



**NEVADA COMMISSION ON ETHICS
EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION
REGARDING JUST AND SUFFICIENT CAUSE**

REQUEST FOR OPINION NO. 05-17

SUBJECT: CANDICE TRUMMELL
COUNTY COMMISSIONER
NYE COUNTY

A. JURISDICTION:

In her capacity as a Nye County Commissioner Candice Trummell is a public officer as defined by NRS 281.4365. As such, the commission has jurisdiction over this complaint.

B. REPORT OF INVESTIGATIVE ACTIVITIES:

- Reviewed Request for Opinion 05-17 (Tab B)
- Reviewed subject's response dated March 26, 2005 (Tab C)
- Reviewed agenda and minutes for Nye County Commission for September 7, 2004
- Researched and reviewed information regarding Southern Nevada Workforce Investment Board

C. RECOMMENDATIONS:

Based on investigative activities, the Executive Director recommends the Panel find that just and sufficient cause **DOES NOT EXIST** for the Commission to hold a hearing and render an opinion in this matter relating to the provisions of:

- NRS 281.501(2).

SPECIFIC REASON:

No allegations or credible evidence of any fact exists that amounts to or supports a potential violation by any public officer of the above provision of NRS Chapter 281.

D. SUMMARY OF REQUEST FOR OPINION:

The request for opinion alleges Commissioner Trummell (hereinafter “Trummell”) violated the Ethics in Government law by requesting that an item be placed on the September 7, 2004 Nye County Commission meeting agenda which considered the proposed use of a property known as the Calvada Eye, and that the focus of this agenda item was the lease of county property for Community One-Stop. The Nevada Job Connect program and the Southern Nevada Workforce Investment Board had been attempting to locate the Community One-Stop program within the Town of Pahrump.

At the September 7, 2004 Nye County Commission meeting Trummel, who also serves as a member of the Southern Nevada Workforce Investment Board (hereinafter “SNWIB”), allegedly made a motion for the county to prepare a lease agreement with Community One-Stop at a lease rate of \$0.50 per square foot, which the complaint alleges was far below the going rates for similar space in Pahrump, Nevada. The complaint alleges Trummel was biased by virtue of her position on the SNWIB, and presumably should have disclosed this commitment.

E. SUMMARY OF SUBJECT’S RESPONSE:

In her response, Trummell denied all of the allegations set forth in the complaint, providing the following information:

- Charlie Rodewald (hereinafter “Rodewald”), the former Nye County Budget Director, filed the complaint in retaliation against Trummell. Rodewald submitted this complaint to the Commission on Ethics only days after a public confrontation at a Nye County Commission meeting regarding his job performance, where Trummell questioned Rodewald’s accounting practices and Rodewald subsequently resigned after an ‘atrocious’ audit report from an external auditor;
- She did not accept any gift or loan pertaining to the property or lease at issue;
- She has no pecuniary interest in the property or lease at issue;
- She has no commitment in a private capacity to the interest of others with regard to the property or lease at issue;
- Nye County is a member/partner in the SNWIB, and Trummel was appointed by the Nye County Commission to be the county liaison to the SNWIB. She is not compensated for her involvement with this board;
- SNWIB entered into a contract with the Pahrump Chamber of Commerce to open a NV Job Connect/Community One-Stop in Pahrump as a part of the SNWIB’s ongoing efforts to provide services in rural Southern Nevada;

- Victoria Balint, the coordinator for the Chamber of Commerce, approached Nye County with a request that the county purchase the Calvada Eye and lease a portion of the property back to the Chamber for the purpose of establishing the NV Job Connect/ Community One-Stop, and that the lease for \$.50 per square foot was based on another lease the county was working on for medical facilities owned by the county;
- SNWIB does not benefit in any way by the low lease rate; and
- Trummell has no private or pecuniary interest in the Chamber of Commerce;

F. PERTINENT STATUTES AND REGULATIONS:

NRS 281.501

Additional standards: Voting by public officers; disclosures required of public officers and employees; effect of abstention from voting on quorum; Legislators authorized to file written disclosure.

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2. Except as otherwise provided in subsection 3, in addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

- (a) His acceptance of a gift or loan;
- (b) His pecuniary interest; or
- (c) His commitment in a private capacity to the interests of others.

It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

* * * * *

8. As used in this section, “commitment in a private capacity to the interests of others” means a commitment to a person:

- (a) Who is a member of his household;
- (b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;
- (c) Who employs him or a member of his household;
- (d) With whom he has a substantial and continuing business relationship; or
- (e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.

G. RESULTS OF INVESTIGATION:

Factual Background:

Candice Trummell presently serves as Chairman of the Nye County Commission. She was appointed by the Nye County Commission to serve as a liaison to the SNWIB, an appointment for which she is not compensated.

The SNWIB administers the Southern Nevada Workforce Investment Area. This area is made up of several southern Nevada counties, including Nye County, and the cities of Boulder City, Henderson, Las Vegas, and North Las Vegas. The SNWIB is the oversight administrator of the funds to provide employment and training services in southern Nevada. The SNWIB does not deliver services directly; rather, it contracts with various service providers to deliver employment and training services in the region.

SNWIB entered into a contract with the Pahrump Chamber of Commerce to open a Nevada Job Connect/Community One-Stop in Pahrump. Due to a shortage of available office space in Pahrump, the Nye County Commission leased space at the Calvada Eye property to the Chamber of Commerce to open the Nevada Job Connect/Community One-Stop to house service providers to deliver employment and training services.

Allegations of Violating NRS 281.501(2)

The Commission on Ethics has long recognized Nevada's public policy that a public office is a public trust and shall be held for the sole benefit of the people. (*NRS 281.421*). Further, a public officer must be cautious where private interests are at play and must commit himself to avoid conflicts between those interests and the interests of the general public whom he serves. (*Id.*)

The language in NRS 281.501(2) addresses when a public officer should disclose his private interests. The question presented in this request for opinion is whether Trummell has a commitment in her private capacity to the interest of another, namely the SNWIB, such that it would require her to disclose her interest (and potentially abstain from voting) regarding the potential lease of the Calvada Eye property.

This question is not one of first impression before the Commission. For example, in the *Matter of Yvonne Atkinson-Gates and Theron H. Goynes*, NCOE Opinion No. 93-06, similar circumstances regarding the duty of disclosure and abstention were presented to the Commission. That case involved two public officers. Ms. Atkinson-Gates was a Clark County Commissioner who was appointed by the Clark County Commission to the Regional Transportation Commission of Clark County (RTC). Also, she was appointed director to the Equal Opportunity Board of Clark County (EOB). At the time, the EOB was a private, non-profit corporation that provided transportation services in Clark County. Mr. Goynes was an elected member of the North Las Vegas City Council. He was appointed by the North Las Vegas City Council to the RTC. He was also appointed to the EOB Board of Directors as a Councilman by the North Las Vegas City Council. In

response to a request for a proposal, the EOB was to submit to the RTC a contract to provide transportation services. As members of the EOB, Atkinson-Gates and Goynes would approve the proposals submitted to the RTC for a transportation contract. As members of the Las Vegas City Council and The Clark County Board of County Commissioners respectively, Atkinson-Gates and Goynes would then review the proposals submitted to RTC, including the proposal by the EOB and ultimately vote to select the winning proposal.

The Commission found an apparent conflict existing between the responsibility to deliberate and vote on the submittal of the contract proposal as members of the EOB and to deliberate and vote as members of the RTC on the proposals submitted including that by the EOB. Yet, the Commission opined that the conflict involved was not a conflict within the meaning of NRS 281.501. The conflict was not one between a private commitment and the public officer's public duty. Instead, "such a conflict is public or institutional in nature and exists solely between one's public responsibility as an EOB Director and one's public responsibility as a member of the RTC, with respect to the acceptance or rejection of the proposal submitted by the EOB." Further, the Commission concluded that such a conflict is "wholly within the context of one's dual responsibilities" as a public officer who serves on two boards. In this opinion, the Commission recognized that both the Clark County Commission and the North Las Vegas City Council, by appointing their members to both the RTC and the EOB, impliedly found that such dual public responsibilities is in the public's best interest.

Similarly, in the *Matter of Kathryn Wishart and Grant Sims*, NCOE Opinion No. 92-11, the Commission found no conflict contemplated by NRS 281.501 existed where two elected members of the Reno City Council who were also members of a non-profit entity to coordinate and administer a plan and program for a homeless shelter, Project Restart, Inc., voted during the Reno City Council on the recommendation of Project Restart for a proposed site for the homeless shelter.

Trummell, like the public officers in the above-mentioned opinions, is a public officer with dual public responsibilities. Trummell is an elected member of the Nye County Board of Commissioners. The Nye County Commission appointed Trummell to serve as liaison to the SNWIB in order to protect the interests of Nye County. In her capacity as liaison to the SNWIB, she deliberated and voted to enter into a contract to the Pahrump Chamber of Commerce to open a Nevada Job Connect/Community One-Stop in Pahrump. Thereafter, in her capacity as a county commissioner, Trummell deliberated and cast her vote to lease space at the Calvada Eye property to the Chamber to open the Community One-Stop.

Trummell's commitments to the interest of others are not private commitments as defined by NRS 281.501(8); rather, her conflict is between a commitment in her public capacity to the interest of SNWIB and a public duty to the Nye County Board of County Commissioners. These interests stem solely from the elected position she holds. As such, this conflict is "wholly within the context of her dual responsibilities" as a public officer who serves on several boards. It appears safe to assume the Nye County

Commission recognized, upon her appointment to the SNWIB, that Trummell's dual responsibilities are advantageous to and in the best interest of the citizens of Nye County.

There is no evidence provided with the complaint nor found during the investigation which indicates any private commitment between Trummel and any of the persons, entities, or property which are the subject of the complaint. Absent such evidence, the statutory disclosure provisions are not triggered. Therefore, Trummel had no obligation to disclose and her participation in the Calvada Eye lease was not restricted under statute.

The Executive Director finds no credible evidence exists to substantiate a potential violation of NRS 281.501(2). Accordingly, the Executive Director recommends the panel find just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion regarding whether Ms. Trummel violated the provisions of NRS 281.501(2).

H. CONCLUSION:

The Executive Director hereby recommends the panel find just and sufficient cause does not exist for the Commission to hold a hearing and render an opinion on the allegations the subject violated NRS 281.501(2), and further that the allegations be dismissed.

DATED: November 21, 2005

Stacy M. Jennings
STACY M. JENNINGS, MPA
EXECUTIVE DIRECTOR