



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion
Concerning the Conduct of
BONNIE DUKE, Former Finance Director,
City of Fernley,
State of Nevada,

Request for Opinion No.: 09-12C

Subject. /

INVESTIGATOR'S REPORT (Tab A):

Introduction:

On March 5, 2009, an Ethics Complaint was filed against Bonnie Duke, (Duke), the former finance director of the City of Fernley, alleging that she used the city issued credit card for her personal benefit.

Jurisdiction:

As the former city finance director, no dispute exists that Duke was a public officer at the time the alleged violations took place, as defined by NRS 281A.160. Therefore, the Nevada Commission on Ethics (Commission) has jurisdiction to render an opinion in this matter, pursuant NRS 281A.280 and NRS 281A.440.

1 **Issues:**

2
3 The issue is whether Duke violated NRS 281A.400.2 when she allegedly used her position to
4 benefit herself by using city issued credit card for personal expenses.

5
6
7 **Request for Opinion No. 09-12C (Ethics Complaint). (Tab B):**

8
9 On March 5, 2009 an Ethics Complaint was filed by Sandra Mathewson (Mathewson). The
10 following is the summary of the allegations:

11 Between May 2007 and July 2008, Duke violated NRS 281A.400.2 when she used city issued
12 credit card to benefit herself.

13
14
15 **Notices of Additional Issues and Facts. (Tab C):**

16
17 During the course of investigation, additional facts and issues relating to alleged violations of
18 NRS 281A.400.2 were discovered by the Investigator. A Notice of Additional Issues and Facts
19 was mailed to Duke and her legal counsel Brent Kolvet, Esq. (Kolvet), on March 25, 2009.
20 A second Notice of Additional Issues and Facts was mailed to Duke and Kolvet, on April 20,
21 2009.

22
23
24 **Response to Ethics Complaint. (Tab D):**

25
26 Duke's response to the Ethics Complaint and the Notice of Additional Issues and Facts was
27 received on April 16, 2009. Duke's justified her expenses and denied any wrongdoing.

1 A response to the Second Notice of Additional Issues Facts was still pending at the time of
2 completion of this report.

3
4 **Investigation Summary:**

5
6 I interviewed the following individuals and reviewed the following documents:

7
8 **Witnesses interviews and responses (Tab E):**

- 9
- 10 • Kelly Malloy, witness of the Ethics Complaint No. 09-12C, via e-mail on March
11 24, 2009 and April 17, 2009. (Exhibit 1).
 - 12 • Sandra Mathewson, requestor of the Ethics Complaint No. 09-12C, via fax on
13 April 3, 2009. (Exhibit 2).
- 14

15 **Documents. (Tab F):**

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

- 18
- 19 • City of Fernley credit card statements received via fax from Sandra Mathewson
20 on April 17, 2009. (Exhibit 3).
 - 21 • City of Fernley Hospitality & Civic Function Guidance, received via e-mail from
22 Sandra Mathewson, on April 3, 2009. (Exhibit 4).
 - 23 • Updates and revisions to the City of Fernley Travel Expenses Policy. Received
24 via fax from Sandra Mathewson on April 2, 2009. (Exhibit 5).
 - 25 • City of Fernley credit card statements received via fax from Sandra Mathewson
26 on March 23, 2009. (Exhibit 6).
 - 27 • Minutes from the City Council meeting on October 15, 2008. (Exhibit 7).
- 28

- 1 • Audio recordings from the October 15, 2008 City of Fernley Council Meeting.
2 (Not included but available).
- 3 • Minutes from the City Council meeting on October 1, 2008. (Exhibit 8).
- 4 • Excerpt from the City of Fernley Personnel Manual. (Exhibit 9).
- 5 • E-mail from Bonnie Duke, received on October 15, 2008. (Exhibit 10).
- 6 • City of Fernley Credit Card Policies effective March 20, 2008. (Exhibit 11).
- 7 • City of Fernley Credit Card Policies effective July 1, 2003. (Exhibit 12).

8

9 **Investigative findings:**

10

11 The following are my investigative findings:

12

13 Duke was employed by the City of Fernley as a financial director/city treasurer from November
14 2001 until her termination on March 4, 2009.

15

16 In October 2008, I questioned Duke during the investigation of the Ethics Complaint on City of
17 Fernley Attorney Jeff McGowan. At the time, Duke justified some expenses brought by the
18 complainant as, “At the time these types of expenditures were incurred, there was no specific
19 guidance either allowing or prohibiting such expenditures. The City Manager has the authority
20 to authorize purchases up to \$10,000 per City Ordinance.” (Exhibit 10).

21

22 Per City of Fernley Credit Card Policy, a written advanced authorization of the city manager is
23 required for credit card purchases (Exhibits 11 and 12); however, it appears that purchases are
24 not authorized as required; they are simply submitted to financial department and approved after
25 the fact. (Exhibit 1).

26

27 Duke stated in her October 15, 2008 e-mail that the “hospitalities” guideline was presented to the
28 City Council on October 1, 2008 and October 15, 2008. The new guideline should provide better

1 guidance for business lunches, food expenses at the City Council meetings and other issues. In
2 addition, Duke stated that the current policies do not include definition of “travel status.”
3 (Exhibit 10). I examined audio recordings from the October 1 and October 15, 2008 meetings,
4 and noted that the City Council was presented with a draft of new policies, but in my opinion,
5 said draft did not include substantial clarifications to the city policies.

6
7 During the October 1, 2008 meeting, when a discussion on expenses took place, Councilman
8 Chaffin commented that the new draft is much better, and he does not want to go to “anything
9 goes if you can get away with it” method. The discussion included comments whether or not it is
10 appropriate to purchase alcoholic beverages with city’s money and in fact, some believed that
11 this may be appropriate. As of today, there were only minor changes in city’s policies, such as,
12 prohibition of meals for City Council members while at meeting in Fernley.

13
14 On March 24, 2009, I spoke to City of Fernley Councilwoman Kelly Malloy (Malloy) about the
15 policy on approvals of credit card expenses. Malloy stated she spoke to the current Interim
16 City Manager Greg Evangelatos, who apparently told her that he "does not know who approves
17 credit card statements." In addition, Malloy questioned city accounting department personnel,
18 who allegedly stated that “credit card bills are simply paid with no approval necessary. Since
19 department heads are the only employees with city issued credit cards, it is assumed that they
20 give approval themselves for any expenditure by using the card.” (Exhibit 1).

21
22 Duke justified all the expenses brought by the complainant in her response; however, her
23 explanations are not satisfactory. Some expenses are for out-of-state services, and some does not
24 follow the City of Fernley Credit Card Policies. (Exhibit 11 and 12).

25
26 Duke justified her expense in Salt Lake City, Utah in her response (Tab D, exhibit D). However,
27 the necessity of out of state travel for a conference held by a software vendor appears
28 questionable. In addition, Duke's expenses for her Certified Public Accountant (CPA) license are

1 also charged to an entity in Salt Lake City Utah. As of the cost for Duke's Utah CPA license, she
2 justified such by stating, "these were authorized upon my employment and continued each year
3 thereafter." (Tab D, question 4). However, Duke did not offer proof of such authorization.

4
5 Although Duke's claim that "the City of Fernley has paid historically for licenses and
6 memberships" may appear as a justification (Tab D, question 4), I note that the City of Fernley
7 finance director-city treasurer does not require possession of the CPA license. (Tab D, Exhibit
8 A).

9
10 Furthermore, although the \$63 charge for the CPA license in Utah appears to be authorized by
11 the former City Manager Gary Bacock (Tab D, Exhibit E), such authorization appears to take
12 place after the purchase, not before as required by the City Of Fernley Credit Card Policies.
13 (Exhibit 11 and 12).

14
15 Finally, Duke stated, "I recently obtained my Nevada CPA license. All of these licenses and
16 memberships directly relate to my employment." (Tab D, Question 3). This explanation
17 decreases the justification for the use public funds of a Nevada city to obtain a CPA license in
18 Utah.

19
20 Considering Duke's experience in various private and government entities, Duke should have
21 known that some of the alleged expenditures do not follow the Ethic in Government Law. The
22 only justifiable and authorized expenses appears to be \$2, 000 purchase of office furniture from
23 vendor in Fallon, NV, and purchase of \$973 software from American Institute of Public
24 Accountants, which is a property of the City of Fernley.

1
2 **Investigative conclusion:**
3

4 The evidence DOES support the claim that on dates as alleged in the complaint, Bonnie Duke
5 violated NRS 281A.400.2. After reviewing the evidence and NRS 281A.400, the
6 recommendation is that the Panel find just and sufficient cause EXISTS for the Commission to
7 render an opinion on the allegation that the Bonnie Duke used her position to obtain unwarranted
8 privileges when she used city issued credit card to benefit herself on:
9

- 10 1. July 28, 2008, on a charge for \$63 for Utah CPA license.
- 11
- 12 2. May 6, 2008, on a charge for \$105 for Utah Association of CPA's
13 membership fee.
- 14
- 15 3. October 28, 2007, on a charge for \$14.19 for gas purchase in Salt Lake City,
16 Utah.
- 17
- 18 4. October 27, 2007, on three separate charges for a total of \$942.15 for
19 lodging and meal expenses in Salt Lake City, Utah.
- 20
- 21 5. July 17, 2007, on a charge for \$309 for American Institute of Public
22 Accountants membership fee.
- 23
- 24 6. August 17, 2007, on a two separate charges for total of \$346.60 for airfare to
25 Salt Lake City, Utah.
- 26
- 27 7. May 16, 2007 charge for \$100 for Utah CPA membership fee.
- 28

1 On the other hand, the evidence DOES NOT support the claim that on May 7, 2007, Bonnie
2 Duke violated NRS 281A.400.2. After reviewing the evidence and NRS 281A.400, the
3 recommendation is that the Panel find just and sufficient cause DOES NOT EXIST for the
4 Commission to render an opinion on the allegation that the Bonnie Duke used her position to
5 obtain unwarranted privileges when she used city issued credit card to benefit herself on:

- 6
- 7 1. March 20, 2008, on a charge for \$973 for software from American
8 Institute of Public Accountants.
- 9
- 10 2. May 7, 2007, on a charge for \$2,000 for the purchase of furniture from a
11 vendor in Fallon, NV.
- 12

13 Therefore, on the allegation in Ethics Complaint No. 09-12C, I conclude that the panel must find
14 that just and sufficient cause EXISTS for the Commission to held a hearing and render an opinion
15 on all the allegations, except for the allegations on March 20, 2008 and May 7, 2007.

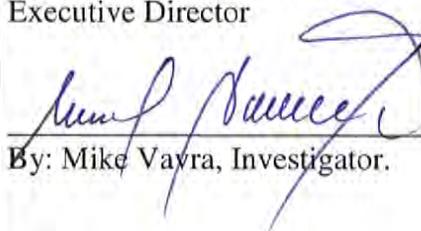
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18 Dated this 22 day of April 2009.

19

20 NEVADA COMMISSION ON ETHICS
21 Patricia D. Cafferata, Esq.
22 Executive Director

23 
24 By: Mike Vavra, Investigator.