



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

MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS'
SUBCOMMITTEE TO CONSIDER RESTRUCTURING THE NCOE STAFF

May 29, 2012

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 Tuesday, May 29, 2012 at 3:00 p.m. This meeting was held telephonically. Members of the public were invited to attend at the following location:

Nevada Commission on Ethics
704 W. Nye Lane, Ste. 204
Carson City, NV 89703

1. Call to Order, Roll Call

Chairman Beyer called the meeting to order and introduced the Subcommittee members at 3:04 p.m. on Wednesday, May 29, 2012.

Present telephonically were Commissioners Tim Cory, Esq., Paul H. Lamboley, Esq. and John C. Carpenter. Present at the meeting location in Carson City and also appearing telephonically were Chairman Erik Beyer, Executive Director Caren Cafferata-Jenkins, Commission Counsel Yvonne Nevarez-Goodson, Esq. and Contract Attorney Janette Bloom.

2. Open Session for Public Comment.

No public comment.

3. Open Session for Subcommittee Work Session.

Executive Director Caren Cafferata-Jenkins gave an overview of the prior Subcommittee meeting and her updated handouts. She presented the detailed costs of the proposed changes to the structure of staff and also outlined the salaries of each of the NCOE staff positions.

A discussion ensued regarding the proposed options for restructuring staff and the pros and cons of each.

Commissioner Carpenter agreed that the NCOE needs another attorney; however he is not convinced the legislature and the local governments will give that authority to the agency.

Commissioner Cory addressed Scenario #1 and the proposed structure of the same. He questioned the requirement that the Executive Director be a licensed attorney. He believes that may cause the Commission to miss out on other talented individuals who are qualified for the Executive Director position if non-lawyers are excluded.

A discussion ensued regarding the proposed Executive Director/General Counsel position and the current duties of each within statute and where the conflicts arise. Chairman Beyer discussed the Commission's current working relationship with Commission Counsel. He raised the issue of communicating directly with Commission Counsel if that individual becomes the Executive Director as well.

Commissioner Lamboley made his concerns known regarding combining the Executive Director and Commission Counsel positions. He discussed the separation of these roles and how they are currently structured to assure due process. Commissioner Lamboley also believes that to re-write the NRS and NAC would be a lengthy process and may not be needed to correct the Commission's current problems. Commissioner Lamboley questioned how much time it takes for First-Party RFOs versus Third-Party RFOs.

Commission Counsel responded that she spends a significant amount of time on preparation for Third-Party RFOs including negotiations, motions, continuances and witness. She estimated that half of her time is spent on these Third-party RFO issues, and unfortunately, sometimes the Commission only sees the final outcome, i.e. stipulated agreement. In addition to the Third-Party RFOs, Commission Counsel explained she spends about 20% of her time on litigation, which includes appeals and petitions for judicial review.

Commission Counsel discussed the amount of time she spends on advising the Commission unrelated to Third-Party RFOs such as First-Party RFOs, employment law, open meeting law and public records request and that the work load warrants a full time position.

Chairman Beyer raised his concern regarding asking too much of the Legislature. He wants to focus on the back-log and ask for more funds to hire a contract attorney; keep staff structured the same, but with the additional help of another attorney. A discussion ensued regarding the proposed structure changes if the NCOE was able to hire another attorney.

Commissioner Lamboley brought up the Commission's priorities and how to implement them. He explained that to restructure the agency requires resources which we do not have. He discussed the need for better case management.

Executive Director Cafferata-Jenkins advised the Subcommittee that Budgetary BDRs are due by August 31, 2012, so the Commission has three months to deliberate and decide how to move forward into 2013-2015.

Discussions of the proposed changes to the staff structure continued. Contract Attorney Janette Bloom offered her advice and suggestions on dealing with the back-log. She believes the Commission absolutely needs another attorney to keep up with the case load. A discussion ensued regarding status of the current RFOs which need a final opinion prepared.

Chairman Beyer discussed that even if the NCOE gets another attorney, the Commission still needs to get through this next fiscal year, and maintain the progress made.

Executive Director Cafferata-Jenkins stated she will be meeting with the Governor's Chief of Staff, General Counsel and Director of the Budget Department regarding the NCOE's current case load and staff needs. The Subcommittee will wait until the Executive Director updates the entire Commission at the June meeting before making a recommendation.

Commissioner Cory asked for clarification on the process of finalizing opinions after they are drafted. Contract Attorney Janette Bloom discussed the current lengthy process and suggested changes to the same. Commissioner Lamboley suggested additional changes to present to the full Commission including placing deliberations in closed session. Executive Director Cafferata-Jenkins recommended having a special meeting in July to review all opinions, finalize and execute. Contract Attorney Janette Bloom discussed the drafting of abstract opinions and how long they take to prepare. It was suggested that instead of re-writing the entire opinion, staff prepare a summary of the details while keeping everything confidential.

Chairman Beyer asked Janette Bloom to please prepare a final report outlining her recommendations to the Commission. She already planned on doing so.

4. Open Session for Public Comment.

No public comment.

5. Adjournment

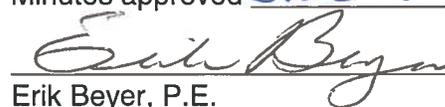
The meeting adjourned at 5:08 p.m.

Minutes prepared by:



Valerie Carter
Executive Assistant

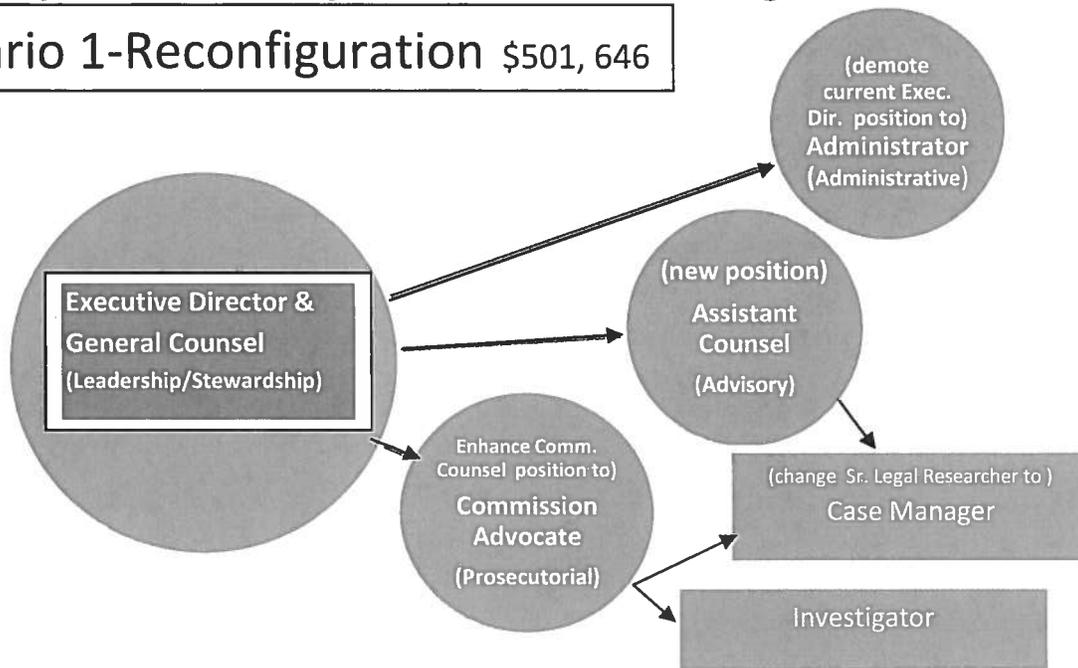
Minutes approved June 20, 2012:



Erik Beyer, P.E.
Chairman

Proposed Item for Special Consideration - Organizational Charts

Scenario 1-Reconfiguration \$501, 646



Duties of EXECUTIVE DIRECTOR AND GENERAL COUNSEL (Chief Level Attorney)

- Administer all aspects of NCOE office and Staff
- Implement policy and activities as directed by Commission
- Serve as Public Information Officer and Sole Media Contact
- Preside over Motions and Discovery matters
- Serve as NCOE liaison to Executive and Legislative branches
- Perform as lead litigation attorney for the Commission.

Duties of COMMISSION ADVOCATE (Senior Level Attorney)

Under the direction of the ED & GC:

- Direct activities in response to all Third-Party RFOs
- Supervise Investigation, make recommendation to Panel
- Prepare cases for hearing
- Negotiate stipulations for proposal to Commission
- Advocate for Commission at hearing
- Prepare written opinions & digests
- Collect sanctions/follow up referral for removal from office
- Lead preparation regarding Judicial Review, appeals

Duties of ASSISTANT COUNSEL (Entry Level Attorney)

Under the direction of the ED & GC:

- Engage in research and writing in response to First-Party RFOs, including writing opinions, abstracts and digests
- Prepare and deliver training and outreach programs
- Research questions regarding OML and PRR for Commission
- Assist ED&GC with general litigation and administrative issues

Duties of ADMINISTRATOR

Under the direction of the ED & GC:

- Lead Budgeting, A/P, A/R, Local Government share, Contracts
- Arrange Commission travel and communications; Staff travel
- Coordinate Legislative and Regulatory changes
- Manage Personnel, IT, Facilities, Supplies, Payroll, Others
- Coordinate Website management
- Interface with State Archives
- Arrange Meetings, Agendas, Court Reporters, Transcripts

Duties of INVESTIGATOR

At the direction of the Commission Advocate:

- Review RFO and Response for details of relevant facts and allegations
- Confer with Commission Advocate to shape direction for investigation
- Contact named and unnamed witnesses, collect documentary and other evidence, confirm alleged facts
- Compile investigative findings into a confidential written report
- Serve as resource for Investigatory Panel
- Continue investigation as required by Commission Advocate
- Assist Commission Advocate at hearings

Duties of CASE MANAGER/LEGAL RESEARCHER

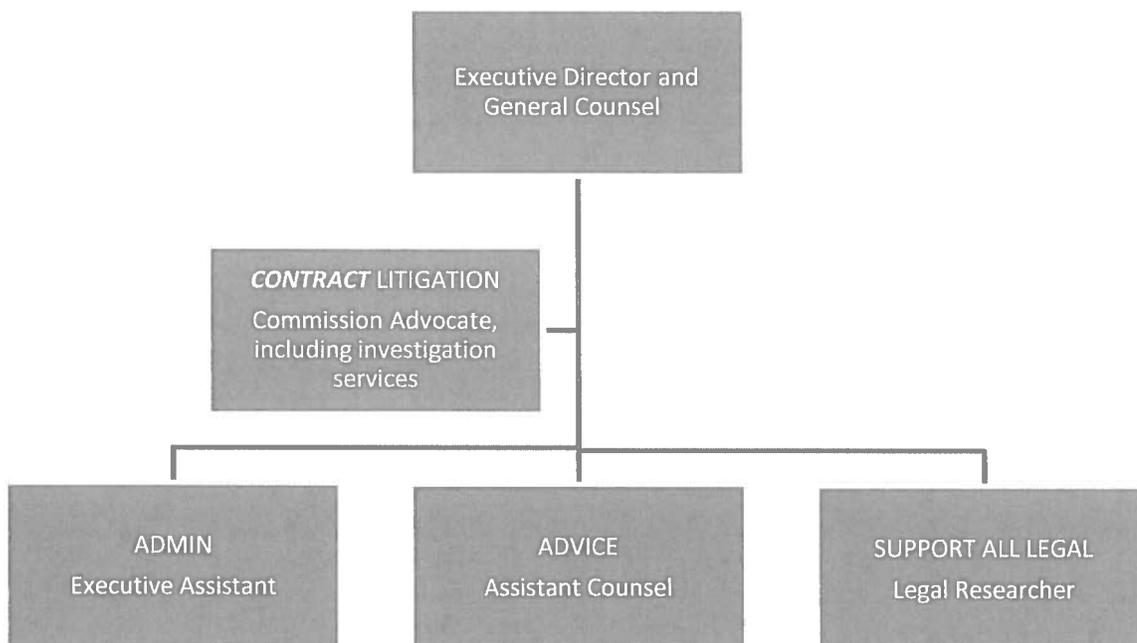
At the direction of the Commission Advocate and Assistant Counsel:

- Calendar deadlines, serve notices
- Provide general administrative support to attorneys
- Prepare subpoenas, notices and other documents
- Maintain RFO Logs
- Coordinate witnesses, documents and evidence for hearing books and at hearings

Proposed Item for Special Consideration - Organizational Charts

POSITION	Current Unclassified Pay	Proposed Unclassified Pay
Executive Director	\$95,453	
Executive Director and General Counsel		\$129,285 - 137,145 (Solicitor-ED&GC)
Commission Counsel/Assistant Counsel	\$93,259	\$93,259 (Entry Level DAG)
Commission Advocate		\$104,231 - 126,174(Sr. DAG - Sup. Ct. Legal Counsel)
Case Manager/Legal Researcher	\$52,947	\$55,696
Executive Assistant/Administrator	\$54,858	\$54,858
Investigator	\$64,302	\$64,302
TOTAL CURRENT SALARIES 2011-12	\$363,568 (with \$65,000 contr. = \$428,568) - not incl. additional staff costs	
Proposed Scenario 1	\$501,646 (\$137,078 increase)	
Proposed Scenario 3	\$507,415 (\$143,847 increase)	
Proposed Scenario 2	\$523,113 (\$159,545 increase)	

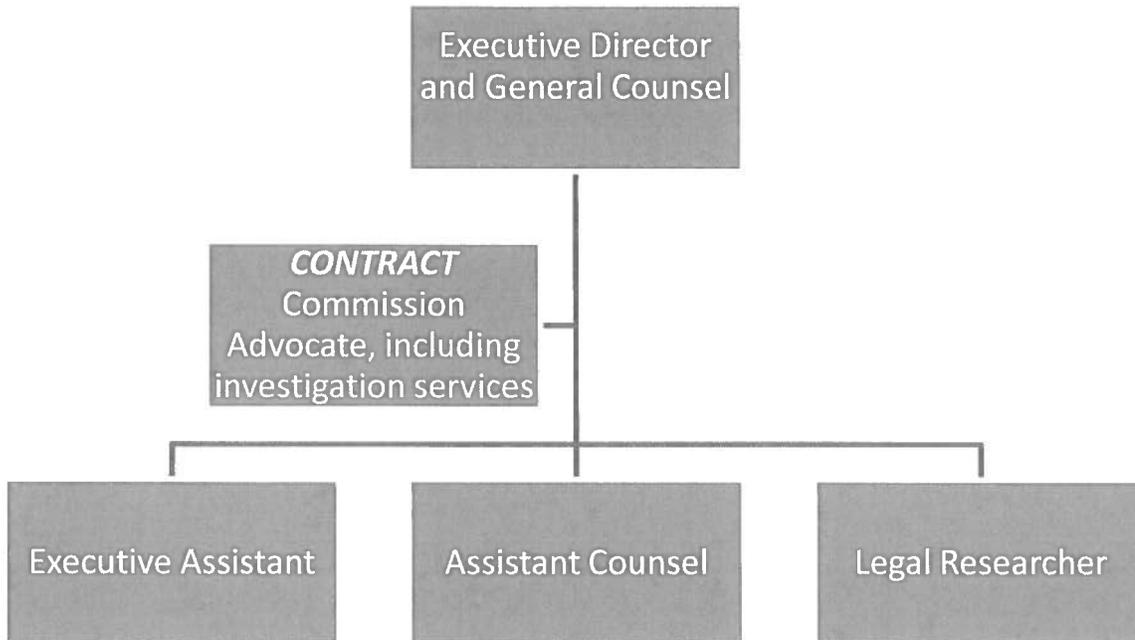
Scenario 2 - contract all work on 3rd-Party RFOs



Expect 1 FTE Attorney plus 0.75 FTE Investigator = Approx \$130,000 for attorney at current Contract Attorney level and \$60,000 for Investigator if we add in the value of benefits

Proposed Item for Special Consideration - Organizational Charts

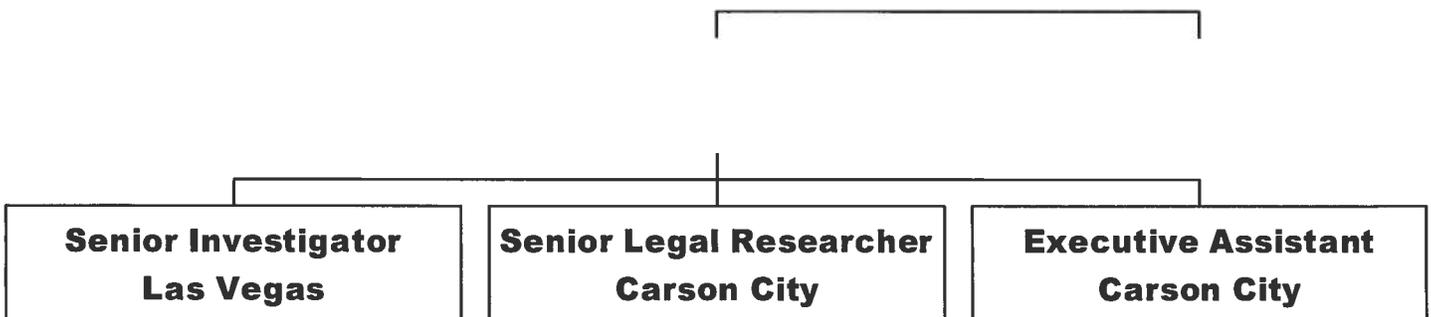
Scenario 3 - contract only 3rd-Party RFOs post-panel \$507,415



CONTRACT NOT TO EXCEED 1500 hours per year of Attorney time (0.5 to 0.75 FTE) = approx. \$110,000 at current Contract Attorney level.

Scenario 4 - Enhance current organization as needed

\$428,568 (incl. \$65,000 contract atty.)



Provide for staffing and funding requests for BOE and IFC funds as public demand and public need for access to Commission opinions arise - - one down-side of this methods is that it is funded solely by the State with no contribution from Local Governments. Second issue is two persons report to Commissioners = potential conflicts and no clear supervisory head.