



**STATE OF NEVADA
COMMISSION ON ETHICS**

<http://ethics.state.nv.us>

**Thursday, January 16, 2003
9:30 a.m.**

**Western Nevada Community College
Cedar Building, Room 307
2201 W. College Parkway
Carson City, Nevada**

and, via videoconference:

**University and Community College System of Nevada (UCCSN)
System Administration, Suite C-1
5550 W. Flamingo Road
Las Vegas, Nevada**

and:

**Great Basin College (GBC)
High Tech Center Building, Room 123
1500 College Parkway
Elko, Nevada**

MINUTES

Commission Members Present:

Todd Russell, Chairman;
William Flangas, P.E.; Jim Kosinski, Esq.; Thomas R. Sheets, Esq.;
Rick Hsu, Esq.; Lizzie R. Hatcher, Esq.

Commission Members Absent:

Ernest E. Adler, Esq.; Merle Berman

Commission on Ethics Staff Present:

Stacy M. Jennings, Executive Director; Nancy Lee Varnum, Commission Counsel;
Beverly L. Amundson, Administrative Assistant

Parties Attending:

Sheri Eklund-Brown, Elko County Commissioner; Scott R. Brown;
Kristin McQueary, Esq.; Robert Stokes, Elko County Manager;
John Ellison, Elko County Commission Chairman;
Sue Fawn Chung, Board of Museums and History

Others Attending:

Sean Whaley, Las Vegas Review Journal

Chairman Todd Russell called the meeting to order at 9:30 a.m., Thursday, January 16, 2003.

Agenda Item 1 –Advisory Opinion Request #02-23 (confidentiality waived)

In open session pursuant to NRS 281.511, Subsection 5 the Commission heard testimony, received evidence, deliberated, and rendered an opinion relating to Advisory Opinion Request No. 02-23 submitted pursuant to NRS 281.511, Subsection 1. The requestor, Sheri Eklund-Brown, waived confidentiality.

Ms. Eklund-Brown was advised by Commission members to refer to the Woodbury opinion and to disclose her relationship to her husband if he is asking the Elko County Commission for any particular action on an item. No motion was made on the matter. Chairman Russell suggested a general opinion be drafted by Commission Counsel, which would explain the comments made at this hearing.

There no longer being individuals participating in the meeting from the Elko location, the connection to Elko was terminated at this point in the meeting.

Agenda Item 2 – Executive Director’s report on the status of the FY2004 and FY2005 operating budget request.

In open session the Executive Director presented a report on 2003 budget issues (Exhibit 1).

Commissioner Kosinski requested clarification that money for the salaries of Commission staff had been provided in the proposed budget. The Executive Director confirmed that salaries had been provided for in the proposed budget.

Agenda Item 3 - Executive Director’s report on the status of the 2003 Legislative session bill draft request.

In open session the Executive Director presented a report on 2003 Legislative session bill draft request (Exhibit II).

Commissioner Kosinski asked if the Commission charged for public officer training sessions. The Executive Director responded that the Commission had not been charging local governments, but the statutes say that the Commission should charge for reasonable costs associated with travel.

Commissioner Flangas supported the proposed changes to declare financial disclosure statements not timely filed after 45 days late and assess a flat penalty of \$2,000. He questioned retaining the wording, “The Commission would retain the authority to waive penalties for good cause.”

Chairman Russell noted the importance to have the ability to review things in a fair, impartial manner and to make a determination whether or not there is good cause to waive penalties by placing a good definition of good cause in regulation.

Commissioner Sheets agreed that the Commission should retain the flexibility to deal with the extraordinary situation. Commissioner Hatcher agreed with the proposed legislative changes.

Commissioner Flangas asked about defining good cause very briefly as a serious illness, accident, or death in a family.

Chairman Russell suggested that the Commission use examples from other state boards in defining good cause.

Commissioner Flangas asked that the time limits on requests for opinion be defined.

Commissioner Kosinski stated, “By way of clarification in the summary, the second from the bottom it talks about removing sections of statute that have been deemed facially invalid and unenforceable. It was my understanding our intent was to amend the statute so that we would have what we thought was intended in the first place. And it appears that that’s what was done in the proposed legislation.”

Chairman Russell responded, “The intent was not to remove it but basically clarify and remove the language that caused the problems.”

Agenda Item 4 – Approve the Minutes of the November 7, 2002 Commission meeting

In open session, the Commission discussed the minutes of the November 7, 2002 Commission meeting. Commissioner Hatcher stated that she was not present at the November 7, 2002 meeting. Chairman Russell acknowledged that the change would be made to the minutes. A motion was made by Commissioner Sheets and seconded by Commissioner Kosinski to approve the minutes with the change. The motion was put to a vote and passed unanimously.

Agenda Item 5 – Public Comment

No public comment was made.

Agenda Item 6 – Advisory Opinion Request #02-22

In closed session pursuant to NRS 281.511, Subsection 5 the Commission heard testimony, received evidence, deliberated, and rendered an opinion relating to Advisory Opinion Request No. 02-22 submitted pursuant to NRS 281.511, Subsection 1.

Agenda Item 7 – Advisory Opinion Request #02-23 (confidentiality waived)

In open session pursuant to NRS 281.511, Subsection 5 the Commission heard testimony, received evidence, deliberated, and rendered an opinion relating to Advisory Opinion Request

No. 02-23 submitted pursuant to NRS 281.511, Subsection 1. The requestor, Sue Fawn Chung, waived confidentiality.

A motion was made by Chairman Russell and seconded by Commissioner Kosinski that Mrs. Chung's acceptance of an honorarium is not in violation of any of the Nevada ethics laws and does not violate the provisions of NRS 281.553. The motion was put to a vote and passed unanimously.

Agenda Item 8 – Advisory Opinion Request #02-25

In closed session pursuant to NRS 281.511, Subsection 5 the Commission heard testimony, received evidence, deliberated, and rendered an opinion relating to Advisory Opinion Request No. 02-25 submitted pursuant to NRS 281.511, Subsection 1.

Agenda Item 9 - Pursuant to NAC 281.187 to consider information, deliberate the matter, and, if appropriate, initiate an ethics complaint against a public officer or public employee on the Commission's own motion pursuant to NRS 281.511(2)(c).

In closed session pursuant to NAC 281.187 the Commission considered information, deliberated the matter, and determined whether to initiate an ethics complaint against a public officer or public employee on the Commission's own motion pursuant to NRS 281.511(2)(c).

Chairman Russell adjourned the meeting at 11:50 a.m.

Minutes transcribed by:

Minutes approved February 13, 2003.

Beverly L. Amundson
Administrative Assistant

Todd Russell, Esq.
Chairman



Stacy M. Jennings, MPA
Executive Director

Nancy Lee Varnum, Esq.
Commission Counsel

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Todd Russell, Esq.
Chairman
William Flangas, P.E.
Vice Chairman

Members:
Ernest E. Adler, Esq.
Merle Berman
Lizzie R. Hatcher, Esq.
Rick R. Hsu, Esq.
James Kosinski, Esq.
Thomas R. Sheets, Esq.

2003 Budget Issues
Executive Summary

Base Budget Year Issue

The Commission had three issues greatly impacting its expenditures in the base budget year.

- 1) **Salaries:** Vacancy in the Executive Director position for four months. In addition to the false ‘salary savings’ which accrued, the previous Executive Director had a sizable payout for accrued leave. These items were removed as one-time expenditures or funds not expended in the base year, resulting in a cut of \$38,000 from the salaries category. When salaries are ‘protected’ in the new biennium, other categories must make up the difference.
- 2) **In-State Travel:** Due to both the events of September 11, 2001 and the vacancy in the Executive Director’s position, the Commission *underspent* its in-state travel category by \$8,700 in a total budget category of \$11,300.
- 3) **Investigations:** The Commission did not have any major investigations which required extra assistance; thus, the \$10,700 budgeted was reallocated for other items in the base year.

Increased Workload

In December, 2002, the Las Vegas City Council voted to abolish its ethics code and its Ethics Commission. This will result in a projected increase of five third party opinion requests (ethics complaints), a 20 percent increase, and 36 – 60 first party advisory opinion requests, a 125 percent increase, each year. The Commission should be able to absorb the 20 percent increase within existing resources; however, the 125 percent increase will fall mainly to the Commission legal counsel. Without paralegal support, the increased advisory opinion caseload is expected to cause a backlog and delay for public officers.

Though the NCOE requested to modify its agency request to provide for the increased workload, we were not allowed to include this in our Executive Budget request. Due to budget caps imposed in the Executive Budget process, the agency was forced to choose between the items presented in the E-275 unit or having funding for contracting for outside investigative services and to replace computer equipment which will be 7 years old or older at the end of the biennium. Thus, the Commission is requesting a minor augmentation to its biennial budget request to address these issues:

	FY 2004	FY 2005
Paralegal Services	\$15,000	\$15,000
Investigations	\$10,000	\$10,000
Replacement Computer Equipment	<u>\$ 1,880</u>	<u>\$ 3,235</u>
Total Request	\$26,880	\$28,235

January, 2003

Stacy M. Jennings, Executive Director
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Exhibit II

Stacy M. Jennings, MPA
Executive Director

Nancy Lee Varnum, Esq.
Commission Counsel

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2003 Legislative Package ***Executive Summary***

- Remove subjectivity from process of assessing civil penalties for late filing of financial disclosure statements by: 1) lowering the maximum amount of penalties; 2) declaring a statement not timely filed after 45 days late and assessing a flat penalty of \$2,000; and 3) repealing the Commission's authority to reduce penalties. The Commission would retain the authority to waive penalties for good cause.
- Change submission deadline for financial disclosure statements to April 15 and allow the acceptance of a postmark as proof of timely filing.
- Require city clerks, county clerks, and representatives of the executive and legislative branch to provide annual lists of public officers to the Commission in electronic format to assist in better enforcement of the requirement to file financial disclosure statements.
- Allow the Commission to provide compliance training on ethics in government law at low or no cost to state, county, and city governments.
- Remove or alter statutory timeframes for third party (ethics) complaints to give public officers more time to respond against complaints filed against them and to provide the Commission with more time to fully investigate complaints.
- Remove sections of statute that have been deemed facially invalid and unenforceable by Nevada District Court.

January, 2003

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