



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

Thursday, November 13, 2003
9:30 a.m.
State Contractors' Board Hearing Room
2310 Corporate Circle #200
Henderson, Nevada 89074

and, via videoconference:

Boardroom of the State of Nevada Contractors' Board
Meridian Gold Building
9670 Gateway Drive, First Floor #100
Reno, Nevada 89511

MINUTES

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission office.

Commission Members Present:

Thomas R. Sheets, Esq., Chairman; Rick Hsu, Esq., Vice Chairman; Merle Berman;
William Flangas, P.E.; George Keele, Esq.; Jim Kosinski, Esq.

Commission Members Absent:

Lizzie R. Hatcher, Esq.; Caren Jenkins, Esq.

Commission on Ethics Staff Present:

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

Parties Present:

Michael Mack, Las Vegas City Councilman;
Richard A. Wright, Esq., representing Michael Mack, Las Vegas City Councilman;
John Hawk, Member, State Board of Education;
John Louritt and Keith Roman, Trustees, Douglas County School Board

Others Present:

Brad Jerbic, City Attorney, City of Las Vegas; Bruce Judd, Esq.;
Brian Allen and Nate Sylvis, KLAS TV; Mary-Anne Miller, Clark County District Attorney

Chairman Sheets called the meeting to order at 9:30 a.m., Thursday, November 13, 2003.

Agenda Item 1 – Request for Opinion 03-40

In open session, the Commission heard testimony, received evidence, deliberated, and rendered an opinion relating to a Request for Opinion submitted pursuant to NRS 281.511(2)(c), alleging that certain conduct of Michael Mack, Councilman, Las Vegas, violates the provisions of 281.501(4) and (2).

Richard Wright provided the following exhibit items:

<u>Exhibit</u>	<u>Description</u>
A	City of Las Vegas Agenda Item No.: 98 City Council Meeting of July 5, 2001
B	Summary of Legislative Abstentions
C	City of North Las Vegas Regular City Council Meeting Minutes, August 7, 2002
D	Planning & Development Department Discussion
E	City Council Minutes, August 6, 2003

A motion was made by Commissioner Kosinski that the Commission find no violation of the provisions of NRS 281.501 subsection (2) or (4). Commissioner Kosinski further stated, “I think our opinion on this matter should clearly indicate our belief that the type of disclosure made by Mr. Mack in this case, a prefunctionary comment that the proponent of an issue is merely his counsel or her counsel, I don’t think is adequate disclosure, and I think the abstention standards remain as outlined in the Woodbury opinion, that the public official has to make the analysis to determine whether or not they can vote with independence of judgment of a reasonable person in that situation without being materially affected by the relationship. Commissioner Berman seconded the motion. The motion was put to a vote and passed 4 to 1. Commissioner Flangas opposed.

Commissioner Kosinski made a final comment in respect to Mr. Wright’s presentation: “I acknowledge that these practices of abstention in the Legislature and in some city bodies have gone on, and I would say that, to my knowledge, no one filed a complaint on any of these particular violations, in my opinion, which is probably the reason why we haven’t made a decision on them. But I appreciate the amount of work you did in bringing this issue forward.”

Agenda Item 2 – Request for Advisory Opinion 03-48 (confidentiality waived)

In open session the Commission heard testimony, received evidence, deliberated, and rendered an opinion relating to an Advisory Opinion Request submitted pursuant to NRS 281.511, Subsection 1 by John Hawk, Member, State Board of Education. Mr. Hawk expressly waived the confidentiality provisions of NRS 281.511(5) in this matter.

A motion was made by Vice Chairman Hsu that in the event that Jonathan David Hawk's charter school is sponsored by a Clark County School District, a local sponsor, that he would be required to follow the guidance of the Woodbury decision in abstention and disclosure and that he would be very cautious with regard to any applications that go to the State Board for sponsorship by a charter school located in Clark County to the extent that there may be some type of competitive nature involved with trying to recruit students, part A of his motion. Part B of his motion stated that in the event that the charter school in which Jonathan David Hawk and his wife have an interest finds a need to apply to the State Board of Education as a sponsor, that Mr. Hawk would have to resign his position as a State Board of Education member. Commissioner Berman and Commissioner Keele seconded the motion.

Commissioner Kosinski clarified the motion as follows: "If the charter school had to go to the Board of Education for sponsorship, and he would have to resign, I assume what you mean is we feel there would be an inherent conflict and under those circumstances we would advise that he resign his position with either the Board of Education or possibly he, if not including he and his wife, would resign their position with the school."

Vice Chairman Hsu and Commissioner Berman agreed with the clarification. The motion was put to a vote and passed 4 to 1. Commissioner Flangas opposed.

Agenda Item 3 – Requests for Advisory Opinion 03-43 and 03-44 (confidentiality waived)

In open session the Commission heard testimony, received evidence, deliberated, and rendered an opinion relating to two Advisory Opinion Requests submitted pursuant to NRS 281.511, Subsection 1, by John Louritt and Keith Roman, Trustees, Douglas County School Board. Both parties waived the confidentiality provisions of NRS 281.511(5) in this matter.

Vice Chairman Hsu disclosed a conflict and abstained from participating in and voting on the matter.

A motion was made by Commissioner Kosinski and seconded by Chairman Sheets that the Commission's opinion in this matter make reference to the Commission's previous opinion 91-1, and that the Commission indicate that the Commission believes that in the instances relating to their respective wives, in this case the Commission is concerned about collective bargaining, they make full disclosure, and they abstain from voting on that particular issue. There is no reason for either of them to be requested to leave the room during any discussion on the contract, and the statute gives them the right to participate in the discussion, but they may not advocate passage or advocate for or against the collective bargaining agreement. The motion was put to a vote and passed 5 to 0, Vice Chairman Hsu abstained from voting.

Agenda Item 4 – Approve the Minutes of the October 8, 2003 Commission Meeting

In open session, the Commission unanimously approved the minutes of the October 8, 2003 Commission meeting.

Agenda Item 5 – 2004 Meeting Schedule

In open session, the Commission unanimously approved the 2004 meeting schedule.

Agenda Item 6 – Open Session for Public Comment

No public comment was made.

Chairman Sheets adjourned the meeting at 2:05 p.m.

Minutes transcribed by:

Minutes approved February 11, 2004.

Stacy Jennings
Executive Director

Rick Hsu, Esq.
Acting Chairman