



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

MINUTES
of the meeting of the
COMMISSION ON ETHICS

July 31, 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, July 31, 2012 at 9:30 a.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 Commission members at 9:34 a.m. on Tuesday, July 31, 2012.

Present telephonically were Commissioners Timothy Cory, Esq., Gregory Gale, Magdalena Groover, Paul Lamboley, Esq., James Shaw and Keith Weaver. Chairman Erik Beyer joined Executive Director Caren Cafferata-Jenkins and Commission Counsel Yvonne M. Nevarez-Goodson, Esq. in the Commission's Carson City office.

2. Open Session for Public Comment.

No public comment.

3. Open Session for discussion and possible action regarding the temporary transfer of duty to the Executive Director to present evidence in third-party hearings.

The Chairman asked Executive Director Cafferata-Jenkins to present this agenda item. Ms. Cafferata-Jenkins stated that a Commission member had suggested to Commission Counsel that the pre-hearing preparation and delivery of evidence at hearings for third-party

requests for opinion might be shifted from Commission Counsel and the Commissioners to the Executive Director, and that she and Commission Counsel believed that the issue should be presented to the full Commission as a policy decision.

Ms. Cafferata-Jenkins offered to take on the role of Commission "advocate" on a trial basis for the September hearings so that the documents, witnesses and evidence could be marshaled and presented to the Commission in a succinct organized manner at hearing. This approach is similar to that of a prosecutor in a criminal trial or a plaintiff in a civil case in a court. The Commissioners would be relieved of the often difficult task of making a factual record at the hearing because the "advocate" would play that role. Of course, Commissioners would be permitted to ask questions as well, but the Commissioners would no longer be the primary developers of the factual record. The arrangement would relieve the Commission Counsel from holding both the advocate and the advisor position simultaneously, and allow her to provide an objective legal analysis to assist the Commission in making its findings of fact and conclusions of law.

Commissioner Gale remarked that the Gaming Commission has a similar arrangement which works well, as the Gaming Control Board's attorney general would bring the matter, the casino's attorney would defend the matter, and the Gaming Commission's counsel would advise the Commission.

Commissioner Lamboley added that the Executive Director plays a similar role in her presentation of information to the Investigatory panels, and this extension of that role through the hearing builds upon those services. He also acknowledged that this proposal effectively eliminates any concerns regarding Administrative Due Process that may have arisen under the Commission's current approach.

Chairman Beyer expressed concerns about what the Commission will do after September if it likes the new format. After discussion, the body decided not to act until a decision needs to be made. Executive Director Cafferata-Jenkins suggested that several opportunities may be available, including requesting assistance from the Office of the Attorney General.

Commission Counsel Nevarez-Goodson queried whether Ms. Cafferata-Jenkins would be engaged in the practice of law on behalf of the Commission in the role of advocate at hearings, actively negotiating settlements and participating in discovery. She offered to investigate malpractice and other issues that may arise.

Commissioner Lamboley suggested that pre-hearing statements be requested well before the hearings from the subject and the Executive Director so Commission Counsel may have time to prepare her memo to the Commission.

Commissioner Shaw moved, and Commissioner Lamboley seconded a motion to request the Executive Director to act as the attorney advocate for the Commission to develop and present evidence to the Commission at the September hearings, with the arrangement to be reviewed following the hearings. The motion was passed unanimously.

Chairman Beyer asked Commissioners to prepare well for the August and September meetings. He acknowledged that being on this Commission is a big commitment, but emphasized that each Commissioner had accepted that duty. He added that the meetings may go faster and the Commission will be more efficient if all are prepared and Commissioners do not duplicate statements or questions.

4. Open Session for Public Comment.

No public comment.

5. Adjournment

The meeting adjourned at 10:20 a.m.

Minutes prepared by:

/s/ Valerie Carter
Valerie Carter
Executive Assistant

Minutes approved August 15, 2012:

/s/ Erik Beyer
Erik Beyer, P.E.
Chairman