCK: One month --
26 ROGENE HILL: It's one -- either you're paying Cart Barn or
27 him.
28 COMMISSIONER MASON: He's committing himself.
29 COMMISSIONER WAITS: We pay you an additional \$6,000 a year
30 instead of the Cart Barn. That's what you're saying.
31 SCOTT BULLOCK: Right.
32 COMMISSIONER WAITS: Right.
33 SCOTT BULLOCK: More or less.
34 COMMISSIONER WAITS: Okay.
35 COMMISSIONER MASON: He's also saying he's going to provide
36 ten carts.
37 SCOTT BULLOCK: I'll provide -- I'll make sure there's ten
38 running carts at all times.
39 COMMISSIONER MASON: At all times.
40 SCOTT BULLOCK: With the new greens, there's an influx in

1 golfers. So -- you know, a lot of people want a cart when they
2 golf to rent.

3 COMMISSIONER WAITS: And we've had a problem with a
4 shortage of carts before?

5 SCOTT BULLOCK: Well, if I only had five carts, I'd always
6 be short. That's why I bought my own. Like some tournaments,
7 you need up to 20 rental carts. But ten on a daily basis will
8 be fine.

9 COMMISSIONER GARNER: Jake, how many letters of intent do
10 we have?

11 JAKE EDGAR: Including Scott's, three.

12 SCOTT BULLOCK: I think that probably just shows you what a
13 job I've done. People -- a lot of people that haven't normally
14 gone to -- come to the golf course have come out there now.
15 They've seen what we've done in the last two years. And now
16 there's a lot of interest in other people wanting to run that
17 because they see the possibility of what we've been able to do.

18 COMMISSIONER MASON: Good.

19 COMMISSIONER WAITS: I have no problems with the renewal.
20 I only have a problem with the \$10,000 that was not initially
21 supposed to be a continuing thing for you to --

22 CHAIRMAN BULLOCK: Yeah. It was redone by the
23 Commissioners two years ago. It was approved as a \$10,000 a
24 year.

25 COMMISSIONER MASON: Yes.

26 CHAIRMAN BULLOCK: You go back to the commission meeting.
27 Rogene is stuck on the old contract. It was agreed with
28 Commission --

29 ROGENE HILL: But why would you?

30 CHAIRMAN BULLOCK: It was agreed by the Commission to pay
31 \$10,000 a year. We can go back all we want. That was agreed by
32 the Commission.

33 COMMISSIONER WAITS: But don't you feel with the way we've
34 improved the golf course and with what we are giving to this
35 individual to conduct a business, that we wouldn't have to pay
36 somebody to be in there also.

37 CHAIRMAN BULLOCK: So are we going to pay the extra help
38 any time we have functions out there that we has to take care of
39 on behalf of the county. He has to hire extra employees and
40 people to maintain and take care of the extra thing and more

1 cleaning of the toilets and whatever you want to go, because
2 we've elected to have activities out there?

3 COMMISSIONER WAITS: But you don't think he would make that
4 up on the liquor or the other?

5 SCOTT BULLOCK: Doesn't matter?

6 COMMISSIONER WAITS: Increases.

7 CHAIRMAN BULLOCK: We've increased what he has to do on our
8 part. This is our increase.

9 COMMISSIONER WAITS: Okay. I guess it comes down -- and I
10 have no idea what you're making per year. So I'm assuming
11 you're a good, smart business person. So it would probably
12 would take care of it. I mean, I've been in the business for a
13 long time. I know if I got free rent and free utilities, I
14 certainly would be able to make a go at that business or I
15 wouldn't be in it. I have a problem with the county paying
16 additional funds. That's all. I think.

17 COMMISSIONER MASON: I'd -- I'd like to say this. The
18 county owns the golf course. It's our baby. Now, we've turned
19 management of the golf course over to an individual. And he's
20 taken control of the management of the golf course and all the
21 parts thereto. And that's the way you have to look at it. We
22 have hired a guy to take care of our enterprise. And he's -- in
23 this case here, he's saying, I'll provide another five golf
24 carts, absolutely, maintain them.

25 COMMISSIONER GARNER: For another 6,000.

26 COMMISSIONER MASON: For another 6,000.

27 COMMISSIONER WAITS: I have no problem with the 6,000.

28 SCOTT BULLOCK: Which is 2,000 cheaper than what the
29 county's already paying.

30 COMMISSIONER MASON: It's just management.

31 COMMISSIONER GARNER: I make a motion we put it back up to
32 bid.

33 COMMISSIONER MASON: Put what back?

34 COMMISSIONER GARNER: Put it back out to bid.

35 SCOTT BULLOCK: Is that because of personal interest?

36 COMMISSIONER GARNER: No.

37 SCOTT BULLOCK: No?

38 COMMISSIONER STIENMETZ: County employees can't bid on it
39 anyway.

40 SCOTT BULLOCK: There wasn't a letter submitted?

1 CHAIRMAN BULLOCK: Is there a second?
2 COMMISSIONER WAITS: I'll second it. But I -- but I have
3 question on it. Um, give us our background here again. You're
4 saying we always offer them the opportunity.
5 NICOLE TING: I think if we were to go out to bid, first
6 we'd have to deny the renewal and then --
7 CHAIRMAN BULLOCK: We do. We've got to deny it.
8 NICOLE TING: First, we're going to have to deny the
9 renewal. And then -- and then we go out to bid.
10 COMMISSIONER GARNER: So you --
11 COMMISSIONER WAITS: Okay, because we need to give him the
12 opportunity to accept what we would be offering --
13 COMMISSIONER GARNER: So --
14 COMMISSIONER WAITS: -- in lieu of this --
15 COMMISSIONER GARNER: I retract my motion.
16 COMMISSIONER WAITS: -- before we go off to bid, right?
17 COMMISSIONER GARNER: I'll retract my motion.
18 COMMISSIONER WAITS: Okay. I'll retract my second.
19 COMMISSIONER GARNER: And I'll make a motion to deny the
20 renewal.
21 COMMISSIONER MASON: Then I'll make a motion that we --
22 COMMISSIONER WAITS: He just --
23 COMMISSIONER GARNER: Hold on.
24 COMMISSIONER WAITS: He just did.
25 COMMISSIONER MASON: No, he withdrew his motion.
26 COMMISSIONER WAITS: No, he just --
27 COMMISSIONER STIENMETZ: Then he made another one.
28 NICOLE TING: Retracted.
29 COMMISSIONER MASON: I didn't hear the last part.
30 COMMISSIONER GARNER: I retracted my motion and made a new
31 re -- a new motion to retract or to -- what did I say?
32 COMMISSIONER STIENMETZ: Deny the renewal.
33 COMMISSIONER GARNER: Deny the renewal.
34 And then we can put it on the agenda later.
35 COMMISSIONER WAITS: Okay, I'll second that motion.
36 CHAIRMAN BULLOCK: Any public comment or discussion?
37 JAY FISCHER: Uh, why would -- do you have to have grounds
38 to deny renewal or -- I mean, is -- is there any reason? What
39 --
40 CHAIRMAN BULLOCK: In order to be legal.

1 NICOLE TING: Um, according to the contract now, with the
2 --
3 CHAIRMAN BULLOCK: You have the right for 30 days --
4 NICOLE TING: Yeah.
5 CHAIRMAN BULLOCK: -- to give them notice.
6 NICOLE TING: Thirty days before, with --
7 JAY FISCHER: With.
8 NICOLE TING: -- or without cause.
9 JAY FISCHER: Without cause?
10 CHAIRMAN BULLOCK: Okay. Any other comments?
11 JUDGE BUNCH: I have a comment.
12 COMMISSIONER MASON: Yeah, I --
13 COMMISSIONER GARNER: Go ahead.
14 JUDGE BUNCH: I -- I'm Max Bunch for the record. Um, I'm
15 pretty happy with what's going on out there. Um, I've -- I've
16 been at that golf course for a lot of years. I've seen where
17 the county has had to -- has to pay an employee to sit out there
18 from sunrise to sundown, because that's what the contract said,
19 in order to accommodate those people out there golfing. And
20 when you look at it, you -- you put an employee out there just
21 to start out in the morning and just say you run it from 7:00 to
22 7:00. We know in June that it gets dark at 9:00 o'clock, so
23 you're paying somebody to be out there from about 7:00 to 8:30.
24 And if you just paid minimum wage, you figure out how many hours
25 are there, you're going to spend a lot more money than the
26 10,000 -- 6- , 10,000. You don't have to approve his request
27 for the five carts or the ten carts that's there that you guys
28 are discussing. I think you've got something going on very good
29 now at this point in time.
30 COMMISSIONER MASON: I do too.
31 JUDGE BUNCH: You guys ought to leave it the way it is.
32 Just my personal opinion. Golf tournaments have picked up.
33 I've been there when you've had managers or the county's had
34 managers in there. And there's nobody that sticks around.
35 They'll go play in a golf tournament, and they will leave. And
36 that -- and that business just sinks. There's been more than
37 one of those people out there, because they haven't treated the
38 people the way they should be treated. And I think that you
39 guys are making a big mistake and jumping the gun to do this.
40 You -- you've had two pretty good years. One year you didn't

1 even have greens and you still had a good year. Now, you've got
2 new greens. And you've got a lot of people out there. And I'm
3 out there pretty close to every weekend.

4 COMMISSIONER MASON: I want to say that I've -- I've never
5 seen anything come before the Commission as a complaint about
6 your service. And -- um -- I don't see why we should disturb a
7 good contract. I'll call it a good contract at this point. And
8 whatever increase we want to do about the five carts. Um, I
9 just don't see the value for the county to open this up to bid
10 again when we've got something going that's already proven
11 itself to be reliable.

12 CHAIRMAN BULLOCK: Okay, any other discussion?

13 JAY FISCHER: I would just add to that, that you go out to
14 bid, you hire somebody else, this \$10,000 that's an issue,
15 you're going to give it to them as described as that startup
16 fee. So we're not saving any money here. And I would -- I
17 would second that the golf course and -- and the business that's
18 conducted out there, has -- has grown and turned into something
19 very, very enjoyable for the community, myself included.

20 COMMISSIONER WAITS: I would like to ask if we have any
21 idea what kind of utility costs we pay per month?

22 COMMISSIONER GARNER: It's (indiscernible).

23 ROGENE HILL: I just tracked the utilities from March to
24 November, and, um, last year \$4,777 --

25 COMMISSIONER STIENMETZ: No.

26 ROGENE HILL: -- for those months, which is basically your
27 running time.

28 COMMISSIONER MASON: Is that gas and --

29 ROGENE HILL: I didn't track the other ones. That's gas
30 and electricity.

31 COMMISSIONER MASON: Gas and electricity.

32 ROGENE HILL: Yes. Yes.

33 COMMISSIONER WAITS: Thank you.

34 CHAIRMAN BULLOCK: Okay. Any other discussion?
35 (No comment.)

36 CHAIRMAN BULLOCK: All those in favor?

37 COMMISSIONER GARNER: Aye.

38 COMMISSIONER WAITS: Aye.

39 CHAIRMAN BULLOCK: Those opposed?
40 Aye.

1 COMMISSIONER STIENMETZ: Aye.
2 COMMISSIONER MASON: Aye.
3 CHAIRMAN BULLOCK: Okay. The motion does not carry.
4 COMMISSIONER MASON: Now, I make a motion that we renew the
5 contract as presented on Item 19, agenda Item 19, along with the
6 increase from 10- to 16,000 for the carts, as in that agreement.
7 COMMISSIONER STIENMETZ: I don't agree with the 16,000. I
8 think we should leave it at 10-, and we'll keep our carts out
9 there.
10 SCOTT BULLOCK: Keep leasing?
11 ROGENE HILL: That --
12 CHAIRMAN BULLOCK: That means we have to go spend 8,000 on
13 carts. You understand that?
14 COMMISSIONER STIENMETZ: Right.
15 CHAIRMAN BULLOCK: So -- okay. And we only have five
16 carts.
17 ROGENE HILL: I --
18 COMMISSIONER STIENMETZ: Well, maybe --
19 CHAIRMAN BULLOCK: That's all right.
20 ROGENE HILL: On -- on behalf of that, on the carts, his
21 offer for the additional carts is totally a savings for the
22 county.
23 COMMISSIONER MASON: Yes, ma'am.
24 COMMISSIONER STIENMETZ: All right, if that's the way, then
25 I'll --
26 ROGENE HILL: It is. Because I think right now, we're
27 paying --
28 COMMISSIONER WAITS: Eight thousand plus delivery.
29 COMMISSIONER STIENMETZ: All right.
30 ROGENE HILL: Eighty two hundred.
31 COMMISSIONER STIENMETZ: Under that, I'll second Dave's
32 motion then.
33 ROGENE HILL: And he's offering it for 6,000. So it is
34 definitely a savings for the county for the carts.
35 CHAIRMAN BULLOCK: Okay, any other public comment or
36 discussion?
37 All those in favor.
38 Aye.
39 COMMISSIONER MASON: Aye.
40 COMMISSIONER STIENMETZ: Aye.

1 CHAIRMAN BULLOCK: Those opposed.
2 COMMISSIONER GARNER: No.
3 COMMISSIONER WAITS: No.
4 CHAIRMAN BULLOCK: Okay.
5 SCOTT BULLOCK: Thank you.
6 CHAIRMAN BULLOCK: Mm-hm.

7
8 ✓20) Discussion for possible action regarding request from
9 Angela Alexander, Battle Mountain Archery Club, for a
10 donation of land from Lander County in order to establish a
11 permanent structure for the Archery Club, and other matters
12 properly related thereto.
13

14 CHAIRMAN BULLOCK: Item Number 20, discussion for possible
15 action regarding request from Angela Alexander, Battle Mountain
16 Archery Club, for a donation of land from Lander County in order
17 to establish a permanent structure for the Archery Club, and
18 other matters properly related thereto.

19 JAKE EDGAR: He had to go to a mandatory meeting. So --

20 COMMISSIONER GARNER: I've been in contact with him. I can
21 kind of take the lead.

22 JAKE EDGAR: Okay.

23 COMMISSIONER GARNER: There's a bunch of different land
24 they're looking at. I talked to Gina. Gina did some
25 background.

26 I did talk to the motor sports complex out there. We've
27 got Troy Liebhardt is the, I guess, the President of the
28 Motorcycle Club.

29 But at end of that, there's kind of a marshy land, kind of
30 a different scenario, but perfect for archery. And I think
31 there's -- I can't really tell off of what she's got here on the
32 map, but there's about 25-, 30-acres back there. He was very
33 interested. He said that would be great.

34 All the county would have to do is -- possibly Donnie -- is
35 help them to provide a -- maybe just a little bit of road base
36 all the way to end, on the inside of the fence. Then they could
37 keep their stuff locked up.

38 And then the possibility of the white -- the old Elks Lodge
39 that was supposed to be in front of --

40 DONNIE NEGRO: Museum.