



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

MINUTES

**of the meeting of the
COMMISSION ON ETHICS
February 10 - 11, 2011**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. A verbatim transcript of the open sessions is available for public inspection at the Commission office in Carson City.

The Commission on Ethics held a public meeting on Thursday, February 10, 2011, and Friday, February 11, 2011, beginning at 8:30 a.m. at the following location:

State of Nevada, Commission on Economic Development
808 West Nye Lane
Carson City, Nevada 89703

Some Commissioners appeared via video tele-conferencing.

1. Call to Order, Roll Call.

Chairman J. T. Moran, III, Esq. called the meeting to order and introduced the Commissioners at 8:40 a.m. Thursday, February 10, 2011.

Present in Carson City were Chairman, J. T. Moran, III, Esq., Vice Chairman Erik Beyer, Commissioners George M. Keele, Esq., Gregory Gale, Paul H. Lambole, Esq., and John W. Marvel. Also present in Carson City were Executive Director Caren Jenkins, Esq., Commission Counsel Yvonne Nevarez-Goodson, Esq. and Executive Assistant Janet Jacobsen.

Present via video tele-conferencing from Las Vegas, Nevada was Investigator Michel Vavra, M.P.A.

Commissioners Shaw and Groover were excused from participation in the hearing portions of this meeting as they had participated in the Investigatory Panel in RFO 10-71C.

2. Open session to hear testimony, receive evidence, deliberate, and render an opinion relating to Request for Opinion No 10-71C submitted pursuant to NRS 281A.440(2), alleging that certain conduct of Richard "Dick" Gammick, District Attorney, Washoe County, State of Nevada, violated the provisions of NRS 281A.020, NRS 281A.400(2) and (7) and NRS 281A.520.

Present for the hearing, representing Mr. Gammick, was Rew R. Goodenow, Esq., Richard Gammick, Esq., witnesses Chris Wedge, Kelly Cusanelli, Sharon Flanary, Steven Pitts and Raymond Sibley (by telephone). The witnesses were sworn by the court reporter.

Chairman Moran moved and Commissioner Marvel seconded a motion for dismissal of the allegation concerning using government's email. The motion passed unanimously.

Chairman Moran moved to approve a stipulation as to certain facts as read into the record. Commissioner Keele seconded the motion. The motion passed unanimously.

Prospective witnesses were excluded from the hearing room. Testimony was taken and evidence received.

Mr. Goodenow moved to strike all evidence pertaining to the tail-gate event which was presented through witness Chris Wedge. Chairman Moran declined to strike the testimony.

Further testimony was taken. Mr. Goodenow moved for the Commission to dismiss any claims with respect to NRS 281A.520. Commissioner Keele moved to dismiss the allegations regarding a violation of NRS 281A.520. Commissioner Marvel seconded the motion. The motion carried unanimously.

Mr. Goodenow moved that the Commission dismiss all allegations that would constitute a violation of NRS 281A.020. Commissioner Keele moved to grant Mr. Goodenow's motion. Commissioner Marvel seconded the motion. Commissioners Lamboley and Gale voted against. Commissioners Beyer, Keele, Marvel and Chairman Moran voted in favor. The motion was passed.

Mr. Goodenow moved that all allegations under NRS 281A.400 be dismissed as pertaining to the use of the County's computer, laptop and PowerPoint presentation alleged to have been used during the August 30 Republican Jewish Coalition event. Commissioner Lamboley moved to grant Mr. Goodenow's motion. Seconded by Vice Chair Beyer. The motion carried unanimously.

Chairman Moran moved to dismiss based on insufficient evidence to the allegation of a violation of NRS 281A.400(7) that Mr. Gammick used government resources at the tail-gating event to benefit his personal or financial interest in his re-election campaign. Seconded by Commissioner Keele. Voting against was Commissioner Lamboley. Voting in favor were Chairman Moran, Vice Chair Beyer, Commissioners Keele, Gale and Marvel. The motion carried.

Commissioner Keele moved that all remaining allegations of violations of NRS 281A.400(2) with respect to the tail-gate event be dismissed. Commissioner Marvel seconded the motion. Voting against was Commissioner Lamboley. Voting in favor were Chairman Moran, Vice Chair Beyer, Commissioners Keele, Gale and Marvel. The motion carried.

12. Open Session for public comment. Limited to not more than three (3) minutes per person. No action may be taken on any matter referred to in remarks made hereunder.

Public comment was made by Gary Schmidt.

This agenda item was concluded at 5:15 p.m. The meeting was recessed under the current notice to resume on Friday, February 11, 2011, in the same location, beginning at 9:30 a.m.

Friday, February 11, 2011

Chairman J. T., Moran, III, Esq. called the meeting to order and introduced the Commissioners at 9:39 a.m.

Present in Carson City were Vice Chairman Erik Beyer, Commissioners George M. Keele, Esq., Paul H. Lamboley, Esq., and John W. Marvel. Also present in Carson City were Executive Director Caren Jenkins, Esq., Commission Counsel Yvonne Nevarez-Goodson, Esq. and Executive Assistant Janet Jacobsen.

Present via video tele-conferencing from Las Vegas, Nevada, were Chairman, J. T. Moran, III, Esq., Commissioner Magdalena Groover, Commissioner Gregory Gale and Investigator Michel Vavra, M.P.A.

3. Closed Session pursuant to NRS 281A.440(15) to hear testimony, receive evidence, deliberate and render an advisory opinion regarding consolidated Requests for Opinion Nos. 10-117A and 11-03A, submitted pursuant to NRS 281A.440(1). This portion of the meeting will not be available to the public.

This portion of the meeting was closed to the public.

4. Open session pursuant to NRS 233B.061 to conduct a public hearing to consider and adopt proposed permanent regulations of the Commission (LCB File 134-10). A separate notice of public hearing was posted on January 10, 2011.

Commission Counsel Yvonne Nevarez-Goodson, Esq., provided the Commission an overview of the process for adoption of proposed permanent regulations of the Commission (LCB File 134-10) and outlined proposed changes to the regulations. The Commissioners made comments and discussed the proposed changes.

Commissioner Keele moved to adopt the proposed changes of the regulations of the Commission on Ethics, LCB File 134-10, incorporating the non-substantive changes and authorizing Commission staff to incorporate the sense of the Commissioner's discussion into the final draft to be submitted to the Legislature. Motion seconded by Chairman Moran. Additional comments were made. The motion passed unanimously.

Ms. Nevarez-Goodson requested clarification on the subsection (6) language. Discussion and comments followed. Commissioner Lamboley moved to rescind and reconsider the former motion. Motion seconded by Commissioner Keele. The motion carried unanimously.

Commissioner Keele then moved that the Commission adopt the proposed regulations of the Commission on Ethics, LCB Fiile No. R134-10, with the changes set forth in this meeting incorporating the version marked by Ms. Nevarez-Goodson. References to "first-party" and "future employment" will be deleted and subsection (6) of NRS 281A.550 will remain as written. Motion seconded by Commissioner Lamboley. The motion carried unanimously.

Chairman Moran left the meeting, turning the gavel over to Vice-Chair Beyer at 10:10 a.m.

5. Closed Session pursuant to NRS 281A.440(15) to hear testimony, receive evidence, deliberate and render an advisory opinion regarding Request for Opinion No. 11-08A, submitted pursuant to NRS 281A.440(1). This portion of the meeting will not be available to the public.

This portion of the meeting was closed to the public.

6. Closed session pursuant to NRS 281A.440(15) to consider a proposed stipulation in Request for Opinion No. 10-80C, regarding the conduct of Morse Arberry, Jr., Former Nevada State Assemblyman, submitted pursuant to NRS 281A.440(2). This portion of the meeting will not be available to the public.

Vice-Chair Beyer relinquished leadership of the meeting to Commissioner Gale, as Mr. Beyer had a conflict regarding Agenda items 6 and 7. Commissioners Marvel, Keele and Groover participated.

This portion of the meeting was closed to the public.

7. Open session to take action on a proposed stipulation in Request for Opinion No. 10-80C regarding the conduct of Morse Arberry, Jr., Former Nevada State Assemblyman.

Comments and summary were provided by Ms. Nevarez-Goodson regarding the proposed Stipulation. The terms of the Stipulation are as follows:

Mr. Arberry and the Commission agree that Arberry negotiated and bid on a lobbying contract with the Court on behalf of his company, Titan Partners, LLC while still serving as an Assemblyman. Arberry's acts constituted a course of conduct amounting to a single violation of NRS 281A.430(1). This violation was willful, even though the contract was rejected by the Clark County Board of Commissioners. Arberry agreed to pay a civil penalty of \$750, in a lump sum or monthly installments, pursuant to NRS 281A.480 on or before August 31, 2011.

Commissioner Marvel moved to accept the Stipulation. Motion seconded by Commissioner Keele. The motion carried unanimously.

Acting Chair Gale returned the gavel to Vice-Chair Beyer.

8. Closed Session pursuant to NRS 281A.440(15) to consider a proposed stipulation in Request for Opinion No. 10-99C, regarding the conduct of Richard Cherchio, North Las Vegas City Councilman, submitted pursuant to NRS 281A.440(2). This portion of the meeting will not be available to the public.

This portion of the meeting was closed to the public.

9. Open session to take action on a proposed stipulation in Request for Opinion No. 10-99C regarding the conduct of Richard Cherchio, North Las Vegas City Councilman.

Commission Counsel presented a proposed Stipulation. Commissioner Lamboley moved to accept the Stipulation as presented. Commissioner Marvel seconded. The motion carried unanimously.

10. Open Session for Agency, Operations and Legislative Update.

Executive Director Caren Jenkins reported on the progress on the Commission's agency-requested budget. Copies of the Governor's recommended budget were distributed to the Commissioners. Based upon trends in workload, processing times and back-log of opinions and digests, a request has been made for additional funding of \$180,000 to create the positions of Deputy Commission Counsel and Senior Investigator. There was discussion of the reasons for the increased workload.

Ms. Nevarez-Goodson reported on the status of a 7th Judicial District Court complaint served upon the Commission by a prisoner. She has coordinated with the Attorney General's office regarding its ability to respond to this complaint on behalf of the Commission and with Executive Director about the Commission's ability to pay for those services. Vice Chair Beyer moved to accept the report of the Executive Director and Commission Counsel and to ratify the decision to engage the services of the Attorney General's office to assist with the response to the Petition. Seconded by Commissioner Marvel. Commissioner Keele moved to amend the motion to limit the expenditure to not more than \$5,000. Commissioner Marvel seconded the amendment. There was no further discussion. The amended motion carried unanimously.

Ms. Nevarez-Goodson advised the Commission that the date for the oral argument in NCOE v. Carrigan would be April 27, 2011. The opening brief will be due February 22, 2011. Travel arrangements were discussed. There were further comments and discussion regarding the Executive Director's request for funding for travel to the U. S. Supreme Court by two staff members.

Commissioner Groover posed a question regarding Financial Disclosures which was addressed by Executive Director Jenkins and Commissioner Keele.

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

Commissioner Gale posed a question to the Commission Counsel and Executive Director regarding changes to the wording of NRS 281A.160 to clarify the "established by statute" provision with respect to defining a public officer. Ms. Nevarez-Goodson explained that we would not be able to request this change to the statute in a BDR. Ms. Jenkins indicated that

the requested change is substantive, but could be requested via committee introduction of a BDR. Commissioner Gale requests the Commission discuss at the next meeting the word "established" be changed. This item will be agendaized for the upcoming telephonic meeting.

12. Open Session for public comment. Limited to not more than three (3) minutes per person. No action may be taken on any matter referred to in remarks made hereunder.

No public comment.

The meeting adjourned at 2:17 p.m.

Minutes prepared by:



Janet Jacobsen
Senior Legal Researcher

Minutes approved September 13, 2011:



Erik Beyer, P.E.
Chairman