



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

**MINUTES
of the meeting of the
NEVADA COMMISSION ON ETHICS**

April 19, 2017

The Commission on Ethics held a public meeting on
Wednesday, April 19, 2017, at 8:30 a.m.
at the following location:

**Nevada Commission on Tourism
Laxalt Building - Second Floor Chambers
401 North Carson Street
Carson City, NV 89701**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics. Verbatim transcripts are available for public inspection at the Commission's office located in Carson City.

1. Call to Order, Roll Call and Pledge of Allegiance to the Flag.

Chair Cheryl A. Lau, Esq. called the meeting to order at 8:30 a.m. in Carson City, Nevada. Also present in Carson City were Vice-Chair Keith Weaver, Esq. and Commissioners Brian Duffrin, Barbara Gruenewald, Esq., Philip "P.K." O'Neill and Lynn Stewart. Present for Commission staff in Carson City were Executive Director Yvonne M. Nevarez-Goodson, Esq., Commission Counsel Tracy L. Chase, Esq., Associate Counsel Judy A. Prutzman, Esq. and Executive Assistant Valerie M. Carter, CPM.

The pledge of allegiance was conducted.

2. Public Comment.

No public comment.

3. Approval of Minutes of the February 15, 2017 Commission Meeting.

Commissioner Gruenewald moved to approve the February 15, 2017 Meeting Minutes. Commissioner Stewart seconded the Motion. The Motion was put to a vote and carried unanimously.

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4. Legislative update regarding the Commission's Biennial Budget (FY18-FY19), including review of Commission staff salaries.

Executive Director Yvonne Nevarez-Goodson provided an update regarding the Commission's FY18-FY19 Biennial Budget Request, which was closed before the Assembly Ways & Means and Senate Finance Committees on March 28, 2017. She explained that the Committees approved the Governor's Recommended Commission Budget, which included the change in methodology for calculating the State and local government contributions to the Commission's budget. She explained the new methodology takes into account DETR's Labor Market Statistics, which detail the number of public officers and employees who derive from the State versus the local governments and splits the share of the Commission's budget accordingly. Director Nevarez-Goodson reported that this new approved methodology will allow for more consistent fiscal planning for both the State and local governments, and the split of 28%-State and 72%-local governments should remain consistent over future biennia.

Director Nevarez-Goodson reported the Legislative Committees also considered and approved the funding for a customized Case Management System and an Opinions & Forms Database. The Committees approved \$7,200/fiscal year for the ongoing costs of the hosted systems. She stated that savings from FY17 will be used to build and customize the systems which will allow for the agency to make the transition to purely electronic recordkeeping, as well as create a searchable opinion database for use by the public, Commission staff and government and private attorneys.

Director Nevarez-Goodson reminded the Commission that the salary enhancements and title change requests did not make it into the Governor's Recommended Budget, but nevertheless, as an independent agency, the Commission saw fit to approach the Legislature with those requests. She stated that she responded to Committee questions regarding the Commission on Ethics' similarity to the Commission on Judicial Discipline, including the workload and staff responsibilities.

Commissioner O'Neill questioned what other commissions the Legislature wanted to compare to the Commission on Ethics. Director Nevarez-Goodson stated she was unaware of any specific agency or commission the legislative bodies had compared to the Commission on Ethics, but she reported that she provided the title and salary comparisons to both the Governor and the Legislature for several similar positions throughout the Unclassified Pay Bill that were equivalent to positions within the Commission.

Director Nevarez-Goodson reported there are currently two Concurrent Resolutions, both in the Assembly and Senate, which request interim studies on various salaries and positions, including within the Unclassified Pay Bill. She stated that the Commission on Ethics is specifically listed in the Senate Concurrent Resolution 6. She stated that with the Concurrent Resolutions being introduced, it signals to her that the salary enhancements will not be approved this Session. However, Director Nevarez-Goodson indicated she will still pursue changes to the Unclassified Pay Bill and hopes, at minimum, to get the requested title changes for the Commission's Executive Assistant and Associate Counsel, and salary increase for the Commission's Senior Legal Researcher in line with non-senior level "Legal Researchers" throughout the Pay Bill.

5. 79th Legislative Session (2017) update regarding proposed legislation effecting the Nevada Commission on Ethics including, without limitation SB 30, SB 36, SB 84 and ACR/SCR 6.

Executive Director Yvonne Nevarez-Goodson discussed the status of SB 30, which was a measure put forward by the Nevada Attorney General, which intended to define the types of gifts that would be appropriate for the Attorney General to accept. She reported there was an amendment to the bill on the day of the hearing which expanded that definition to all constitutional

officers; however, the bill failed to pass out of the Senate Committee by the deadline, effectively killing the measure.

Director Nevarez-Goodson reported that Senate Bill 36, which was the Governor's Bill that intended to exempt State Legislators from the jurisdiction of the Commission on Ethics and change the appointments of Commissioners, also failed to make it out of the Senate Committee by the deadline and also will not survive. Commissioner O'Neill questioned why the bill did not make it out of Committee, why Legislators were not supportive of the measure, and why, after the Nevada Supreme Court's *Hardy* decision, the Commission still has jurisdiction over Legislators. Director Nevarez-Goodson explained that the Commission does have concurrent jurisdiction regarding legislators when they are not engaging in core legislative functions or conduct that is protected by legislative privilege and immunity, and that is where the line is slightly blurred. She reported that some legislators were not comfortable with the idea of having to police themselves. Commissioner O'Neill expressed his disappointment with the failed bill.

Director Nevarez-Goodson reported that the Commission's Bill, SB 84 as amended, made it out of the Senate Committee on Legislative Operations and Elections by the deadline, and expects it to be heard on the Floor within the next couple of days. She reported that, in part, the Commission's initial request eliminated investigatory panels, but the bill was amended to address certain concerns regarding due process by revising the 2-member "Investigatory Panel" to a 3-member "Review Panel" that will have the authority to dismiss a case or move the matter forward to a full Commission Hearing as is authorized for the current investigatory panel process. However, the new Review Panels will also have the authority to approve deferral agreements which set forth terms and conditions between the Executive Director and Subject of an ethics complaint.

6. Discussion and consideration of Motion for Summary Judgment and Cross-Motion for Summary Judgment concerning Third-Party Request for Opinion No. 16-54C regarding Gerald Antinoro, Sheriff, Storey County, submitted pursuant to NRS 281A.440(2).

Commissioner Gruenewald was excused from participating in this agenda item as she served on the Panel regarding this matter.

Appearing before the Commission in this matter was Katherine F. Parks, Esq., attorney for Gerald Antinoro. Appearing on behalf of the Executive Director was Associate Counsel Judy A. Prutzman, Esq.

Commissioner O'Neill disclosed that he had known Sheriff Antinoro for several years, including during his time with the State Division of Investigation and the State Legislature. He stated they are also both members of the Nevada Sheriff's and Chief's Association. However, after consulting the Commission Counsel, the provisions of NRS 281A.420 and the judicial canons, Commissioner O'Neill stated he did not believe abstention was required because his professional relationship with the Sheriff and his membership with the Association do not establish personal interests or relationships that required abstention. Commissioner O'Neill further stated he could be fair and impartial in participating in the matter.

Chair Lau asked Ms. Parks if she had any objection to Commissioner O'Neill's participation in the matter. Ms. Parks stated she had no concerns.

Associate Counsel Prutzman gave an overview of the Third Party Request for Opinion (RFO) No. 16-54C, stating that the RFO alleged that Mr. Antinoro violated the Ethics Law when he prepared a letter endorsing Michelle Fiore, a candidate for United States Congress, using the official letterhead of the Storey County Sheriff's Office. The RFO alleged that Mr. Antinoro

violated NRS 281A.400(2) and (7) and NRS 281A.520; however, the two-member investigatory panel found there was only sufficient credible evidence for the Commission to consider the alleged violation of NRS 281A.400(7).

Associate Counsel Prutzman stated that material facts in this case were not disputed and the parties had submitted stipulated facts for the Commission's consideration. She then summarized the arguments set forth in the Executive Director's Motion for Summary Judgment (MSJ).

Associate Counsel Prutzman asked the Commission to carefully consider NRS 281A.020, which states that the Ethics Law promotes the separation between public and private interests, and NRS 281A.400(7) which prohibits a public officer from using governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer. She stated it was the Executive Director's position that the official letterhead of the public office or agency is, as a matter of law, governmental property. She stated the Executive Director was also concerned that this was the second ethics case involving Mr. Antinoro's use of government resources for a political purpose (RFO 14-59C).

Ms. Parks stated that she and Associate Counsel Prutzman briefed this matter in depth and acknowledged that her brief/argument was diametrically opposed to that of Associate Counsel and the Executive Director, and offered to focus on answering any questions of the Commission.

The Commission asked various questions of Ms. Parks and Associate Counsel Prutzman regarding the legal arguments presented in the Motions, and Associate Counsel Prutzman and Ms. Parks provided closing remarks regarding the Motion for Summary Judgment and Cross-Motion for Summary Judgment.

Chair Lau called for a brief recess. The meeting reconvened in closed session deliberations regarding RFO 16-54C.

Chair Lau called the meeting back into open session and tabled Agenda Item 6.

7. Report by Executive Director on agency status and operations.

Executive Director Yvonne Nevarez-Goodson acknowledged the hard work of Commission staff, stating that each member of the staff has fulfilled his/her duties with respect to processing first-party and third-party cases. She stated that staff and the Commission have been meeting the agency's performance measures for the last two years and she is very pleased to be able to report that to the Legislature.

Director Nevarez-Goodson stated the Commission will likely have an entirely new approach on education and outreach if SB 84 passes, as there will be several new procedural issues that will need to be undertaken. She reported that with some of the Commission's FY17 travel savings, she expects to reach out to the rural communities like she did two years ago, to provide ethics training to the rural communities throughout the State. She stated that Churchill County and Fallon are also scheduled for training in the next couple of months. She will be sure to invite Commissioners to trainings that are located within reasonable travel distance.

Director Nevarez-Goodson stated one Commission vacancy remains and it is a legislative appointment. She has been in touch with the Director of LCB, Rick Combs, but does not expect any appointment to be made prior to the end of the Legislative Session. Director Nevarez-

Goodson urged Commissioners to notify Rick Combs of any individuals who may be interested in the appointment.

Director Nevarez-Goodson discussed the Commission's current FY17 budget, stating there will be significant cost savings in the court reporting budget and some in the travel budget as well. She reported that these cost savings will likely not be recognized in future biennia as the Commission's Budget Request for the FY18-FY19 biennia included reduced funding in court reporting.

Director Nevarez-Goodson stated that staff remains consistently on track with the processing of all current cases. She stated it is her intention to have most matters received in FY16 completed by the end of the fiscal year.

Director Nevarez-Goodson polled the Commissioners for their availability for a May 15th or 16th Commission meeting. All members stated they were available on May 15 or would try to make themselves available. Director Nevarez-Goodson stated she will keep Commissioners informed as the agenda for that meeting takes shape.

Director Nevarez-Goodson asked Commissioners to provide her with feedback regarding legislative measures they wished to discuss or any direction they wanted to provide her going forward.

Commissioner O'Neill asked for his fellow Commissioners' opinion with regard to SB 36, the Governor's bill which would exclude Legislators from the Commission's jurisdiction and whether any Commissioners had an appetite to try to resurrect the bill. Commissioner Gruenewald stated that she respects the Senate Committee's decision not to go forward with the bill.

6. Discussion and consideration of Motion for Summary Judgment and Cross-Motion for Summary Judgment concerning Third-Party Request for Opinion No. 16-54C regarding Gerald Antinoro, Sheriff, Storey County, submitted pursuant to NRS 281A.440(2).

Chair Lau called this agenda item back to order.

Commissioner Gruenewald was excused from participating in this agenda item as she served on the Panel regarding this matter.

Appearing again before the Commission in this matter was Katherine F. Parks, Esq., attorney for Gerald Antinoro, and Associate Counsel Judy A. Prutzman, Esq., on behalf of the Executive Director.

Commissioner Duffrin commended Associate Counsel Prutzman and Ms. Parks for their excellent briefs. He then moved the Commission to grant Summary Judgment in favor of the Executive Director and deny the relief requested by Subject Antinoro, and direct Commission Counsel to prepare an Order issuing the determination of the Commission. Commissioner Duffrin further moved that the Commission direct the Commission Counsel to issue a Notice that the Commission will consider further briefs by the parties regarding whether the violation was willful under the factors set forth in NRS 281A.475, and whether any associated fines will be imposed pursuant to NRS 281A.480, at the Commission's next regular meeting - May 15, 2017. Commissioner Stewart seconded the Motion. The Motion was put to a vote and carried unanimously.

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8. Commissioner Comment on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.

No Commissioner comments.

9. Open Session for Public Comment.

No public comment.

10. Adjournment.

Commissioner Stewart moved to adjourn the meeting. Commissioner Duffrin seconded the Motion. The Motion was put to a vote and carried unanimously. The meeting adjourned at 11:05 a.m.

Minutes prepared by:

/s/ Valerie Carter

Valerie Carter, CPM
Executive Assistant

/s/ Yvonne M. Nevarez-Goodson

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Minutes approved May 15, 2017:

/s/ Cheryl A. Lau

Cheryl A. Lau, Esq.
Chair

/s/ Keith A. Weaver

Keith A. Weaver, Esq.
Vice-Chair