



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

MINUTES
of the meeting of the
COMMISSION ON ETHICS
June 20, 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 Wednesday, June 20, 2012, at 8:00 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 4412
555 E. Washington Avenue
Las Vegas, NV 89101

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

Chairman Erik Beyer called the meeting to order and introduced the Commissioners at 8:26 a.m. on Wednesday, June 20, 2012.

Present in Carson City, Nevada were Chairman Erik Beyer, Vice Chairman Paul H. Lamboley, Esq. and Commissioner James M. Shaw. Also present in Carson City were Commission Counsel Yvonne Nevarez-Goodson, Esq., Executive Director Caren Cafferata-Jenkins, Senior Legal Researcher Janet Jacobsen and Executive Assistant Valerie Carter. Present via video-teleconference in Las Vegas, Nevada was Commissioner Keith Weaver. Also

present in Las Vegas was Investigator Michael E. Lawrence. Present via video-conference from Elko, Nevada was Commissioner John C. Carpenter.

2. Open Session for Public Comment.

No public comment.

3. Open Session pursuant to NRS 281A.440(8) to hear testimony, receive evidence, deliberate and render an opinion regarding Third-Party Request for Opinion No. 11-64C, regarding the conduct of Paul Murad, State of Nevada Real Estate Commissioner, submitted pursuant to NRS 281A.440(2).

Commissioners Tim Cory and Gregory Gale were excused from this agenda item as they had served on the Investigatory Panel.

Paul Murad, and his counsel David Newton, Esq. appeared before the Commission in Las Vegas, Nevada.

Witnesses Crystal Myers and Mary Bolchalk, and the Subject, Paul Murad, were sworn in under oath.

Counsel for Mr. Murad gave an opening statement.

Commission Counsel read into the record a proposed list of Stipulated Facts. Mr. Murad acknowledged his agreement to the facts presented.

The Commission received testimony from Paul Murad.

Commissioner Groover arrived at 8:45 a.m. and participated in the remainder of this agenda item. Commissioner Tim Cory arrived at the meeting at 8:57 a.m. and Commissioner Gale arrived at 13:30 a.m., but neither participated in this agenda item as stated above.

The Commission continued to receive testimony from Paul Murad.

The Commission received testimony from Crystal Meyers and Mary Bolcheck. Both witnesses were excused after their testimony was given.

David Newton, Esq. recalled Mr. Murad as a witness. The Commission heard additional testimony from Mr. Murad.

Counsel for Mr. Murad gave a closing statement.

The Commissioners went into deliberations.

Commissioner Weaver moved that the Commission find that Mr. Murad's conduct as alleged did not violate 281A.400(2). Commissioner Shaw seconded the motion. A discussion ensued regarding the motion.

The Motion was put to a vote and passed unanimously.

Commissioner Lamboley offered comments to be reflected in the Commission's written opinion.

A recess was taken at 10:59 a.m.

Meeting Reconvened at 11:05 a.m.

4. Open session pursuant to NRS 281A.440(8) to consider and take action on a Motion to Dismiss certain allegations set forth in Consolidated Third-Party Requests for Opinion Nos. 11-76C and 11-77C, regarding the conduct of Roger Tobler, Mayor, Boulder City and Vicki Mayes, City Manager, Boulder City, submitted pursuant to NRS 281A.440(2).

Commissioner Carpenter was excused from this agenda item. Commissioner Gale was also excused from this agenda item as he served on the Investigatory Panel.

The agenda item was interrupted temporarily, and the meeting went into closed session under agenda Item 5 at 11:14 a.m.

The Commission re-opened agenda item 4 in open session at 11:26 a.m.

David Duncan, Esq. of Marquis Aurbach Coffing appeared on behalf of his clients Roger Tobler and Vicki Mayes. Attending with Mr. Duncan was his colleague, Scott Marquis, Esq.

Commission Counsel gave an overview of the Motion to Dismiss.

David Duncan presented and discussed the Motion to Dismiss.

The Commissioners went into deliberations.

Commissioner Shaw moved to dismiss the allegation of NRS 281A.400(7) against Mayor Tobler. Commissioner Weaver seconded the Motion. A discussion ensued regarding the Motion.

The Motion was put to a vote and carried as follows:

Commissioner Weaver: Aye.

Commissioner Cory: No.

Commissioner Groover: Aye.

Commissioner Lamboley: No.

Commissioner Shaw: Aye.

Chairman Beyer: Aye.

Chairman Beyer entertained a motion regarding Mayor Tobler and the alleged violation of NRS 281A.400(9). No Motion was presented, and therefore, the allegation was not dismissed.

Chairman Beyer entertained a motion regarding Vicki Mayes and the alleged violation of NRS 281A.400(9). No Motion was presented, and therefore, the allegation was not dismissed.

Chairman Beyer entertained a motion regarding Mayor Tobler and the alleged violation of NRS 281A.400(2). No Motion was presented, and therefore, the allegation was not dismissed.

Chairman Beyer entertained a motion regarding Vicki Mayes and the alleged violation of NRS 281A.400(2). No Motion was presented, and therefore, the allegation was not dismissed.

Chairman Beyer entertained a motion regarding Mayor Tobler and the alleged violation of NRS 281A.530. Commissioner Weaver moved to dismiss the alleged violation of NRS 281A.530. Commissioner Shaw seconded the Motion. A discussion ensued regarding the Motion.

The Motion was put to a vote and carried as follows:

Commissioner Groover: Aye.
Commissioner Lamboley: No.
Commissioner Cory: No.
Commissioner Shaw: Aye.
Commissioner Weaver: Aye.
Chairman Beyer: Aye.

A discussion ensued regarding the alleged violation of NRS 281A.020 by Mayor Tobler, which was not presented in the Motion to Dismiss.

Commission Counsel notified the Commission and public that, although the Agenda notes otherwise, the meeting will continue at the Legislative Counsel Bureau in Las Vegas and Carson City for the remainder of the day.

5. Closed session pursuant to NRS 281A.440(15) to consider a proposed Stipulation concerning certain allegations set forth in Third-Party Request for Opinion No. 11-76C, regarding the conduct of Roger Tobler, Mayor, Boulder City, submitted pursuant to NRS 281A.440(2).

This portion of the meeting was confidential and closed to the public.

6. Open session pursuant to NRS 281A.440(8) to consider and take action on a proposed Stipulation concerning certain allegations set forth in Third-Party Request for Opinion No. 11-76C, regarding the conduct of Roger Tobler, Mayor, Boulder City, submitted pursuant to NRS 281A.440(2).

This portion of the meeting was tabled, to be addressed at the July 2012 Commission meeting.

Lunch recess was taken at 1:42 p.m.

The meeting reconvened at 2:26 p.m.

7. Closed Session to discuss potential or pending litigation. This portion of the meeting will not be available to the public.

This portion of the meeting was confidential and closed to the public.

8. Open Session for consideration and approval of Minutes of prior Commission Meetings and Subcommittee Meetings.

Executive Assistant Valerie Carter read into the record proposed formatting and grammatical changes to the minutes. A discussion ensued regarding the May 1, 2012 Minutes.

Commissioner Weaver moved to approve the Minutes of March 21, 2012 and March 22, 2012, April 18, 2012 and April 19, 2012, May 1, 2012 and April 4, 2012. Commissioner Shaw seconded the Motion. The motion carried unanimously. Commissioners Beyer, Weaver and Cory abstained from the April 18, 2012 and April 19, 2012 vote, Commissioner Groover withheld her vote regarding the May 1, 2012 minutes, and Commissioner Shaw and Commissioner Lamboley withheld their vote regarding the April 4, 2012 minutes all due to each Commissioner's non-participation in those particular meetings.

Commissioner Lamboley moved to approve the BDR Subcommittee Meeting Minutes of April 4, 2012 and April 11, 2012. Commissioner Gale seconded the motion. Only the Subcommittee members (Commissioner Gale, Commissioner Lamboley and Commissioner Cory) voted on these minutes. The motion was put to a vote and carried unanimously.

Commissioner Carpenter moved to approve the minutes of the Subcommittee to Restructure the NCOE Staff on May 21, 2012 and May 29, 2012. Commissioner Lamboley seconded the motion. Only the Subcommittee members (Chairman Beyer, Commissioner Lamboley, Commissioner Cory and Commissioner Carpenter) voted on these minutes. The motion was put to a vote and carried unanimously.

9. Open Session for status update by Executive Director and Commission Counsel, including, without limitation, a report on agency operations, budget, procedural issues and pending matters.

Executive Director Caren Cafferata-Jenkins gave an update regarding the difficulties staff faces in arranging meeting locations and video teleconference.

Also discussed was the Sunset Subcommittee, which will be meeting on June 25, 2012 in a work session to make their final recommendation whether the Commission on Ethics should continue.

The Executive Director gave an overview of four options to restructure staff and discussed the outcome of her meeting with the Governor's office regarding funding.

She reported that Chairman Beyer's and Commissioner Shaw 's appointments expire June 30, 2012 and staff is waiting to hear from their appointing authorities on how they will proceed.

Commission Counsel Yvonne Nevarez-Goodson, Esq. gave an update regarding the opinion backlog and introduced a chart reporting the Commission's backlog status.

The Commission Counsel presented the option of having Opinions signed electronically. Commissioners agreed that electronic signatures are acceptable to get the opinion out, but staff should still obtain a "wet" signature for the purpose of due process. Starting July 1, 2012, all future opinions (excluding the backlog) can utilize electronic signatures with email or oral permission, not only of the presiding commissioner, but of all Commissioners who participated in the hearing.

The Commission Counsel and Executive Director presented concepts on preparing opinions and abstracted opinions and some possible alternatives to the current process. A lengthy discussion ensued regarding different options. It was suggested that the Commission determine, on a case-by-case basis, whether to produce an abstracted version of First-Party Requests for Opinion or to only "summarize" the issues. No final decision was articulated or direction to staff given regarding this topic. The issues regarding abstracted opinions will be discussed in more detail at a later date.

The Commission Counsel raised a prior suggestion that the Commission deliberate "off the record" in the future for all Requests for Opinion. A discussion ensued regarding the same. No final decision or direction to staff regarding this topic was reached. The discussion will resume at a later date.

10. Open Session for reporting from the Subcommittee to Consider Restructuring the NCOE Staff and for possible approval of changes and concepts to be proposed.

Executive Director Caren Cafferata-Jenkins reported that the Subcommittee did not yet have a recommendation to the full commission. She recommended that the Subcommittee meet again to prepare a recommendation for the full Commission to consider at its July 2012 meeting. A discussion ensued regarding the Commission's current BDR package and how to proceed with the budgetary requests, as to not over-load the Legislature with an overabundance of requests.

11. Open Session for Commissioner comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures. No action may be taken on any matter referred to in remarks under this agenda item.

Commissioner Lamboley values having timelines specified in the Agenda. A discussion ensued regarding limiting time for certain agenda items. The Commission reached no final decision or gave clear direction to staff regarding this topic. This subject will be discussed further at a later Commission meeting.

12. Open Session for Election of Commission Chairman and Vice Chairman for Fiscal Year 2012-13.

This agenda item was tabled to the next Commission meeting.

13. Open Session for Public Comment. Comment and/or testimony by the public will be limited to three (3) minutes. No action may be taken on any matter referred to in remarks made under this agenda item.

No public comment.

14. Adjournment.

Chairman Beyer adjourned the meeting at 4:32 p.m.

Minutes prepared by:

Valerie Carter

Valerie Carter
Executive Assistant

Minutes approved July 18, 2012:

Erik Beyer

Erik Beyer, P.E.
Chairman