STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of
the Request for Opinion Concerning
the Conduct of WILLIAM EISELE,
Trustee,
Indian Hills General Improvement District,
State of Nevada,
Subject. /

Request for Opinion Nos.: 08-38C, 08-53C

INVESTIGATOR'S REPORT (TabA):

Introduction:

On July 21, 2008 (RFO No. 08-38C) and August 26, 2008 (RFO No. 08-53C), Ethics Complaints were filed against William Eisele, Trustee of the Indian Hills General Improvement District (IHGID). He currently holds the Board position of Secretary/Treasurer.

Jurisdiction:

As a member of the IHGID, no dispute exist that William Eisele is a public officer, 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.

Issue:

The issue in both complaints is whether William Eisele violated NRS 281A.420.2, and NRS 281A.420.4 when he failed to disclose and abstain on matters related to his daughter-in-law Sandi Eisele and on matters related to the general manager. If found to be true, these allegations would also violate the Commission's Opinion 07-40A, previously issued to Eisele and is binding upon him, pursuant to NRS 281A.440.1(a).

Request for Opinion No. 08-38C (Ethics Complaint). (Tab B):

On July 22, 2008, an Ethics Complaint was filed by William Moriarty (Moriarty). The following is the summary of the allegations:
On dates noted in the complaint, William Eisele acted in contravention of Advisory Opinion No. 07-40A. (Tab E).

Request for Opinion No. 08-53C (Ethics Complaint). (Tab C):

On August 26, 2008, an Ethics Complaint was filled by Josh Joyner, an IHGID employee. The following is the summary of the allegations:
On dates noted in the complaint 03-53C, William Eisele acted in contravention of Advisory Opinion No. 07-40A. (Tab E).

Notice of Additional Issues and Facts. (Tab D):

During the course of investigation, additional fact and issues relating to alleged violations of NRS 281A.440.1(a) were discovered by the Investigator. A Notice of Additional Issues and Facts was mailed to William Eisele on September 19, 2008.

Advisory Opinion No. 07-40A. (Tab E):

After a Commission hearing on October 10, 2007, a written opinion was issued on February 14, 2008. An amended opinion was issued on September 9, 2008.

The Commission advised William Eisele that:

William Eisele must apply the standards set out in NRS 281A.420 (Exhibit 22) as interpreted in the Commission's *Woodbury* Opinion (Exhibit 22). William Eisele is required to disclose his relationship to his daughter-in-law and abstain on matters relating to her employment with the IHGID. On matters affecting the IHGID general manager's employment, William Eisele must disclose his relationship to his daughter-in-law Sandi Eisele and he must assess his need to abstain on a case-by-case basis. Finally, William Eisele must be mindful of his official position and not unduly influence the proceedings and the decisions made concerning the general manager.

Response to Ethics Complaint No. 08-38C. (Tab F):

On August 25, 2008, a response to Ethics Complaint was received from William Eisele's attorney T. Scott Brooke (Brooke).

Brooke stated that the advice in Advisory Opinion No. 07-40A was limited to the fact that William Eisele's daughter-in-law reports to the then employed general manager, who, in turn reports to five members of the IHGID Board.

In addition, Brooke stated that the Opinion has no applicability to the current situation because there is a vacancy in the position of general manager. William Eisele was merely one of five members participating in the required effort to find a replacement for the general manager.

Response to Ethics Complaint No. 08-53C. (Tab G):

Notice of complaint was sent to William Eisele on September 4, 2008. An opposition to the panel proceeding was filed by William Eisele's legal counsel Brooke on September 30, 2008. A response was send by the Commission's Executive Director on September 30, 2008, confirming the date of the panel proceeding.

Response to Notice of Additional Issues and Facts. (Tab H):

A response to the Notice of Additional Issues and Facts was received on September 29, 2008. Legal counsel Brooke alleged that the notice is invalid because it was issued by the Commission's investigator, rather than the Executive Director. I assert that the Notice is valid, per NRS 281A.240.2. The Executive Director has authority to conduct investigations and the authority to employ persons to conduct investigations.

Investigation Summary:

I interviewed the following individuals and reviewed the following documents:

Witnesses interviewed. (Tab I):

William Moriarty, requestor of the Ethics Complaint 08-38C, (via e-mails on September 16, 2008 and September 22, 2008), (Exhibit 1).

Josh Joyner, requestor of the Ethics Complaint 08-53C, (via e-mail on September 16,), (Exhibit 2).

William Eisele, subject of Ethics Complaints 08-37C and 08-53C, (via e-mails on September 23, 2008 and on September 25, 2008), (Exhibit 3).

Laura Lau, Chair, IHGID Board of Trustees, (via e-mails on September 16, 2008 and on September 26, 2008), (Exhibit 4).

Art Baer, IHGID interim general manager, (via telephone on September 12, 2008 and via mail on September 30, 2008), (Exhibit 5).

Sandra Haugen, Haugen and Keck Inc., (via e-mail on September 15, 2008), (Exhibit 6).

Documents. (Tab J):

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

- The minutes and audio recordings from the IHGID Board meeting on March 10, 2008. (Exhibit 7).
- The minutes and audio recordings from the IHGID Board meeting on May 5, 2008. (Exhibit 8).
- The minutes and audio recordings from the IHGID Board meeting on May 21, 2008. (Exhibit 9).
- The minutes and audio recordings from the IHGID Board meeting on June 11, 2008. (Exhibit 10).
- The minutes and audio recordings from the IHGID Board meeting on June 18, 2008. (Exhibit11).

- The minutes and audio recordings from the IHGID Board meeting on July 7, 2008. (Exhibit 12).
- The minutes and audio recordings from the IHGID Board meeting on July 16, 2008. (Exhibit 13).
- The minutes and audio recordings from the IHGID Board meeting on July 23, 2008. (Exhibit 14).
- Copy of IHGID personnel policies (not attached, but available).
- Copy of the previous General Manager Dennis Longhofer's contract (not attached, but available).
- E-mail statement of Josh Joyner, dated September 20, 2008. (Exhibit 15).
- Copy of William Eisele's memorandum, dated February 10, 2009, (perhaps the correct date is February 10, 2008) (Exhibit 16).
- Certification of audio recordings from the abovementioned IHGID Board meetings. (Exhibit 17).
- E-mail from Laura Lau, dated September 26, 2008. (Exhibit 18).
- Letter from Douglas County Comptroller Claudette Sprigmeyer to IHGID interim general manager Art Baer, dated September 3, 2008. (Exhibit 19).
- E-mail from David Wright, IHGID employee dated September 24, 2008. (Exhibit 20).
- Copy of IHGID resolution 99-11, dated September 13, 1999. (Exhibit 21).
- Relevant statutes and Commission Opinions. (Exhibit 22).

Investigative findings in 08-38C:

The following are my investigative findings:

Clearly, William Eisele has a commitment in the private capacity to the interest of his daughter-in-law Sandi Eisele because she is related to him within the third degree of affinity.

The Commission's Request for Opinion 07-40A decision provided guidance to William Eisele and advised him that he must apply the standards set out in NRS 281A.420 (Exhibit 22) as interpreted in the Commission's *Woodbury* Opinion (Exhibit 22). He is required to disclose his relationship to his daughter-in-law on matters relating to her employment with the IHGID and abstain from voting on those matters (Tab E).

Further, on matters affecting the IHGID general manager employment, William Eisele must disclose his relationship to his daughter-in-law since she reports directly to the general manager and must assess the need for abstention on case-by-case basis. Finally, the Commission advised William Eisele to be mindful of his official position and not unduly influence decisions pertaining to the general manager (Tab E).

IHGID legal counsel Brooke suggested that the advice in Advisory Opinion No. 07-40A was limited to then employed general manager. It no longer applies since there is currently open position for the general manger (Tab F). Art Baer, the current IHGID interim general manager volunteered for the position; however, he was elected by the Board of Trustees with a motion carried four to one (Exhibit 14).

Contrary to Brooke's opinion, I assert that the current interim general manager exercises the same discretion as the permanent general manager (Exhibit 5, page 5, line1), (Exhibit 6, page 2, line 4), and (Exhibit 18). The mere fact that Baer volunteered for his position without compensation has no bearing on his responsibilities and on the Commission's Opinion that William Eisele must follow regarding general manager position.

Based on the documents from by IHGID employee Josh Joyner (Exhibit 2), (Exhibit 15), IHGID Chair of the Board Lau, (Exhibit 18), IHGID Interim General Manager Baer, (Exhibit 5) consultant Haugen (Exhibit 6), Douglas County Comptroller Claudette Sprigmeyer (Exhibit 19), IHGID employee David Wright (Exhibit 20), Gardnerville Ranchos General Improvement

District (GRGID) General Manager Bob Spellberg (Exhibit 17, #4B) and from the certified statement of William Eisele himself (Exhibit 3), the evidence shows William Eisele's continuous involvement in duties of IHGID general manager or interim manger and in duties of his daughter-in-law Sandi Eisele.

In addition, on several occasions IHGID Board meeting minutes and audio recordings revealed evidence showing that William Eisele is continuously failing to disclose his relationship to his daughter-in-law Sandi Eisele on matters involving her employment or on matters involving the general manager (Exhibit 17).

The investigation revealed William Eisele's contradicting statements in his certified testimony *"I was asked to participate"* (Exhibit 3, question 10) and the audio recording of the IHGID Board meeting on May 5, 2008 *"I volunteer"* (Exhibit 17, #2B) regarding his participation in the new IHGID general manager application screening process. In addition, there is apparent contradiction with William Eisele's statement (Exhibit 3, Question #21), regarding disciplinary actions against IHGID employee Joyner (Exhibit 5, Page 4, line 24), (Exhibit 2, question #4) (Exhibit 15, August 25, 2008).

Finally, William Eisele misrepresented the Commission's Request for Opinion 07-40A in his memorandum to the Board of Trustees asserting that the Commission issued a "favorable opinion" and he is not required to continue disclosing his relationship to his daughter-in-law Sandi Eisele (Exhibit 16).

As noted above, the evidence supports the claim that William Eisele acted in contravention of the Commission's Request for Opinion 07-40A, which is binding on him as his future conduct according to NRS 281A.440.1(a). William Eisele was required to disclose and perhaps abstain on matters involving the general manager's conduct. He failed to do so.

Investigative findings in 08-53C:

The evidence presented by Joyner does not support the claim that William Eisele acted in contravention of said opinion.

Investigative conclusion in Ethics Complaint No. 08-38C:

The evidence supports the claim that William Eisele acted in contravention of Opinion 07-40A. The apparent continuous pattern of disregard for the Commission's Opinion is documented in investigative findings and supported by Exhibits above.

My conclusions are that William Eisele:

1. On March 10, 2008.

Without disclosing his relationship to his daughter-in-law Sandi Eisele, William Eisele moved to not renew IHGID General Manager Dennis Longhofer's contract and to terminate his employment (Exhibit 7), (Exhibit 17). By this motion, William Eisele unduly influenced the proceedings and the decisions pertaining to the general manager employment.

2. On May 5, 2008.

Without disclosing his relationship to his daughter-in-law Sandi Eisele, William Eisele volunteered to be on a committee to evaluate the applications for the new IHGID general manager. (Exhibit 17 #2B). By this action William Eisele unduly influenced the proceedings and the decisions pertaining to the general manager employment.

In addition, William Eisele was involved in a board decision to assign Sandi Eisele to review applications for the new IHGID general manager (Exhibit 8), although advised by the Commission to disclose his relationship to his daughter-in-law and abstain on matters relating to her employment.

3. On May 21, 2008.

Without disclosing his relationship to his daughter-in-law Sandi Eisele, William Eisele seconded a motion to deny accrued sick leave payment to former IHGID general manager Dennis Longhofer (Exhibit 9). By this motion, William Eisele unduly influenced the proceedings and the decisions pertaining to the general manager employment.
In addition, William Eisele stated that he and vice-chair Pierini would meet with Bob Spellberg (Spellberg), a district manager from Gardnerville Ranchos General Improvement District (GRGID) to go through the applications for the new IHGID general manager (Exhibit 17, #4B). William Eisele met with Spellberg and Pierini to view the applications. By deciding to review the applications and viewing them, William Eisele unduly influenced the proceedings and the decisions pertaining to the general manager employment.

4. On June 18, 2008.

Without disclosing his relationship to his daughter-in-law Sandi Eisele, William Eisele moved to interview two applicants for the new IHGID general manager (Exhibit 12), (Exhibit 17, #4C). By moving to interview the two applicants, William Eisele unduly influenced the proceedings and the decisions pertaining to the general manager employment.

5. On July 7, 2008.

Without disclosing his relationship to his daughter-in-law Sandi Eisele, William Eisele was present during interview of an applicant for the position of IHGID general manager (Exhibit 13), (Exhibit 15, #5). By his presence, William Eisele unduly influenced the proceedings and the decisions pertaining to the general manager employment.

6. On July 16, 2008.

Without disclosing his relationship to his daughter-in-law Sandi Eisele, William Eisele moved to change the minimum qualifications for the position of the new IHGID general manager (Exhibit 13), (Exhibit 17, #6A). By his involvement in changing the general manager qualification that were different from the Board decisions, William Eisele unduly influenced the proceedings and the decisions pertaining to the general manager employment.

7. On July 23, 2008.

Without disclosing his relationship to his daughter-in-law Sandi Eisele, William Eisele moved to hire Art Baer as interim general manager (Exhibit 14), (Exhibit 17, #7). By this motion, William Eisele unduly influenced the proceedings and the decisions pertaining to the general manager employment.

8. On August 5, 2008.

Although aware of the potential conflict of interest, William Eisele was present in a closed-door meeting with interim general manager Art Baer (Exhibit 5 page 4, line 20), (Exhibit 6, page 1, line 23), (Exhibit 3), (Exhibit 2, question #5). Apparently, William

Eisele was attempting to unduly influence the proceedings and the decisions pertaining to the general manager employment.

Therefore, on the allegations in Ethics Complaint No. 08-38C, William Eisele violated NRS 281A.440.1(a), NRS 281A.420.2 and NRS 281A.420.4:

On March 10, 2008.
On May 5, 2008.
On May 21, 2008.
On June 18, 2008.
On July 7, 2008.
On July 16, 2008.
On July 23, 2008.
On August 5, 2008.

<u>Investigative conclusions in Ethics Complaint No. 08-53C:</u>

1. July 28, 2008, meeting with Baer and Sandi Eisele: Insufficient evidence.

2. Reviewing applications for the new IHGID general manager between August 12-14, 2008: Insufficient evidence.

3. On August 5, 2005 William Eisele was reviewing applications for the new IHGID general manager along with Art Baer and Sandra Haugen: Insufficient evidence.

Dated this 2 day of OCTOBER, 2008.

Nevada Commission on Ethics
PATRICIA D. CAFFERATA, ESQ.
Executive Director

By: Mike Vavra
Investigator