



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion
Concerning the Conduct of
FRANK MAURIZIO, Member,
Pahrump Town Board, Town of
Pahrump, State of Nevada,

Request for Opinion No.: 09-40C

Subject. /

INVESTIGATOR'S REPORT (Tab A):

Introduction:

Request for Opinion No. 09-30C (Ethics Complaint). (Tab B):

On June 1, 2009, complainant Al Balloqui (Balloqui) filed an Ethics Complaint against public officer Frank Maurizio (Maurizio), a member of the Town of Pahrump Town Board (Town Board), alleging that Maurizio violated NRS 281A.400(9) by attempting to influence subordinates to assist him to obtain employment, and NRS 281A.400(10) by using his official position to seek employment.

Jurisdiction:

As a member of the Town Board, no dispute exists that Maurizio is a public officer as defined in NRS 281A.160. Therefore, the Nevada Commission on Ethics (Commission) has jurisdiction to investigate and take appropriate action in this matter, pursuant NRS 281A.280 and NRS 281A.440.

1 **Issues:**

2
3 The issues are whether Maurizio violated:

- 4
- 5 1. NRS 281A.400(9) by attempting to benefit his personal interest through the influence of a
6 subordinate by asking for help to obtain employment.
 - 7
 - 8 2. NRS 281A.400(10) by using his official position to seek employment.
 - 9

10 **Response to Ethics Complaint. (Tab C):**

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12 Maurizio's response to the Ethics Complaint was received on July 7, 2009. At that time,
13 Maurizio was not represented by a legal counsel. However, on July 28, 2009, Maurizio retained
14 Jeff Pitegoff Esq., (Pitegoff) as his counsel, who on September 17, 2009 submitted a second
15 response. In both responses, Maurizio argued that NRS 281A was not violated and denied using
16 his position to influence a subordinate or using his official position to secure employment. (First
17 response, Tab C, page 4), (Second response, Tab C, pages 1 to 2).

18
19 **Investigation Summary:**

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21 I interviewed the following individuals and reviewed their responses:

22
23 **Witnesses interviews and responses. (Tab D):**

- 24
- 25 • Frank Maurizio, on July 7, 2009 and September 17, 2009. (Responses, Tab C).
26 (Supplemental questionnaire not received when this report was completed).
 - 27 • Al Balloqui, via fax, on June 28, 2009. (Exhibit 1).
- 28

- 1 • William Kohbarger, (Kohbarger), Town of Pahrump (Pahrump) manager, via e-
2 mail on July 23, 2009. (Exhibit 2).
- 3 • Scott Lewis, (Lewis), Pahrump Valley fire chief, via e-mail on July 23, 2009.
4 (Exhibit 3).
- 5 • Jim Scott (Scott), deputy sheriff, Nye County Sheriff's Office, via telephone on
6 July 21, 2009. (Exhibit 4).
- 7 • Tony DeMeo (DeMeo), sheriff, Nye County Sheriff's Office, via telephone on
8 July 21, 2009. (Exhibit 5).
- 9 • Terry Bostwick, Pahrump human resources coordinator, via e-mail on July 21,
10 2009. (with notes from her April 10, 2009 interview with Balloqui). (Exhibit 6).
- 11 • Arlette Ledbetter, Pahrump business license technician, via e-mail on July 21,
12 2009. (Exhibit 7).

13
14 **Documents. (Tab E):**

15
16 I obtained and reviewed the following documents and materials relevant to the investigation:

- 17
- 18 • E-mail from Kohbarger dated September 25, 2009. (Exhibit 8).
- 19 • News article regarding Pahrump Town Manager Kohbarger, dated June 26, 2009.
20 (Exhibit 9).
- 21 • June 23, 2009, Pahrump Town Board agenda. (Exhibit 10).
- 22 • Commission's Jurisdictional Determination, In re Maurizio No. 09-40C.
23 (Exhibit 11).

24
25 **Relevant Statutes and Commission's Opinions. (Tab F):**

- 26
- 27 I. NRS 281A.400(9) and (10).
- 28 II. Commission's opinion, In re Boggs-McDonald No. 04-77C.

1 **Investigative findings:**

2
3 **Background:**

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5 Maurizio is a member of the Town Board appointed by the Governor of the State of
6 Nevada and was sworn into his position as a Town Board member on December 22, 2008. His
7 term expires in December 2010. Balloqui's Complaint alleges that Maurizio used his official
8 position on the Town Board to seek employment with Nye County District Attorney's Office and
9 Nye County Sheriff's Office. In addition, the complaint alleges that Maurizio attempted to
10 influence his subordinates to assist him with obtaining employment.
11

12 **Investigation:**

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14 Upon examining the available evidence, the result of the investigation is as follows:

15
16 As to the claim that Maurizio asked Balloqui for assistance with obtaining employment, on July
17 28, 2009 I asked Balloqui to clarify the dates when Maurizio allegedly approached him.
18 (Complaint, Tab B, page 6). Balloqui responded that Maurizio had approached him on two
19 different occasions between mid-January and February 2009, but he could not recall the specific
20 dates (Exhibit 1, page 2). After our initial conversation, I spoke with Balloqui on several
21 different occasions to clarify certain issues and to familiarize myself with the circumstances
22 surrounding the complaint.
23

24 As to the claim that Maurizio asked Kohbarger for assistance with employment, a statement from
25 Kohbarger indicates that Maurizio came to his office on January 27, 2009 and again on an
26 unspecified date in February 2009. (Exhibit 2). I asked Kohbarger on July 28, 2009 to clarify the
27 date when Maurizio approached him for the second time and asked to assist him with
28 employment. Kohbarger stated that the date was possibly February 10, 2009, because that was

1 the day of the Town Board meeting. However, Kohbarger was certain that the first meeting with
2 Maurizio was on January 27, 2009. In addition, Kohbarger alleged that Maurizio was pursuing
3 personal vendetta against him due to his reluctance to assist him with employment and attempted
4 to have Kohbarger's employment terminated at the Town Board meeting on June 23, 2009.
5 However, the item was tabled at the advice of the Town Attorney. (Exhibit 9), (Exhibit 10,
6 agenda item #10).

7
8 Kohbarger also stated that few days after the second meeting with Maurizio, Fire Chief Lewis
9 informed him that Maurizio had asked him to help him obtain employment with the Nye County
10 District Attorney's Office. Finally, Kohbarger added that Balloqui informed him that Maurizio
11 asked him for help with employment the following day. After the conversation with Balloqui
12 and Lewis, Kohbarger allegedly asked Maurizio to stop making such requests. (Exhibit 2, page
13 2).

14
15 As to the claim that Maurizio did not receive a copy of the "employment manual and the Town
16 Policy" (First response, Tab C, page 5), Kohbarger stated that Maurizio was furnished with the
17 Town Personnel Policy and a copy of a book for local elected leaders in December 2008. In
18 addition, Maurizio allegedly received a copy of Open Meeting Law Manual in February 2009.
19 (Exhibit 8).

20
21 As to the claim that Maurizio asked Lewis for help with employment, I reviewed Lewis'
22 statement and requested clarification of dates when Maurizio approached him and asked for
23 assistance. Lewis could not recall the exact dates; however, based on the conversation with
24 Kohbarger, it appears that the conversation took place between mid-January and early February
25 2009.

26
27 As to the allegation that Maurizio requested assistance with employment with the Nye County
28 Sheriff's Office (Complaint, Tab B, page 3), the evidence shows that Maurizio applied for a

1 position in the said office. (Second response, Tab C, page 2), (Exhibit 5 and 6). However, it is
2 this investigator's opinion that the evidence collected during the investigation does not support
3 the allegation of violation of NRS 281A.400(9) and (10). Statements of DeMeo and Scott
4 indicated that Maurizio applied for a position, but he did not ask for any special consideration
5 nor did he request assistance from anyone on his behalf. (Exhibits 4 to 7).

- 6
7 **1. Allegation one:** Maurizio violated NRS 281A.400(9), when on January 27, 2009
8 and on or about February 10, 2009, he attempted to influence Kohbarger by asking
9 him for assistance with obtaining employment with the Nye County District Attorney's
10 Office.

11
12 The allegation is that on January 27, 2009 and or about February 10, 2009 Maurizio asked
13 Kohbarger to help him secure employment with the Nye County District Attorney's Office.

14
15 NRS 281A.400(9) provides that:

16 A public officer or employee shall not *attempt* to benefit his personal or financial
17 interest through the influence of a subordinate. (Emphasis added).

18 As the Town manager, Kohbarger reports directly to the Town Board. Since Maurizio is a Town
19 Board member, and Kohbarger is his subordinate, it is this investigator's opinion that Kohbarger
20 could reasonably assume that Maurizio attempted to influence him as a subordinate.

21
22 Maurizio's response via his counsel indicated that *"Mr. Maurizio's wife works as the receptionist*
23 *for the Nye County District Attorney's Office in Pahrump. Since she works for the District*
24 *Attorney, it makes little sense that he would ask anyone else to help him obtain employment*
25 *within that agency."* (Emphasis added). (Second response, Tab C, page 2). It is this investigator's
26 opinion that the assistance of a town manager or a fire chief may perhaps result in a greater
27 benefit than the assistance of Maurizio's wife, an entry level employee with that agency. In
28 addition, it is this investigator's opinion that the argument is perhaps flawed since it indirectly

1 implies that "why would Maurizio use his official position, when he can ask his wife to use
2 hers."

3
4 **2. Allegation two:** Maurizio violated NRS 281A.400(10), when on January 27, 2009
5 and on or about February 10, 2009, he used his official position by asking Kohbarger
6 for assistance with obtaining employment with the Nye County District Attorney's
7 Office.

8
9 NRS 281A.400(10) provides that:

10 A public officer or employee shall not *seek* other employment or contracts through the
11 use of his official position. (Emphasis added).

12 The allegation is that on January 27, 2009 and or about February 10, 2009 Maurizio asked
13 Kohbarger to help him secure employment with the Nye County District Attorney's Office.
14 Since Maurizio is a member of the Town Board, it is this investigator's opinion that his request
15 for assistance could be reasonably construed as the use of his official position.

16
17 **3. Allegation three:** Maurizio violated NRS 281A.400(9), when on or about mid-January
18 to early February 2009, he attempted to influence Lewis by asking him for assistance
19 with obtaining employment with the Nye County District Attorney's Office.

20
21 The allegation is that on two different occasions during a Town Board meeting on or about mid-
22 January to early February 2009, Maurizio asked Lewis to help him secure employment with the
23 Nye County District Attorney's Office. (Exhibit 3).

24
25 NRS 281A.400(9) provides that:

26 A public officer or employee shall not *attempt* to benefit his personal or financial
27 interest through the influence of a subordinate. (Emphasis added).

1 As noted in Lewis' statement, Maurizio approached him on two occasions during a Town Board
2 meeting. Lewis is a Town employee and the head of the fire department. He was appointed by
3 the Town Board; however, he reports directly to Kohbarger, who in turn reports to the Town
4 Board. Since Maurizio is a Town Board member it is this investigator's opinion that Lewis could
5 reasonably assume that Maurizio attempted to influence him as a subordinate.

6
7 **4. Allegation four:** Maurizio violated NRS 281A.400(10), when on or about mid-
8 January to early February 2009, he used his official position by asking Lewis for
9 assistance with obtaining employment with the Nye County District Attorney's Office.

10
11 The allegation is that on two different occasions during a Town Board meeting in mid-January to
12 early February 2009, Maurizio asked Lewis to help him secure employment with the Nye County
13 District Attorney's Office. (Exhibit 3).

14
15 NRS 281A.400(10) provides that:

16 A public officer or employee shall not *seek* other employment or contracts through the
17 use of his official position. (Emphasis added).

18 Maurizio is a member of the Town Board, and at the time of his request, he was performing his
19 duties as the Town Board member. Therefore, it is this investigator's opinion that his request for
20 assistance with employment could be reasonably construed as the use of his official position.

21
22 **5. Allegation five:** Maurizio violated NRS 281A.400(9), when in mid-January to early
23 February 2009, he attempted to influence Balloqui by asking him for help to obtain
24 employment.

25
26 The allegation is that on or about mid-January to early February 2009, Maurizio asked Balloqui
27 for help to find him employment. (Complaint, Tab B, page 6), (Exhibit 1, page 2).

1 NRS 281A.400(9) provides that:

2 A public officer or employee shall not *attempt* to benefit his personal or financial
3 interest through the influence of a subordinate. (Emphasis added).

4 Balloqui is a Town employee who is in charge of Business License and Code Enforcement and
5 Community Business Development. Since Maurizio is the Town Board member, it is this
6 investigator's opinion that based on Maurizio's statements Balloqui could reasonably assume that
7 Maurizio attempted to influence him as a subordinate. (Exhibit 1, page 2).

8
9 **6. Allegation six:** Maurizio violated NRS 281A.400(10), when on or about mid-January
10 to early February 2009, he used his official position by asking Balloqui to help him
11 with obtaining employment.

12
13 The allegation is that on or about mid-January to early February 2009, Maurizio asked Balloqui
14 for help to find him employment. (Complaint, Tab B, page 6), (Exhibit 1, page 2).

15
16 NRS 281A.400(10) provides that:

17 A public officer or employee shall not *seek* other employment or contracts through the
18 use of his official position. (Emphasis added).

19 Maurizio is a member of the Town Board; therefore, it is this investigator's opinion that his
20 request for assistance with employment could be reasonably construed as the use of his official
21 position to seek employment.

22
23 Dated this 28 day of September 2009.

24
25 NEVADA COMMISSION ON ETHICS

26
27 

28 By: Mike Vavra, Investigator.