



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

**MINUTES**  
**of the meeting of the**  
**COMMISSION ON ETHICS**  
**August 12, 2010**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. A verbatim transcript of the open session proceeding is available for inspection at the Commission office in Carson City.

The Commission on Ethics held a public meeting on Thursday, August 12, 2010, beginning at 8:30 a.m. at the following location:

Nevada Legislative Building  
Room 3143  
401 South Carson Street  
Carson City, NV

and via video-teleconference at

Grant Sawyer Building  
Room 4412  
555 E. Washington Avenue  
Las Vegas, NV

1. Call to Order, Roll Call.

In Las Vegas, Chairman John T. Moran, III, Esq. called the meeting to order and called the roll at 8:35 a.m., Thursday, August 12, 2010.

Present in Carson City were Vice-Chairman Erik Beyer, P.E., Commissioners Paul H. Lamboley, Esq. and John W. Marvel. Commissioner James M. Shaw attended via telephone. Chairman Moran, Commissioners Gregory Gale, C.P.A., George M. Keele, Esq., and Magdalena M. Groover attended in Las Vegas.

Also present in Carson City was Executive Director Caren Jenkins, Esq., Commission Counsel Yvonne Nevarez-Goodson, Esq. and Legal Research Assistant Kelly Buschman. The following members of the public were present in Carson City for portions of the meeting: Dr. Gerald Lent, Bryan Stockton, Esq., and Alice Mercado, Esq.

2. Closed session pursuant to NRS 281A.440(15) to consider a proposed stipulation in Request for Opinion No. 09-81C regarding the conduct of Michael McBeath, a member of the Nevada Board of Wildlife Commissioners. This portion of the meeting was not available to the public.

3. Open session for discussion and possible action on a proposed stipulation in Request for Opinion No. 09-81C regarding the conduct of Michael McBeath, a member of the Nevada Board of Wildlife Commissioners.

Chairman Moran opened the session to consider accepting a stipulation to resolve RFO 09-81C.

Commissioner Groover joined the meeting at 9:08 a.m.

The subject, Michael McBeath, was sworn in. Commission counsel Yvonne M. Nevarez-Goodson, presented the substantive terms of a proposed stipulation and indicated that Mr. McBeath and his counsel have accepted the stipulation as presented. The material terms set forth that: 1) McBeath's failure to disclose his commitment in a private capacity to the interests of his brother as described in the stipulation does not violate NRS 281A.420(4), as effective on May 16, 2009; and 2) McBeath's brother's ranch, Cave Valley Ranch (CVR), would not reasonably be affected by the Board considering and approving the overall quota of elk tags. Therefore, McBeath's participation in approving the overall State elk quota would not have reasonably affected his commitment in a private capacity to the interests of his brother to require either disclosure or abstention by McBeath.

CVR's interest represented 0.5 percent of the overall tags and 12 percent of the incentive tags issued. The incentive tags issued in 2009 comprised only 5 percent of the overall quota and would need to reach 50 percent to impact the number of incentive tags. This ratio has never come close and the formula established in regulation is designed to ensure that the number of incentive tags never results in 50 percent of the overall quota.

The Commissioners had no questions regarding the proposed stipulation. Bryan Stockton, Esq., counsel for Michael McBeath encouraged the Commission to accept the terms of the stipulation.

Chairman Moran moved that the Commission accept the proposed stipulation as modified. The motion was seconded by Vice-Chairman Erik Beyer. After discussion, the motion carried unanimously.

4. Open session for discussion and possible action to approve the minutes of the Nevada Commission on Ethics meeting held July 8, 2010.

At 9:31 a.m., Chairman Moran called for discussion of the July 8, 2010 meeting minutes.

Commissioner Marvel moved to approve the July 8, 2010 meeting minutes as presented. The motion was seconded by Commissioner Keele, and carried unanimously, with Commissioner Beyer abstaining as he did not attend the meeting at issue.

Commissioner Lamboley joined the meeting at 9:34 a.m.

5. Open Session to consider a Motion to Dismiss Request for Opinion 10-05C alleging that the conduct of Steve Evenson, a trustee of the Pershing General Hospital Board of Trustees, violated the provisions of NRS 281A.400(2) and (10) and NRS 281A.420(1) and (3).

Commissioners Shaw and Marvel did not participate in Agenda Item Number 5 because they served on the panel.

Alice Campos-Mercado, Esq., counsel for Mr. Evenson, made an opening statement outlining the arguments in her motion to dismiss. Commission Counsel Yvonne Nevarez-Goodson, Esq., presented the procedural and substantive history of the matter and set forth the procedure to consider dismissing an action and the statutory grounds for dismissal. The Commissioners engaged in questions and a discussion. Commissioners Keele, Moran and Beyer indicated that facts were present to support proceeding to a hearing on the matter. Commissioner Lamboley indicated an interest in dismissing some of the allegations. Commissioner Groover indicated that because Evenson had not filed a response to the Complaint prior to the panel, she was disinclined to allow the dismissal. Chairman Moran explained that the basis for the Commission granting a "12(b)" motion would need to be that the just and sufficient cause decision by the panel was erroneous.

Chairman Moran moved to deny the motion to dismiss, indicating that even if the motion was treated as a motion for summary judgment, material issues of fact are in dispute. Vice-Chairman Beyer seconded the motion. During the ensuing discussion, Commissioner Lamboley indicated he might prefer to deny a summary judgment motion rather than a motion to dismiss. Upon vote, the motion to deny the motion to dismiss passed unanimously.

Agenda Item Number 5 was closed at 10:55 a.m.

6. Closed Session pursuant to NRS 281A.440(15) to hear testimony, receive evidence, deliberate and render an opinion regarding Request for Opinion No. 10-54A, submitted pursuant to NRS 281A.440(1).

Agenda Item Number 6 was closed at 12:07 p.m.

Commissioner Shaw left the meeting at 12:07 p.m.

7. Closed Session pursuant to NRS 281A.440(15) to hear testimony, receive evidence, deliberate and render an opinion regarding consolidated Requests for Opinion Nos. 10-51A and 10-59A submitted pursuant to NRS 281A.440(1).

Agenda Item Number 7 was closed at 2:45 p.m.

8. Open session for discussion and possible action regarding changes to statutes, regulations and policies of or related to the Nevada Commission on Ethics.

Commission Counsel Yvonne Nevarez-Goodson, presented proposed changes to NRS 281A.400, adding subsection (11), prohibiting a public employee or public officer from simultaneously holding any other office which is incompatible with his public employment or duties as a public officer. The Commission engaged in discussion regarding the proposed changes.

Commissioner Gale moved that the Commission accept the proposed changes to NRS 281A.400 and direct the Executive Director and Commission Counsel to include these changes in the bill draft request. The motion was seconded by Chairman Moran and unanimously carried.

Commission Counsel Yvonne Nevarez-Goodson, presented the proposed changes to NRS 281A.400 (7) adding the language "or employee" to NRS 281A.400(7)(a)(1) so the subsection would read "The public officer or employee who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances". The Commission engaged in discussion regarding the proposed changes.

Chairman Moran moved that the Commission accept the proposed changes to NRS 281A.400 and direct the Executive Director and Commission Counsel to include these changes in the bill draft request. The motion was seconded by Commissioner Gale and unanimously carried.

11. Open Session for public comment.

Chairman Moran called this item out of order. No public comment was made.

9. Open Session for update on agency status and operations by Executive Director and Commission Counsel.

Executive Director Caren Jenkins, reported that the Commission received 11 requests for opinion since the beginning of fiscal year 2010-2011, which indicates a 32% increase in requests for opinion. Ms. Jenkins also reported a directive from the Department of Administration for budget cuts of 10% and reported that the agency will be unable to fulfill its statutory obligations, and certainly will be unable to meet its required timelines, with any further budget cuts.

Commission Counsel Yvonne Nevarez-Goodson, reported she intends to distribute drafts of 10 to 12 opinions for the Commissioners' review within the next two weeks.

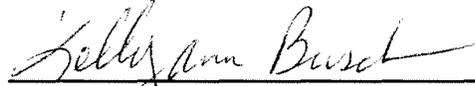
10. Open session for Commissioner comments.

Commissioners had no further comments.

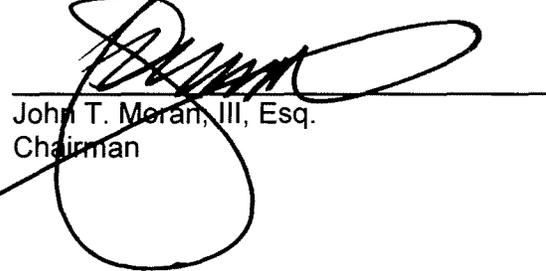
12. Adjournment.

Chairman Moran adjourned the meeting at 3:30 p.m.

Minutes prepared by:

  
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Kelly A. Buschman  
Legal Research Assistant II

Minutes approved September 10, 2010:

  
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John T. Moran, III, Esq.  
Chairman