



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

NOTICE OF PUBLIC MEETING

NAME OF ORGANIZATION: NEVADA COMMISSION ON ETHICS
DATE & TIME OF MEETING: Wednesday, February 15, 2017 at 9:00 a.m.
PLACE OF MEETING: This meeting will be held at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

AGENDA

NOTES:

- Two or more agenda items may be combined for consideration.
- At any time, an agenda item may be taken out of order, removed, or delayed.
- Public comment will be accepted at the beginning of the open session and again before the conclusion of the open session of the meeting. Comment and/or testimony by the public may be limited to three (3) minutes. No action may be taken on any matter referred to in remarks made as public comment. Members of the public may also submit written public comment to the Commission at NCOE@ethics.nv.gov.

	1. Call to Order, Roll Call, and Pledge of Allegiance to the Flag.
	2. Public Comment. Comment and/or testimony by any member of the public will be limited to three (3) minutes. No action will be taken under this agenda item.
For Possible Action	3. Approval of Minutes of the December 5, 2016 Commission Meeting.
For Possible Action	4. Discussion and approval of a Proposed Stipulation concerning Third-Party Request for Opinion No. 16-59C regarding Kimberlie Buffington, Member, Lander County Planning Commission , submitted pursuant to NRS 281A.440(2).
For Possible Action For	5. Discussion and approval of a Proposed Stipulation concerning Third-Party Request for Opinion No. 16-83C regarding Clay Hendrix, Trustee, Churchill County School District Board of Trustees , submitted pursuant to NRS 281A.440(2).

For Possible Action	6. Discussion and approval of a Proposed Stipulation concerning Third-Party Request for Opinion No. 16-84C regarding Matt Hyde, Trustee, Churchill County School District Board of Trustees , submitted pursuant to NRS 281A.440(2).
For Possible Action	7. Discussion and approval of a Proposed Stipulation concerning Third-Party Request for Opinion No. 16-85C regarding Tricia Strasdin, Trustee, Churchill County School District Board of Trustees , submitted pursuant to NRS 281A.440(2).
For Possible Action	8. Report by Executive Director on agency status and operations, including: <ul style="list-style-type: none"> • Commissioner Appointments • Education and outreach by the Commission • Request for Opinion Log/Update • Upcoming Commission meetings
For Possible Action	9. Update regarding the Governor's Recommended Biennial Budget (FY18-FY19) for the Commission.
For Possible Action	10. 2017- 79 th Legislative Session update regarding proposed legislation effecting the Nevada Commission on Ethics including, without limitation, the following pre-filed bills: <ul style="list-style-type: none"> • Senate Bill 30 • Senate Bill 36 • Senate Bill 84
	11. Commissioner Comments on matters including, without limitation, identification of future agenda items, upcoming meeting dates and meeting procedures. No action will be taken under this agenda item.
	12. Public Comment. Comment and/or testimony by any member of the public may be limited to three (3) minutes. No action will be taken under this agenda item.
	13. Adjournment.

***A meeting or hearing held by the Commission pursuant to NRS 281A.440 to receive information or evidence regarding the conduct of a public officer or employee, and deliberations of the Commission regarding such a public officer or employee, are exempt from the provisions of NRS Chapter 241, Nevada's Open Meeting Law. As a result, these agenda items, or any portion of them, may be heard in closed session.**

NOTES:

- ❖ The Commission is pleased to make reasonable accommodations for any member of the public who has a disability and wishes to attend the meeting. If special arrangements for the meeting are necessary, please notify the Nevada Commission on Ethics, in writing at 704 W. Nye Lane, Ste. 204, Carson City, Nevada 89703; via email at ncoe@ethics.nv.gov or call 775-687-5469 as far in advance as possible.
- ❖ To request an advance copy of the supporting materials for any open session of this meeting, contact Executive Director Yvonne M. Nevarez-Goodson, Esq. at ncoe@ethics.nv.gov or call 775-687-5469.
- ❖ This Agenda and supporting materials are posted and are available not later than the 3rd working day before the meeting at the Commission's office, 704 W. Nye Lane, Ste. 204, Carson City, Nevada, or on the Commission's website at www.ethics.nv.gov. A copy also will be available at the meeting location on the meeting day.

This Notice of Public Meeting and Agenda was posted in compliance with NRS 241.020 before 9:00 a.m. on the third working day before the meeting at the following locations:

- Nevada Commission on Ethics, 704 W. Nye Lane, Suite 204, Carson City
- Nevada Commission on Ethics' website: <http://ethics.nv.gov>
- Nevada Public Notice Website: <http://notice.nv.gov>
- State Library & Archives Building, 100 North Stewart Street, Carson City
- Blasdel Building, 209 E. Musser Street, Carson City
- Washoe County Administration Building, 1001 East 9th Street, Reno
- Grant Sawyer State Office Building, 555 E. Washington Ave., Las Vegas

AGENDA ITEM NO. 3

AGENDA ITEM NO. 3



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

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

December 5, 2016

The Commission on Ethics held a public meeting on
Monday, December 5, 2016, at 9:00 a.m.
at the following location:

**Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703**

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., appeared telephonically and called the meeting to order at 9:00 a.m. Present in Carson City, Nevada were Commissioners Brian Duffrin and Dan Stewart. Present via telephone were Vice-Chair Keith A. Weaver, Esq. and Commissioner Barbara Gruenewald, Esq. 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., Senior Legal Researcher Darci Hayden, PP-SC and Executive Assistant Valerie M. Carter, CPM.

Commissioner Magdalena Groover was excused from the meeting.

The pledge of allegiance was conducted.

2. Public Comment.

No public comment.

3. Approval of Minutes of the October 19, 2016 Commission Meeting.

Commissioner Stewart moved to approve the October 19, 2016 Meeting Minutes. Commissioner Gruenewald seconded the Motion. The Motion was put to a vote and carried unanimously.

4. Report by Executive Director on agency status and operations

Executive Director Yvonne Nevarez-Goodson informed the Commission of the passing of Court Reporter Eric Nelson, who has been a friend and dedicated Court Reporter for the

Commission for several years. She expressed the Commission's condolences to his family and Sunshine Litigation Services. Director Nevarez-Goodson also reflected on the passing and loss of Commissioner John C. Carpenter, expressing the Commission's condolences to his family and the Commission's appreciation for his dedication to the State of Nevada.

Executive Director, Yvonne M. Nevarez-Goodson, Esq., provided an update regarding Commissioner vacancies and appointments, stating that an agenda item appeared on the legislative Commission's November 2016 Agenda, however the item was tabled, and another meeting of the Legislative Commission had been scheduled for December, with the Agenda pending publication.

Director Nevarez-Goodson provided an update regarding the Commission's current Biennial Budget Request (FY18-FY19), stating that nothing significant had changed since the last Commission meeting and the Budget Request is currently under review by the Governor's Office of Finance. She reminded the Commission that the initial enhancements, including salary adjustments, were denied by the Governor; however, the Commission was invited to submit a Compensation Plan Adjustment Request which is still under review by the Governor's office. Director Nevarez-Goodson stated that as the Legislative Session gears up, she will invite Commissioners to attend budget hearings in support of those enhancement requests before the Legislature.

Director Nevarez-Goodson provided an update regarding the Commission's outreach and education efforts stating that she has received several requests from various jurisdictions to present to newly elected officers. She also reported that she is reaching out to local bar associations for training and has a CLE Luncheon already scheduled with the Clark County Bar Association on January 26, 2017. Director Nevarez-Goodson invited the Southern Nevada Commissioners to join her at that presentation.

Director Nevarez-Goodson reported that the next Commission meeting is expected in February. Commissioner Stewart inquired whether the Legislative Session impacts the scheduling of Commission meetings or whether more frequent meetings may be required. Director Nevarez-Goodson responded that additional Commission meetings or Subcommittee meetings may be necessary, as questions come up throughout Session that may require feedback from the Commission with a very limited turnaround time.

Director Nevarez-Goodson informed the Commission that she had officially completed the requirements of the Certified Public Manager (CPM) Program for the State of Nevada and has submitted her final Capstone project. She thanked the Commission for its support over the last two years.

5. 2017- 79th Legislative Session update regarding proposed legislation effecting the Nevada Commission on Ethics

Executive Director, Yvonne Nevarez-Goodson, Esq., provided a report on proposed legislation of the 2017 Legislative Session affecting the Commission on Ethics. She provided an overview of the Commission's bill, Senate Bill 84, which modifies NRS 281A and which has been supported and sponsored by the Governor. (See attachment A) A brief discussion ensued regarding the proposal of public censures and how they would be accomplished by the Commission. Director Nevarez-Goodson explained that a public censure would include the Commission's imposition of a formal written condemnation of a willful violation of the Ethics Law that may accompany the imposition of sanctions and a duty on the subject of the complaint to apologize for the conduct.

Director Nevarez-Goodson provided an overview of Senate Bill 36 which was filed on behalf of the Governor. She explained that SB 36 reduces the Commission from 8 members to 5 members which would all appointed by the Governor, and removes State Legislator's from the Commission's jurisdiction. The bill also proposes to streamline the Commission's budget process with respect to the local governments and state contributions to the Commission's budget. (See attachment B)

A brief discussion ensued regarding SB 36 and its potential impact on the Commission membership, timing of any changes to the membership, and how the Legislature might view the Bill. Director Nevarez-Goodson explained that the bill would become effective upon passage and approval and if passed, the terms of the existing legislative appointments would expire at that time. She further stated that the Legislature may be in support of the measure given its position regarding the jurisdiction of the Commission over state legislator complaints, and the Commission will be available to testify in a neutral position to provide information and perhaps clarify its view that if the bill passes, the Legislature may want to consider its own ethics committee that is more clear and transparent than the respective House Standing Rule 23.

Director Nevarez-Goodson provided an overview of Senate Bill 30 sponsored by the Nevada Attorney General. She stated, in summary, that this bill specifically prohibits the Attorney General from accepting or soliciting certain gifts and also defines the term "gifts" as applicable to the Attorney General. Director Nevarez-Goodson stated she will be monitoring this legislation as it moves forward.

Director Nevarez-Goodson provided an overview of Senate Bill 4 filed on behalf of the Controller. She stated this bill allows for the Governor to designate by executive order any department of the executive branch as a "charter agency" allowing for an unclassified staff; annual performance agreements with the Director of such agency; specific provisions for removal of a director from a charter agency; and certain authorized bonuses to the Director and employees, in addition to other various administrative changes.

Director Nevarez-Goodson stated that this agenda item was marked "for possible action" in the event the Commission had any particular action they would like her to take with regard to the aforementioned Bills, including authorizing the Executive Director to go forward as discussed before the legislative committees during session.

Commissioner Duffrin moved to authorize the Executive Director to move forward in support of the Commission's Bill, SB 84 through the legislative session and to provide relevant information to Committees regarding the other bills, while continuing to keep the Commission apprised of the status of the other bills mentioned. Commissioner Stewart seconded the Motion. The Motion was put to a vote and carried unanimously.

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

No Commissioner comments.

7. Open Session for Public Comment.

No public comment.

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8. Adjournment.

Commissioner Grunewald moved to adjourn the meeting. Commissioner Duffrin seconded the Motion. The Motion was put to a vote and carried unanimously. The meeting adjourned at 10:10 a.m.

Minutes prepared by:

Minutes approved February 15, 2017:

Valerie Carter, CPM
Executive Assistant

Cheryl A. Lau, Esq.
Chair

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Keith A. Weaver, Esq.
Vice-Chair

DRAFT

AGENDA ITEM NO. 4

AGENDA ITEM NO. 4



STATE OF NEVADA COMMISSION ON ETHICS

MEMORANDUM

DATE: February 8, 2017
TO: Commissioners
FROM: Judy Prutzman, Commission Associate Counsel
SUBJECT: Third-Party RFO No. 16-59C (Buffington) – DRAFT STIPULATED AGREEMENT

This Draft Stipulated Agreement has been prepared for the Commission's consideration during its February 15, 2017 meeting. The terms of the Agreement will not be final until approved by the Commission and signed by all parties.



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Kimberlie Buffington, Former Member,
Lander County Planning Commission,
State of Nevada,

Request for Opinion No. **16-59C**

Subject. /

DRAFT
STIPULATED AGREEMENT

1. **PURPOSE**: This Stipulated Agreement resolves Third-Party Request for Opinion (“RFO”) No. 16-59C before the Nevada Commission on Ethics (“Commission”) concerning Kimberlie Buffington (“Buffington”), a former member of the Lander County Planning Commission (“Planning Commission”), State of Nevada, and serves as the final opinion in this matter.

2. **JURISDICTION**: At all material times, Buffington served as a member of the Planning Commission. As such, Buffington was a public officer, as defined in NRS 281A.160. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Buffington in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION:**

- a. On or about August 1, 2016, the Commission received RFO No. 16-59C from a member of the public (“Requester”), alleging that Buffington:
- 1) Failed in her commitment to avoid conflicts between her personal interests and her public duties (NRS 281A.020(1));

- 2) Accepted favors or economic opportunities which would tend to improperly influence a reasonable person in Buffington's position as a public officer to depart from the faithful and impartial discharge of her duties (NRS 281A.400(1));
 - 3) Used her position to secure unwarranted privileges, preferences or advantages for herself or any business entity in which there is a significant pecuniary interest (NRS 281A.400(2));
 - 4) Represented or counseled for compensation a private person on an issue which was under consideration by the Planning Commission during Buffington's public service with the Planning Commission (NRS 281A.410(1)(b));
 - 5) Failed to disclose a conflict of interest for which disclosure was required (NRS 281A.420(1)); and
 - 6) Acted on a matter in which abstention was required (NRS 281A.420(3)).
- b. On or about December 13, 2016, staff of the Commission issued a Notice to Subject under NRS 281A.440(2), stating that the Commission accepted jurisdiction to investigate the allegations regarding violations of NRS 281A.020(1), NRS 281A.400(1) and (2), NRS 281A.420(1) and (3) and NRS 281A.410(1)(b). Buffington was provided an opportunity to respond to the RFO.
- c. On or about August 23, 2016, Buffington, through her legal counsel, Anthony J. Walsh, Esq. of Walsh, Baker & Rosevear, filed an *Appeal and Objection to Jurisdiction of Nevada Commission on Ethics. A Supplemental Brief Regarding the Jurisdiction of the Nevada Commission on Ethics* was filed on or about September 21, 2016. Accordingly, the Commission issued a *Notice of Jurisdictional Appeal* on or about September 22, 2016, to both Buffington and the Requester, setting the matter to be heard at the October 3, 2016 Commission Meeting and providing an opportunity for the Requester to submit a response to Buffington's request to review the jurisdictional determination.¹

¹ NAC 281A.405 has since been amended by temporary regulations T03-16A, which became effective September 21, 2016, subsequent to Buffington requesting a review of the jurisdictional determination.

- d. On or about October 31, 2016, the Commission issued its *Order on Jurisdiction* denying the request to overturn the Executive Director's jurisdictional determination, initiating the investigation and setting the date to respond to the RFO. On or about December 3, 2016, Buffington, through her legal counsel, submitted a Response to the RFO.
- e. Buffington waived her rights to a panel determination pursuant to NRS 281A.440, and acknowledges that credible evidence establishes just and sufficient cause for the Commission to render an opinion regarding the allegations implicating NRS 281A.020(1) and NRS 281A.420(1) and (3).

4. STIPULATED FACTS: At all material times, the following facts were relevant to this matter:²

- a. Buffington was an appointed member of the Lander County Planning Commission ("Planning Commission"). She first served on the Planning Commission between 2010 and 2011, was re-appointed in 2012, and then resigned in January 2016. At all times relevant to this matter, Buffington was a "public officer," as defined by NRS 281A.160.
- b. In her private capacity, Buffington is a licensed real estate agent in Nevada. She is the managing broker for Nolan Realty in Battle Mountain, Nevada.
- c. Theodore C. Herrera, Esq., is a lawyer licensed in the State of Nevada and serves as the elected District Attorney for Lander County.
- d. The Planning Commission is a political subdivision as defined in NRS 281A.145.
- e. The Planning Commission has decision making authority over certain land use matters, including special use permits and variances.
- f. Jay Wintle lives in Lander County and has listed various parcels of undeveloped real estate with Buffington and Nolan Realty since approximately 2009.

² Stipulated Facts do not constitute part of the "Investigative File" as that term is defined by NRS 281A.440(17). All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Stipulated Agreement.

- g. During 2015, Buffington was the listing real estate agent for two of Wintle's parcels located at Chukkar Lane and 350 SR 305 and listed for \$376,000 and \$1,016,720, respectively.
- h. In July 2012, Wintle and Buffington jointly purchased a 39-acre parcel of undeveloped real estate located at 735 Bogey Drive in Lander County. This property was later separated into four separate parcels in 2013.
- i. On or about January 27, 2015, Wintle and Buffington executed quitclaim deeds that divided the property between them, with Wintle retaining one parcel and Buffington retaining three parcels.

April 8, 2015 Planning Commission Meeting

- j. At the April 8, 2015 meeting, agenda item 5 related to a zone change request submitted by Wintle and related to property owned by Wintle. This item was noted on the agenda as follows:

(5) Discussion for possible action recommending to the Lander County Board Commissioners to approve/disapprove the following Zone Change request, and other matters properly related thereto.

Applicant: Jay Wintle
 Location: Lots 14, 18, and 22 of Ashcroft map #183519 within the SE4 Of 14/32/44, generally located north of the W. Humboldt Rd. and west of 28th street alignments.
 APN: 010 280 17, 010 280 21, 010 280 25
 Type: To request a zone change from Farm and Ranch District (A-3) to One-Acre Agriculture District (A-1)

- k. The minutes reflect that Buffington made no disclosure regarding her relationship with Wintle and voted with the Planning Commission to approve the agenda item unanimously.

July 8, 2015 Planning Commission Meeting

- l. At the July 8, 2015 meeting, agenda items 1 and 2 related to parcel changes requested by Wintle and related to property owned by Wintle. These items were noted on the agenda as follows:

(1) Information and discussion only on a Parcel Map, and other matters properly related

Applicant: Jay Wintle
Location: Lot 18 – Ashcraft Map #183519
Generally located west of 28th Street along the Yellow Brick Road alignment, Battle Mountain
APN: 010 280 21
Type: Splitting one (1) parcel into four (4) parcels.

(2) Information and discussion only on a Parcel Map, and other matters properly related thereto.

Applicant: Jay Wintle
Location: Lot 22 – Ashcraft Map #183519
Generally located west of 28th Street along the Yellow Brick Road alignment, Battle Mountain
APN: 010 280 25
Type: Splitting one (1) parcel into four (4) parcels.

- m. The minutes reflect that Buffington made no disclosure regarding her relationship with Wintle and did not participate in the discussion on these agenda items. No action was taken by the Planning Commission on either item.

September 9, 2015 Planning Commission Meeting

- n. At the September 9, 2015 meeting, agenda item 6 related to a street name request submitted by Wintle and related to property he owned. These items were noted on the agenda as follows:

(6) Discussion for possible action to approve/disapprove the following Street Name request, and other matters properly related thereto.

Applicant: Jay Wintle
Project: Parcel Maps
APN: 002-280-21 & 010-280-25
Type: To reserve a new street name: Faded Sage Drive

- o. The minutes reflect that Buffington made no disclosure regarding her relationship with Wintle and made the motion to approve the name conditioned upon the parcel maps approval. The motion was voted and carried unanimously.

p. At the September 9, 2015, agenda items 7 and 8 related to parcel changes requested by Wintle and related to property owned by Wintle. These items were noted on the agenda as follows:

(7) Discussion for possible action regarding approval/disapproval of the following Parcel Map, and other matters properly related thereto.

Applicant: Jay Wintle
Location: Lot 18 – Ashcraft Map #183519
Generally located west of 28th Street along the Yellow Brick Road alignment, Battle Mountain
APN: 010 280 21
Type: Splitting one (1) parcel into four (4) parcels.

(8) Discussion for possible action regarding approval/disapproval of the following Parcel Map, and other matters properly related thereto.

Applicant: Jay Wintle
Location: Lot 22 – Ashcraft Map #183519
Generally located west of 28th Street along the Yellow Brick Road alignment, Battle Mountain
APN: 010 280 25
Type: Splitting one (1) parcel into four (4) parcels.

- q. The minutes reflect that Buffington made no disclosure regarding her relationship with Wintle and voted with the Planning Commission to approve both agenda items unanimously.
- r. District Attorney Herrera was not present at the Planning Commission's meetings on April 8, 2015, July 8, 2015 and September 9, 2015 and did not provide any legal advice to Buffington regarding her disclosure/abstention obligations with regard to matters that were agendized for these meetings.
- s. On December 10, 2015, Buffington and Wintle entered into a listing agreement for two of the parcels that resulted from the rezoning and parcel subdivision requests presented by Wintle and approved by the Planning Commission at the April 8, 2015 and September 9, 2015 meetings.

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5. **TERMS / CONCLUSIONS OF LAW:** Based on the foregoing, Buffington and the Commission agree as follows:

- a. Each of the stipulated facts enumerated in Section 4 of this Stipulated Agreement is agreed to by the parties.
- b. Buffington held a public office which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the citizens of Lander County).
- c. Buffington had a commitment in a private capacity to the interests of Wintle because they have a substantial and continuous business relationship based on their realtor/client relationship. NRS 281A.065(5).
- d. As a public officer, Buffington had a duty to avoid conflicts of interest. See NRS 281A.020. Specifically, Buffington was required to commit to avoid actual and perceived conflicts of interest, including publicly disclosing sufficient information concerning any private relationships and pecuniary interests which would reasonably affect her decision on matters before the Planning Commission. See NRS 281A.420(1). As a public officer, Buffington was also required to abstain from voting or otherwise acting on matters in which such relationships would clearly and materially affect the independence of judgment of a reasonable person in her position. See NRS 281A.420(3).
- e. Buffington did not adequately avoid the conflict of interest between her public duties and private interests by not disclosing her relationship with Wintle during Planning Commission meetings on April 8, 2015 and September 9, 2015 before voting on agenda items that involved Wintle.
- f. Buffington now understands that she should have disclosed sufficient information regarding her relationship with Wintle, a person to whom she had a commitment in a private capacity, to inform the public of the nature and extent of the relationship. The disclosure should have occurred at every meeting and for every agenda item which the Planning Commission considered that affected Wintle's interests.

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- g. The disclosure should have also included information regarding the potential effect of Buffington’s action or abstention on the agenda items and the effect it may have had on her and Wintle, as the person to whom she had a commitment to in a private capacity. See *In re Woodbury*, Comm’n Op. No. 99-56 (1999) and *In re Derbidge*, Comm’n Op. No. 13-05C (2013).
- h. Abstention is required when a reasonable person’s independence of judgment is materially affected by the public officer’s significant pecuniary interest or commitment in a private capacity. NRS 281A.420 and *Woodbury*. In cases involving substantial and continuous business relationships, the interests of a business partner or client are statutorily attributed to the public officer based on the presumption that a person lacks independent judgment toward the interests of a person with whom the public officer shares an important business relationship. *In re Public Officer*, Comm’n Op. No. 13-71A (2014). Thus, a public officer must abstain on all matters before the public body which materially affect the interests of his business partner or client, including interests unrelated to the business shared with the public officer. *In re Derbidge*, Comm’n Op. No. 13-05C (2013).
- i. Although Buffington lacked any pecuniary interest in the zoning and parcel subdivision matters that Wintle brought before the Planning Commission at the meetings on April 8, 2015 and September 9, 2015, Buffington had a commitment in a private capacity as Wintle’s real estate agent. Under the circumstances presented, the nature of the realtor-client relationship necessitated abstention because the interests of Wintle were statutorily attributed to Buffington and could be materially affected by her official actions. Therefore, Buffington should have abstained from voting on the agenda items related to Wintle’s property at the April 8, 2015 and September 9, 2015 Planning Commission meetings.

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- j. The provisions of NRS 281A.420 contemplate formal actions (or decisions) by public officers which affect the public trust and the Commission has not interpreted the provisions to extend to meetings at which no action is taken. *See In re Stark*, Comm'n Op. No. 10-48C (2012). While the law does not require disclosure during discussions of a matter placed on an agenda for information only, to avoid an appearance of impropriety regarding potential influence or improper use of her public position, the better course of action would have been for Buffington to disclose her relationship with Wintle when agenda items related to Wintle's property were discussed at the July 8, 2015 Planning Commission meeting.
- k. Buffington's actions are deemed to constitute a single course of conduct resulting in one violation of the Ethics Law, implicating the provisions of NRS 281A.020(1) and NRS 281A.420(1) and (3).
- l. However, the allegations pertaining to NRS 281A.400(1) and (2) and NRS 281A.410(1)(b) are not supported by a preponderance of the evidence under NRS 281A.480(9) and are therefore dismissed through this Stipulated Agreement.
- m. Based upon the consideration and application of the statutory criteria set forth in NRS 281A.475, the Commission concludes that Buffington's violation in this case should be deemed "willful" pursuant to NRS 281A.170. The Commission took into consideration the following mitigating factors:
 - 1) Buffington has not previously been the subject of any violation of the Ethics Law. This is Buffington's first violation. She has resigned from public office and does not foresee holding public office in the future.
 - 2) Buffington has been diligent to cooperate with and participate in the Commission's investigation and resolution of this matter.
 - 3) Buffington has not received any personal financial gain as the result of her conduct in this matter.

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- 4) Buffington maintains that she relied upon the advice of prior District Attorneys when she decided whether to vote or abstain. This legal advice was not, however, specific to the circumstances related to this RFO and therefore does not satisfy the criteria of NRS 281A.480.
- n. Despite these mitigating factors and although Buffington did not intend to violate the Ethics Law, her violation of NRS Chapter 281A was willful because she acted intentionally and knowingly, as those terms are defined in NRS 281A.105 and 281A.115, respectively.
 - o. For an act to be intentional, NRS 281A.105 requires that Buffington acted voluntarily or deliberately. The definition further states that proof of bad faith, ill will, evil or malice is not required. Buffington's conduct was not accidental or inadvertent. Nevertheless, Buffington did not act in bad faith or with malicious intent to benefit her private interests.
 - p. NRS 281A.115 defines "knowingly" as "import[ing] a knowledge that the facts exist which constitute the act or omission." NRS Chapter 281A does not require that Buffington had actual knowledge that her conduct violated the Ethics Law, but it does impose constructive knowledge when other facts are present that should put an ordinarily prudent person upon inquiry. *See In re Stark*, Comm'n Op. No. 10-48C (2010).
 - q. For the willful violation, Buffington will pay a civil penalty of \$500.00, pursuant to NRS 281A.480, not later than 90 days after her receipt of the fully executed Stipulated Agreement in this matter. Buffington may pay the penalty in one lump sum payment or in monthly installment payments as negotiated with the Commission's Executive Director.
 - p. This Stipulated Agreement depends on and applies only to the specific facts, circumstances and law related to this RFO now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.

q. This agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding Buffington.

6. WAIVER AND FINAL OPINION:

- a. Buffington knowingly and voluntarily waives her right to an Investigatory Panel proceeding and any related hearing before the full Commission on the allegations in this RFO (No. 16-59C) and of any and all rights she may be accorded with regard to this matter pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.
- b. Buffington knowingly and voluntarily waives her right to any judicial review of this matter, as provided in NRS 281A, NRS 233B, any extraordinary writs, as provided in NRS Chapter 34, and any other applicable provisions of law.
- c. Upon approval of this Stipulated Agreement, the Stipulated Agreement will be published as the final opinion. This RFO will then be closed and no further action will be taken on the RFO, including under NRS 281A.480(7).

7. ACCEPTANCE: We, the undersigned parties, have read this Stipulated Agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on February 15, 2017.

DATED this ____ day of _____, 2017. DRAFT
Kimberlie Buffington

The above Stipulated Agreement is approved by:

FOR KIMBERLIE BUFFINGTON, Subject

DATED this ____ day of _____, 2017. DRAFT
Anthony J. Walsh, Esq.
Counsel for Buffington

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.

Executive Director, Commission on Ethics

DATED this ____ day of _____, 2017. DRAFT
Judy A. Prutzman, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this ____ day of _____, 2017. DRAFT
Tracy L. Chase, Esq.
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.³

DATED Month_____, 2017.

By: DRAFT
Cheryl A. Lau, Esq.
Chair

By: DRAFT
Phillip K. O'Neill
Commissioner

By: DRAFT
Keith A. Weaver, Esq.
Vice-Chair

By: DRAFT
Amanda Yen, Esq.
Commissioner

By: DRAFT
Brian Duffrin
Commissioner

By: DRAFT
Lynn Stewart
Commissioner

By: DRAFT
Barbara Gruenewald, Esq.
Commissioner

³ Buffington waived her right to an Investigatory Panel pursuant to NRS 281A.440. Accordingly, this Stipulated Agreement was executed prior to a Panel hearing in this matter and no Commissioner was precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220.

NEVADA ETHICS OPINION REQUEST **NEVADA COMMISSION ON ETHICS**
THIRD-PARTY REQUEST FOR OPINION

16-59

NRS 281A.440(2)

RECEIVED

AUG 01 2016

COMMISSION ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

NAME: <small>(Last, First)</small>	Buffington, Kimberlie	TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>	Board member Planning Commission
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>	Lander County, Nevada		
ADDRESS: <small>(Street number and name)</small>	#50 S.R. 305	CITY, STATE, ZIP CODE	Battle Mtn, NV 89820
TELEPHONE:	Work: 775-625-8130	Other: (Home, cell) 374-0509	E-MAIL: kimberliebuffington@gmail.com

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here if additional pages are attached.

Board member for Planning Commission. Also a certified realtor in the Lander County area. Would vote & approve items particularly item of Land owned by her clients, (Jay Wintle), (see Planning Commission minutes)

Mrs. Buffington would vote to approve re-zoning land (doubling & tripling lots for sale) & then sale lots as the realtor for her clients, making 2 to 3 times more money. County residents apposed, but Mrs. Buffington continued to encourage her clients to purchase large ag land, then push re-zoning to smaller parcels for sale. Mrs. Buffington personally gained financially from all items she approved. See documents & highlighted areas

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:

NO

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input checked="" type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input checked="" type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input checked="" type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here if additional pages are attached.

NAME and TITLE: (Person #1)	Commissioner Art Clark.		
ADDRESS:	#50 S.R. 305	CITY, STATE, ZIP	Battle Mountain, NV 89820
TELEPHONE:	Work: 775-635-2055	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:	Commissioner who recognized ethical issue & confronted Buffington		
NAME and TITLE: (Person #2)	District Attorney Herrera		
ADDRESS:	#50 S.R. 305	CITY, STATE, ZIP	Battle Mountain, NV 89820
TELEPHONE:	Work: 775-635-5195	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:	D.A. whom also recognized ethical issue.		

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. [NAC 281A.435\(3\)](#) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 123.

7. REQUESTER'S INFORMATION:

YOUR NAME:	<u>Campbell, Gary</u>		
YOUR ADDRESS:	<u>560 Allen Rd.</u>	CITY, STATE, ZIP:	<u>Battle Mtn, NV 89820</u>
YOUR TELEPHONE:	Day: <u>340-6337</u>	Evening:	E-MAIL: <u>gcampbell@landerson.org.</u>

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

[Handwritten Signature]
Signature:

7/29/10
Date:

Gary Campbell
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.

[NAC 281A.255\(3\)](#)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

Lander County

To: Lander County Executive Director / Commissioners
From: Gary Campbell
Attn: Kieth Westengard / County Commissioners
Date: 07/20/16
Re: Lander County Planning Commission

Hello,

It disturbs me that I have been placed in a position to construct this letter of complaint in regards to Kim Buffington and her direct influence and ties to the Lander County Planning Commission, its board members and a Lander County Commissioner.

Kim Buffington was sitting on the planning commission board and making decisions that she directly benefited from. It was brought to light that Mrs. Buffington was voting on development and re-zoning projects of our community that she either directly owned property or was the direct Realtor for the said property. Mrs. Buffington voted in areas that she and her clients sought to personally gain financially from as property owner or Realtor, regardless of the outcome or effects that such a decision would have on residents of the community. This was brought to light to Lander County Commissioners and the Lander County District Attorney. Mrs. Buffington later vacated her position on the board and stepped down.

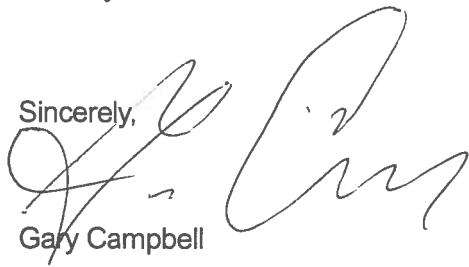
Recently I and others opposed several re-zoning of agricultural land requests that were proposed by the Planning Commission. During this time it was discovered the applicant for the re-zoning is Mrs. Buffington's client and the land was purchased by the client prior to Buffington stepping down from the board, giving the belief of backroom deals and promises being made to the client prior.

This agenda is being pushed by the planning commission board member Jan Morris, who has personal and business ties to Buffington and being approved by Commissioner Waits, who is also a client of Mrs. Buffington's Realtor office. Mrs. Buffington's agenda is still being pushed by those she has ties to in certain positions within the County of Lander. These decisions are being made with the sole intent on financially benefiting Mrs. Buffington and her client.

I request this complaint and the unethical conduct described above to be thoroughly investigated.

Thank you for time and consideration in regards to this matter

Sincerely,

A handwritten signature in black ink, appearing to read "Gary Campbell". The signature is written in a cursive style with a large initial "G" and "C".

Gary Campbell

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Our Agents

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SEARCH

If you have a question...as always...shoot us an email, a text, or call. It is our pleasure to assist.
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Battle Mountain Office

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Street
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Nevada 89820

[Back to Our Agents](#)

Kimberlie Buffington



Managing Broker, REALTOR

Office: 775.635.8636

Cell: 775.374.0509

Fax: 866.929.5786

Email: kimberliebuffington@gmail.com

I am the managing broker for the Nolan Realty and Investment office located in Battle Mountain, Nevada.

I bring 27 years of experience in residential construction, sales, and land development to assist you in the smoothest experience of buying or selling of your next home or land. I make my experience and knowledge work for you.

I am proud to call Northern Nevada my home and have for 27 years. I am happily married to an amazing man, Paul, and have 3 incredible children, a daughter Kennedie and twin boys Barrett and Beckett.

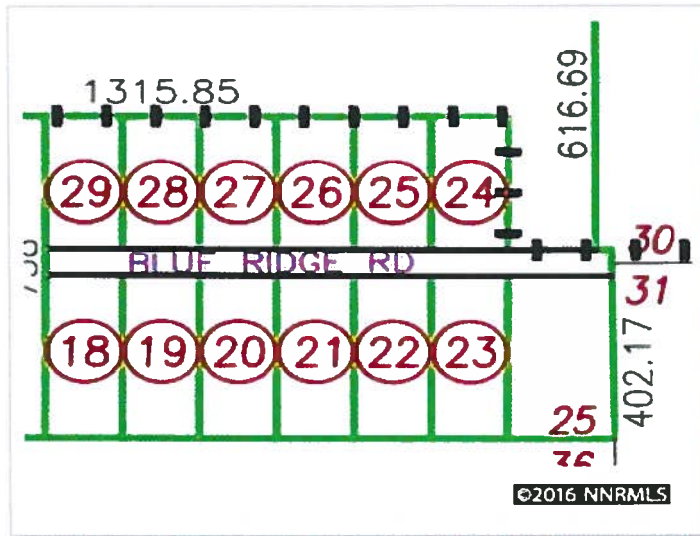
Call me today so I can work hard to help you achieve your goals and dreams!

LISTINGS

69 listings

Order by:

Price (high to low) ▼



\$54,000

130 Blue Ridge Road
Battle Mountain, NV 89820

MLS #: 160000635

Residential Lots & Land

Excellent opportunity to own a parcel in an already approved beautiful subdivision. Builder will build one of their 18 floorplans or bring in your own builder. Infrastructure is already in place. City water, natural gas, power on each lot and access street is freshly paved. Each parcel will require a septic. Construction must be site built. Zoned single family agricultural, these 1.01 and 1.24 acre parcels can have up to 2 horses! CC&R's but no home owner's association.

Property Features

- Access Road: Paved/Concrete
- Listing Status: Active
- Lot Improvements: Rough Grade
- Middle School: Out Of Area
- Price Per S Qf T: 43548.39
- Property Type: Residential Lots & Land
- Sub Type: Residential Lots & Land
- Topography: Level, Cleared/Open
- Utilities At Site: Natural Gas, Electricity, Telephone
- View: Mountain, Yes, Desert, Valley
- Zip Code: 89820
- Horses Okay: Yes
- High School: Out Of Area
- Existing Sewer/Septic: None, Need Septic
- Access Type: Public Access
- Acres: 1.2400
- Adjoins: Undeveloped Acre
- Area: Battle Mountain (Lander Co)
- Corners Marked: Fully
- County/Area: Lander County
- Domestic Water: City/County On Property
- Easements: Utility, Road
- Electricity: Yes, On Property
- Elementary School: Out Of Area
- Zoning: A1



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Fax: 866.929.5786
Email: kimberliebuffington@gmail.com



The Lander County Planning Commission met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, NV on April 8, 2015 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
LOUIS LANI, VICE CHAIRMAN – via telephone
MONTE PRICE, BOARD MEMBER
TOM REICHERT, BOARD MEMBER
KIMBERLIE BUFFINGTON, BOARD MEMBER
COMMISSIONER ART CLARK
KEITH WESTENGARD, EXECUTIVE DIRECTOR
JAN MORRISON, COMMUNITY SERVICES
VICKI CLIFFORD, EXECUTIVE SECRETARY
JOE LINDSEY, BUILDING INSPECTOR
DONNY NEGRO, ROAD & BRIDGE NORTH
JAKE EDGAR, WATER & SEWER
JAY WINTLE, PUBLIC
ALLEN HALL, PUBLIC
BOB KESTER, PUBLIC

ABSENT: ROD DAVIS, ALTERNATE
TED HERRERA, DA

The meeting was called to order by John Williams, Chairman.

Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of five board members.

APPROVAL OF AGENDA NOTICE

Ms. Buffington moved to approve the Agenda notice as posted. Seconded by Mr. Price, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of January 14, 2015

The minutes of January 14, 2015 were deferred until the next meeting. Mr. Reichert & Mr. Davis had both abstained during the March 11, 2015 meeting of approval of the minutes. Mr. Reichert was not present at the meeting and Mr. Davis was not present for the entire meeting. Mr. Lani stated that they would defer them until the next meeting.

Regular meeting of March 11, 2015

Ms. Morrison had a clarification from the County Clerk, stating that you do not have to be present at a meeting in order to approve the minutes. She said you can rely on the fellow

commissioners or staff. Mr. Reichert stated, in that case since he was the only one there, the Board is relying on him to tell them if the minutes are right. Ms. Morrison said that was correct. Mr. Reichert had one question about item #2 last month, in the minutes it says deferred. Ms. Morrison stated that it was not deferred. There was no action on it because the applicant (flower shop) needed to get blueprints to the building department. Mr. Reichert stated that since everyone is relying on him to tell them how accurate the minutes are, these are a general view of what happened last month. Except for a few small errors, mainly the minutes stating the item had been deferred instead of no action taken, everything is basically correct. Ms. Morrison agreed with Mr. Reichert that there was a lot of information that was heard, but that there was someone new volunteering to do the minutes, so a lot of information was left out. She also stated that they do have the audio to listen to if there are any further questions. Mr. Reichert made the motion to approve the minutes with the comment that if there are any questions or concerns they can listen to the audio. Also included in the motion it was stated that Item #2 was not deferred, that there was no action taken. The motion was seconded by Mr. Price.

BOARD MEMBERS/STAFF REPORTS

Ms. Buffington stated that there was a fabulous presentation put on about a week ago that she attended. It was on economic revitalization of businesses. She stated that she had never seen so many business owners present and so fired up to get in and do things with their facades and their buildings and the interest and excitement it generated. Ms. Buffington stated that it was well attended and it was awesome to see that kind of energy. Because she didn't think we've had that in a long time. The presentation was put on by Michelle Reeves.

PUBLIC COMMENT.

No public comment.

(1) **Discussion for possible action regarding revocation of the following Special Use Permit, and other matters properly related thereto:**

Applicant: Helen Gilbert
Location: 1619 2300 East Street, Battle Mountain
Type: Dog Kennel, Dog Breeding

Mrs. Gilbert was not present when the meeting started. Ms. Morrison stated that Mrs. Gilbert has said that she would be there for the meeting. Ms. Buffington made a motion to table this item until later in the meeting. The motion was seconded by Mr. Reichert.

(2) **Discussion for possible action regarding the approval/disapproval of the following application for a Variance, and other matters properly related thereto:**

Applicant: Michael & Kayla Mauldin
Location: 745 Broyles Ranch Road, Battle Mountain, NV
APN: 002 251 11
Type: To allow the temporary use of an existing garage/workshop as living quarters, without cooking or shower facilities, on a property zoned R-1.

Let the record show the presence of Kayla Mauldin & her husband Michael. Mr. Joe Lindsey, Building Inspector stated that all of the requirements on the list had been met. Mr. Reichert asked if the original Variance had a timeline on it. Ms. Morrison stated that there is language in there that states that this variance is for a specific individual only and when that individual vacates the property through whatever method, then the variance would cease to exist. This variance is for a specific individual or a specific use. Mrs. Mauldin went on to explain that the home belongs to herself & her husband. Their daughter is buying it from them. She has a father who was living in her home after they had started this project. They wanted to put a little place in there so that he could get out of the home. It's still a single family dwelling because a single family is living in that small lot, 500 square feet. There's no shower, because that was a biggy. There's no cooking facilities. He would go into the house to shower or to cook. Or he was served food. He is an elderly man and its 10-15 feet from his door to the back door. That's all we intend to use it for. It was originally supposed to be a game room for her, a double car garage and 500 square foot room on the side. But it's been changed and so hopefully we've done everything we need to. Ms. Buffington stated that if the Building Department is satisfied and Jack's name is attached to it, then she has no concerns. Mr. Williams asked for a motion to approve the variance. Mr. Reichert made the motion to approve the variance, seconded by Ms. Buffington, the motion was voted and carried unanimously. *Approved.*

(3) **Discussion for possible action regarding revocation of the following Home Occupation Permit, and other matters properly related thereto.**

Applicant: Johnny Chavez, Do All Cleaning
Location: 119 Cove Avenue, Battle Mountain, NV
APN: 002 428 01

Type: Commercial and residential cleaning with small yard care business.

Mr. Williams asked if Mr. Chavez had not renewed his Home Occupation Permit. Ms. Morrison explained that it was publicly noticed properly. She went on to say that there had been a lot of issues getting the agenda out, so the revocation was a cut & paste mistake and she apologized for it. It is properly noticed. The applicant has gotten the proper business licenses required and is all set to go. Ms. Morrison also mentioned that Mr. Chavez had been great working with them. Ms. Buffington made a motion to approve the Home Occupation Permit, seconded by Mr. Reichert the motion was voted and carried unanimously. *Approved.*

(4) **Discussion for possible action to approve/disapprove a Tentative Map for Subdivision, and other matters properly related thereto.**

Applicant: Silver Sage Apartments, LLC
Location: Block B of Broyles Ranch Subdivision Unit #4
APN: 002 382 57
Type: Creating 15 lots

Ms. Morrison gave a little background on this. She stated that Silver Sage has had a tentative map approved about a year and a half ago. The owners inherited an older subdivision, there are a lot of issues, They have worked with them on a lot of things. Donny may have some things to say about it. They have come to you with a very cleaned up tentative map. A lot of work went into it, there are still some issues and conditions, Ms. Morrison stated that she has gone over them with the engineer and they seem to be fine. Let the record show the presence of J.R. Hilderbrand of TEC CIVIL Engineering and Randy Butler, owner of the property. Mr. Hilderbrand addressed the Board stating that this is not a new project, they received an approval on the tentative map two years ago, 2013, since that time a few things have changed and we've made some adjustments and that's what we're here for tonight. In essence modifying the project to what we think is a better project for us as well as the community. After a lengthy discussion and answering questions regarding road widening, side walks, street lighting, fire hydrants, parking, crosswalks, emergency services access, snow removal, water drainage, Ms. Buffington makes a motion to approve the tentative map as presented with the additional requirement of one street light to be identified by the developer. Ms. Buffington's motion shall include a fire hydrant at

the northwest corner, to be placed, the corners intend to be marked, at least one street light to be defined between the building department and the developer mutually agreeable, that the street shall not be widened and be double red curbed, and that the main gas line, when possible, shall be relocated away from single family dwellings, that the individual lateral sewer lines shall be placed, the ADA access ramps be placed at the sidewalks to the dumpster, and at the three locations on Broyles Ranch Road, that the sidewalk will be extended to the South Property line from the current fourplexes to the South property line, and that mitigation of drainage shall be done in such a way to satisfy the Road & Bridge Department. The motion was seconded by Mr. Reichert, voted and carried unanimously. *Tentative map approved.*

Brief interruption by Commissioner Clark, let the record reflect the presence of Commissioner Clark, motion made to go back to Item #1. Commissioner Clark stated that he had been in meetings for the past two days with the BLM, was tired and stated that he had been asked to look into this situation with the Sheriff's office and he wanted to give the Board the information he had so he could go home and go to bed. Mrs. Gilbert had still not shown up for the meeting. Commissioner Clark stated That he had been asked to look into to this since he had experience with Animal control. NRS does not qualify Helen Gilbert as a dog breeder. Number one, you have to sell fifty dogs or more. Number two, the only thing we have according to the Sheriff's office is in an Ordinance is a Kennel Permit. There is no kennel design attached to that. And there's even a question on out of district and the number of dogs you're allowed out of district. So if you're going to impose an ordinance, you need to go through that procedure and get it done. So if you're going to revoke a Special Use Permit, for what? There's no guidelines other than you have to have a Kennel permit. That's the only ordinance. Ms. Buffington states that it is the Board's understanding that Mrs. Gilbert is in business to sell animals and therefore that triggers up a Home Occupation Special Use Permit. Commissioner Clark argues that NRS states that she is not a breeder, so what are the guidelines for the kennel she is supposed to have. Ms. Buffington states that she believes that Lander County Code requires dog kennels or dog breeders to (and she is a self-proclaimed dog breeder. She came in and said I breed and sell dogs.) So she's the one that came and said that I am a breeder. Commissioner Clark said that he understands that she is trying to do things correctly, but under the NRS she is not a dog breeder. If you're going to impose some sort of ordinance, then you're going to have to check everybody in this county that sells a litter of puppies. Ms. Buffington agreed. Commissioner Clark went on to say that

the only rule they have is for the kennel permit and they weren't sure if that was for in district or in county. Commissioner Clark excused himself after that and left the meeting.

Chairman Williams asked if there was any more discussion on this item. Let the record show the presence of Joe Lindsey, Building Inspector. Mr. Lindsey stated that he wished Mrs. Gilbert were present. Chairman Williams asked Mr. Lindsey if Commissioner Clark was in error. Mr. Lindsey stated that he believed so and went on to say **NRS 574.280** says a kennel is a place where at least ten dogs of not less than 6 months of age are kept, harbored or maintained for boarding, training or breeding for sale to a retailer or dealer. Mr. Lindsey said that she really didn't need it for breeding purposes as far as breeder, but as far as kennel, if she has ten dogs or more, then a kennel is required. Chairman Williams states that it does give a very basic outline in the NRS on kennels too. He also went to say that he did not read where is specifically states that you have to sell fifty dogs to be a breeder. Ms. Buffington states that Mr. Reichert has the definition in the NRS. Mr. Reichert reads the NRS definition, **NRS 574.245 "Breeder"** defined. "Breeder" means a dealer, operator or other person who is responsible for the operation of a commercial establishment engaged in the business of breeding dogs or cats for sale or trade. The term does not include a person who breeds dogs or cats as a hobby. Mr. Chairman states that that's where you don't have to certify everyone in town if they had a litter of puppies, they wouldn't have to have a breeders license. After very lengthy discussion, the Board agreed that Mrs. Gilbert had been given every opportunity to comply and hadn't, therefore a motion to revoke Mrs. Gilbert's Special Use Permit was made by Mr. Price, seconded by Mr. Lani, the motion was voted and carried unanimously.

(5) **Discussion for possible action recommending to the Lander County Board Commissioners to approve/disapprove the following Zone Change request, and other matters properly related thereto.**

Applicant: Jay Wintle
Location: Lots 14, 18, 22 of Ashcraft map #183519 within the SE4 Of 14/32/44, generally located north of the W. Humboldt Rd. and west of 28th street alignments.
APN: 010 280 17, 010 280 21, 010 280 25
Type: To request a zone change from Farm and Ranch District (A-3) to One-Acre Agriculture District (A-1)

Let the record show the presence of Jay Wintle, applicant. Mr. Wintle would like a zone change from Farm and Ranch District (A-3) to One-

Acre Agriculture District (A-1). Mr. Wintle would like to develop twenty six lots, averaging about 2.73 acres per lot. Mr. Wintle is looking to develop Yellowbrick Road alignment which continues west, would cross 28th street. The next one going north will be 32nd street alignment. Chairman Williams stated that as a condition of the zone change Mr. Wintle goes on record as stating that he will make deed restrictions on all of these X amount of lots that he's going to develop that they cannot go any lower than 2 acres. Mr. Wintle made the agreement that there is a deed restriction for no less than 2 acres and no more than 26 lots. Mr. Price made the motion to approve the zone change with the restrictions that was discussed. No more than 26 parcels, nothing smaller than 2 acres and that be printed as a deed restriction on the deed of the property. The motion was seconded by Mr. Reichert, voted and carried **unanimously. Approved.**

(6) **Discussion for possible action regarding a master plans of streets and highways for the Battle Mountain area to act as a guide for future roadway Improvements and other matters properly related thereto.**

Let the record show the presence of Donald Negro, Road & Bridge. Mr. Negro told the Board that there is a tentative road going into the Indian Casino. The paving bid went out, he had a meeting with the bid committee and it will be approved by the Commissioners tomorrow at the commissioner's meeting. Usually it's 10 days to start, we'll start as soon as possible. And what it is, is on the north side of town and then these streets over here, the ones that haven't gotten paved yet, Jake has all the sewer and water done. And then we'll go out on 26th and pave the little crossover streets. We'll go over on Mulligan, there's one section we didn't get paved, they put another house in, we'll pick it up. In the next phase after July we'll pick up Carson, Bastian, Lemaire that they're working on now. There was three million dollars worth of paving this first go around, and around three million on the second go around. The first project has to be finished by June 30, so we're pushing and that's why we're letting them start as soon as they can. We're putting infiltrators in all our problem places. There wasn't enough money for Cove and those streets aren't going to get paved this go around. Depending on where the bid comes in and if there's money laying on the table after the bid then they will pick them up. They will go ahead and put in all the drainage so it will be there and be done. Discussion only. No action necessary.

(7) **Discussion for possible action regarding water, sewer and /or road expansions south of Battle Mountain for future development, including but not limited to town boundaries/service area and other matters properly related thereto.**

Mr. Negro gave the update as Jake, Water & Sewer had to leave. The projects are ongoing. They're doing the tree streets and Lemaire and all those. They're

moving along. Discussion only.

- (8) **Correspondence/Board and/or Staff issues for potential upcoming agenda items.** Ms. Morrison told the Board on April 23 & 24 UNR is putting on a seminar here. Friday is the instructions on governmental processes to include open meeting law and ethics in government. The county will pay your way. Keith has approved for any advisory boards, any commissions, and there is a half a day on Saturday. The fee is \$75. It will be at the Civic Center. Ms. Morrison added one more thing. The LEDA meets the first Wednesday of every month at 1:00 p.m. in the Commission chambers, the Tribe is going to come and present their plans for the casino. Lander County has no jurisdiction over it. But they have met with us, Keith, herself, and Building Department talked about their plans and with Donny and they are going to bring the road down from Allen to the casino. And give the easements all the way down to Humboldt.

PUBLIC COMMENT.

None.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Mr. Lani moved to adjourn the meeting of April 8, 2015. Seconded by Mr. Reichert, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD
OF LANDER COUNTY PLANNING COMMISSION

ATTEST: 
EXECUTIVE SECRETARY

The Lander County Planning Commission met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, NV on May 13, 2015 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
KIMBERLIE BUFFINGTON, BOARD MEMBER
MONTE PRICE, BOARD MEMBER
TOM REICHERT, BOARD MEMBER
ROD DAVIS, ALTERNATE
TED HERRERA, DA
COMMISSIONER ART CLARK
KEITH WESTENGARD, EXECUTIVE DIRECTOR
JAN MORRISON, COMMUNITY SERVICES
VICKI CLIFFORD, EXECUTIVE SECRETARY

ABSENT: LOUIS LANI, VICE CHAIRMAN

The meeting was called to order by John Williams, Chairman.

Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of four board members.

APPROVAL OF AGENDA NOTICE

Ms. Buffington moved to approve the Agenda notice as posted. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of January 14, 2015

Ms. Buffington made the motion to approve the minutes of the Regular Meeting of January 14, 2015. Seconded by Mr. Price, the motion was voted and carried unanimously.

Regular meeting of April 8, 2015

Ms. Buffington made the motion to approve the minutes of the Regular Meeting of April 8, 2015. Seconded by Mr. Price, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

PUBLIC COMMENT

No public comment.

(1) **Discussion for possible action regarding revocation of the following Home Occupation Permit, and other matters properly related thereto:**

Applicant: Nolan McRae/Night Shift Entertainment
Location: 1825 Millard Fillmore Ave, Battle Mountain, NV
APN: 011 380 40
Type: To conduct marketing for entertainers, plus sales and services to entertainers via the internet.

The applicant was not present. Ms. Buffington made the motion to defer this item until later in the meeting. The motion was seconded by Mr. Reichert and the motion was voted and carried unanimously

(2) **Discussion for possible action regarding the approval/disapproval of the following application for a Special Use Permit, and other matters properly related thereto.**

Applicant: Alyandra Chavez, Miguel & Doris Chavez
Location: 545 West Tule Street, Battle Mountain, Nv
APN: 002 348 01
Type: To conduct a car detailing business

Mr. Reichert made the motion to approve on the condition that the primary wash of muddy vehicles be done offsite. Seconded by Mr. Price, the motion was voted and carried unanimously.

(3) **Discussion for possible action regarding revocation of the following Special Use Permit, and other matters properly related thereto.**

Applicant: Northern Nevada Internet/Sharon Malone
Location: 104 E Front Street, Battle Mountain, NV
APN: 002 104 19

Type: To build, operate, and maintain an 86' high
Communications tower on a property zoned C-1
*Mr. Price made the motion to approve. Seconded by Ms.
Buffington, the motion was voted and carried unanimously.*

(4) **Discussion for possible action regarding an amended Parcel Map and other matters properly related thereto.**

Applicant: Emerald Land Company, LLC (formally BMD, LLC)
Location: Humboldt Avenue, westerly end
APN: 011 020 03, 13, 14
Type: Combining three (3) parcels, then splitting same
into four (4) parcels.

Discussion ensue regarding that one parcel was of a non-conforming size for the current zoning. Applicant requested this item be held so he reevaluate the map.

Ms. Buffington made the motion to defer this item. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

(5) **Discussion for possible action to approve a Parcel Map, and other Matters properly related thereto.**

Applicant: Double K, LLC
Location: Humboldt Avenue, westerly end
APN: 011 020 04, 05, 06
Type: Combining three (3) parcels, then splitting
same into four (4) parcels

Ms. Buffington made the motion to approve the parcel map. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

(6) **Discussion for possible action regarding a master plan of streets and highways for the Battle Mountain area to act as a guide for future roadway improvements, and other matters properly related thereto.** No action. Discussion only.

Mr. Reichert made the motion to go back to Item #1. Seconded by Mr. Williams the motion was voted and carried unanimously. The applicant never showed up. There was no action taken. This

Item will be on the next agenda.

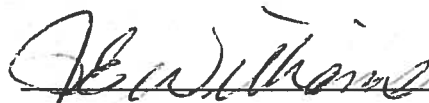
- (7) Discussion for possible action regarding water, sewer and/or road expansions south of Battle Mountain for future development, including but not limited to, town boundaries/service area and other matters properly related thereto. No action. Discussion only.
- (8) Correspondence/Board and/or Staff issues for potential upcoming agenda items.

PUBLIC COMMENT.

Mr. Jay Wintle commented that a pump station is needed south of town for more development to occur.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Mr. Price moved to adjourn the meeting of May 13, 2015. Seconded by Ms. Buffington, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST: 
EXECUTIVE SECRETARY

The Lander County Planning Commission met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, NV on June 10, 2015 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
LOUIS LANI, VICE CHAIRMAN-via telephone
KIMBERLIE BUFFINGTON, BOARD MEMBER-via telephone
MONTE PRICE, BOARD MEMBER
TOM REICHERT, BOARD MEMBER
JAN MORRISON, COMMUNITY SERVICES
VICKI CLIFFORD, EXECUTIVE SECRETARY

ABSENT: ROD DAVIS, ALTERNATE
TED HERRERA, DA
COMMISSIONER ART CLARK
KEITH WESTENGARD, EXECUTIVE DIRECTOR

The meeting was called to order by John Williams, Chairman.

Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of five board members.

APPROVAL OF AGENDA NOTICE

Mr. Price moved to approve the Agenda notice as posted. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of May 13, 2015

Mr. Reichert made the motion to approve the minutes of the Regular Meeting of May 13, 2015. Seconded by Mr. Price, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

No reports at this time.

PUBLIC COMMENT

No public comment.

(1) **Discussion for possible action regarding revocation of the following Home Occupation Permit, and other matters properly related thereto:**

Applicant: Nolan McRae/Night Shift Entertainment
Location: 1825 Millard Fillmore Ave, Battle Mountain, NV
APN: 011 380 40
Type: To conduct marketing for entertainers, plus sales and services to entertainers via the internet.

Mr. Reichert made the motion to approve. Seconded by Mr. Lani, the motion was voted and carried unanimously.

(2) **Discussion for possible action regarding an amended Parcel Map and other matters properly related thereto.**

Applicant: Emerald Land Company, LLC (formally BMD, LLC)
Location: Humboldt Avenue, westerly end
APN: 011 020 03, 13, 14
Type: Combining three (3) parcels, then splitting same into four (4) parcels.

Ms. Morrison stated that the amendment would be a simple parcel map, and all the lots now conform to zoning. It's been discussed in past meetings that if they need to go to a lower density zoning they'll be able to go on individual parceling. But right now it's just the standard four-lot parcel map. Also, the same conditions that the commission placed on the current parcel map will be placed on this one also. That is; that the improvements to Yellow Brick Road all the way to the 28th Street alignment be accepted by the County before this amended map can be recorded.

Ms. Buffington made the motion to approve the parcel map subject to the conditions and with the amendment to include any required signatures be present on the Mylar prior to recording. Seconded by Mr. Lani, the motion was voted and carried unanimously.

(3) **Discussion for possible action regarding a master plan of streets and highways for the Battle Mountain area to act as a guide for future roadway improvements, and other matters properly**

related thereto. Let the record show that Mr. Negro was present to give an update to the Board. He reported that paving projects are underway throughout the county.

- (4) Discussion for possible action regarding water, sewer and/or road expansions south of Battle Mountain for future development, including but not limited to, town boundaries/service area and other matters properly related thereto. Mr. Bert Ramos was not available for an update.
- (5) Correspondence/Board and/or Staff issues for potential upcoming agenda items.

PUBLIC COMMENT.

No public comment.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Mr. Lani moved to adjourn the meeting of June 10, 2015. Seconded by Mr. Price, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST: Vicki Clifford

EXECUTIVE SECRETARY

The Lander County Planning Commission met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, NV on July 8, 2015 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
LOUIS LANI, VICE CHAIRMAN-via telephone
KIMBERLIE BUFFINGTON, BOARD MEMBER-via telephone
TOM REICHERT, BOARD MEMBER
JAN MORRISON, COMMUNITY SERVICES
VICKI CLIFFORD, EXECUTIVE SECRETARY
ROD DAVIS, ALTERNATE
COMMISSIONER ART CLARK

ABSENT: MONTE PRICE, BOARD MEMBER
TED HERRERA, DA
KEITH WESTENGARD, EXECUTIVE DIRECTOR

The meeting was called to order by John Williams, Chairman.

Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of four board members.

APPROVAL OF AGENDA NOTICE

Mr. Reichert moved to approve the Agenda notice as posted. Seconded by Ms. Buffington, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of June 10, 2015

Ms. Buffington made the motion to approve the minutes of the Regular Meeting of June 10, 2015. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

Ms. Morrison commented that the Agenda Notice is noticed in the newspaper and at five different locations around Battle Mountain. Also there is the State of Nevada Public Notice Board. It is always noticed on that also. So if anyone asks you, it is always noticed with the State. It became mandatory last July 1st, 2014.

It's called publicnoticenv.gov. Any entity and any public body the notices are required by NRS now to be posted.

PUBLIC COMMENT

No public comment.

(1) **Information and discussion only on a Parcel Map, and other matters properly related**

Applicant: Jay Wintle
Location: Lot 18 – Ashcraft Map #183519
Generally located west of 28th Street along the Yellow Brick Road alignment, Battle Mountain
APN: 010 280 21
Type: Splitting one (1) parcel into four (4) parcels.

Let the record show the presence of Jay Wintle, applicant. Mr. Wintle had a few concerns. Such as abandonment, adjusting the right of ways back to 30 feet, 40 feet, 50 feet. Just making sure everyone is on board before they do a final mylar. Ms. Morrison stated that she had talked Donny and he had said that he was going to be there. He was not there and Ms. Morrison stated that she assumed something had come up. The Board agreed that the 30 foot easements were acceptable. Mr. Wintle was also concerned about the unpaved 500 feet of Yellow Brick Road. Ms. Morrison stated that she would follow up with Jay, Donny & Bert. Discussion only.

(2) **Information and discussion only on a Parcel Map, and other matters properly related thereto.**

Applicant: Jay Wintle
Location: Lot 22 – Ashcraft Map # 183519
Generally located west of 28th Street along the Yellow Brick Road alignment, Battle Mountain
APN: 010 280 25
Type: Splitting one (1) parcel into four (4) parcels.

Let the record show the presence of Jay Wintle, applicant. This item was pretty much the same as the above item. Jay just added one more thing to it. The road is built from 26th to Yellow Brick Road and from

Yellow Brick Road to about 500 feet from the first lot, but he has never asked for an inspection. Mr. Wintle would like to ask for an inspection to get it county maintenance where we will know that it will pass for an inspection from the county side so there are no surprises.

Discussion only.

- (3) **Discussion for possible action regarding a master plan of streets and highways for the Battle Mountain area to act as a guide for future roadway improvements, and other matters properly related thereto.** Ms. Morrison stated that she would try to get some workshops set up between Road & Bridge and Water & Sewer. No one was available for comment.

- (4) **Discussion for possible action regarding water, sewer and/or road expansions south of Battle Mountain for future development, including but not limited to, town boundaries/service area and other matters properly related thereto.** Ms. Buffington suggested setting up some workshops with the Planning Commission and Road and Bridge to get suggestions, ideas and input. Commissioner Clark was in agreement. Commissioner Clark suggested getting a list together of everything that was needed and getting it to Water & Sewer and also Road & Bridge. The Board stated that that had been done, but they can't get anyone from these departments to come to the meetings. Commissioner Clark suggested that Ms. Morrison, at the next Commission Meeting, present the idea of getting Water & Sewer, Road & Bridge, the Planning Commission & the Commissioners together for a discussion workshop. Discussion only.

- (5) **Correspondence/Board and/or Staff issues for potential upcoming agenda items.** Ms. Morrison had a comment, the architect for the Battle Mountain General Hospital extension expansion wanted her to communicate that they're going to be expanding the long term care. None of this needs Planning Commission approval. The long term care facility is going to be the same number of beds, but its dual occupancy in one room right now. So they are doubling the rooms so that there is single occupancy. So it is an expansion of the facility and not of the

beds. And there is some expansion in the new clinic as well. She stated that she believed this round is eleven million dollars. Ms. Morrison also stated that there were a couple of other projects on the drawing board and they probably wouldn't need Planning Commission approval. She stated that she will keep the Board updated as things progress.

PUBLIC COMMENT.

Jay Wintle had a comment on the roads. As a developer, maybe they need to start working on a highway where they line up the alignment. So they don't end up like the rest of them. Like Sheep Creek where they turn into each other.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Mr. Lani moved to adjourn the meeting of July 8, 2015 at 7:30 p. m. Seconded by Ms. Buffington, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST:


EXECUTIVE SECRETARY

The Lander County Planning Commission met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, NV on August 12, 2015 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
LOUIS LANI, VICE CHAIRMAN-via telephone
KIMBERLIE BUFFINGTON, BOARD MEMBER
MONTE PRICE, BOARD MEMBER
JAN MORRISON, COMMUNITY SERVICES
VICKI CLIFFORD, EXECUTIVE SECRETARY
ROD DAVIS, ALTERNATE
COMMISSIONER ART CLARK

ABSENT: TOM REICHERT, BOARD MEMBER
TED HERRERA, DA
KEITH WESTENGARD, EXECUTIVE DIRECTOR

The meeting was called to order by John Williams, Chairman.

Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of four board members.

APPROVAL OF AGENDA NOTICE

Mr. Lani moved to approve the Agenda notice as posted. Seconded by Ms. Buffington, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of July 8, 2015

Ms. Buffington made the motion to approve the minutes of the Regular Meeting of July 8, 2015. Seconded by Mr. Lani, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

No new reports. Ms. Morrison did state that the fall schedule was starting to fill up.

PUBLIC COMMENT

No public comment.

(1) **Discussion for possible action regarding approval/disapproval of the Following Home Occupation Permit, and other matters properly Related thereto:**

Applicant: Shawn Davis/Working Dog Handyman
Location: 285 East 6th Street, Battle Mountain
APN: 002 142 05
Type: To operate a Handyman business on a property zoned R-1.

Let the record show the presence of Shawn Davis, applicant. Mr. Davis gave a brief description of what his business is about. Stating that he would only be using his home for storing tools and extra materials. He plans on doing small jobs and repairs, patching holes, fixing leaks, coolers, winterizing, summarizing. He likes do the smaller jobs so that he isn't doing the same thing all day long. Mr. Price made the motion to approve, seconded by Ms. Buffington, the motion was voted and carried unanimously.

(2) **Discussion for possible action regarding approval/disapproval of the following Special Use Permit, and other matters properly related thereto:**

Applicant: Verizon Wireless/Pinion Exploration
Location: 125 Old Hwy. 8A, Battle Mountain
APN: 002 310 06
Type: To build, operate, and maintain a 101' monopole communications tower and supporting ground equipment on a property zoned C-2.

Let the record show the presence of Matthew Moore representing Verizon. Verizon is proposing the construction of a 101' monopole, on roughly a two (2) acre parcel of land. What they are proposing is 50 x 50 leased area. Inside the leased area they will place the 101' monopole, 48 kilowatts backup generator, 210 gallon diesel fuel tank, and ground, electrical and cooling equipment. The intended purpose of the facility is to provide better coverage for everybody in Battle Mountain, Lander County and travelers traveling along Highway 80.

Ms. Morrison stated to Mr. Moore that if the Planning Commission chooses to issue the Special Use Permit, it is valid as long as Verizon has a contract with the landowner. If the company sells the asset, the Planning Commission just asks that they are notified. The motion to approve was made by Mr. Lani, seconded by Ms. Buffington, the motion was voted and carried unanimously.

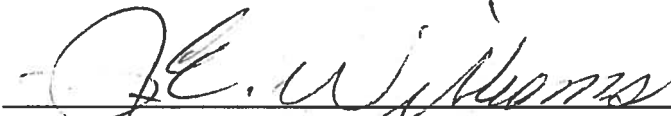
- (3) **Discussion for possible action regarding water and sewer expansions and other updates in Battle Mountain for future development, including but not limited to, town boundaries/service area and other matters properly related thereto.** Ms. Morrison stated to the Board that Jake Edgar was no longer with the County. Donnie is on leave and she didn't know when he would be returning. She had spoken to Bert about it and had hoped that by the next meeting there would be updates.
- (4) **Discussion for possible action regarding a master plan of streets and highways for the Battle Mountain area to act as a guide for future roadway improvements, and other matters properly related thereto.** There was no one present for comment.
- (5) **Correspondence/Board and/or Staff issues for potential upcoming agenda items.** Ms. Morrison stated that there was one item that is slowly being worked on and that is the Town of Kingston. Some parcels that have homes on them are zoned common area. She is in the process of writing letters and working on a zonal cleanup. It will probably be an agenda item in October.

PUBLIC COMMENT.

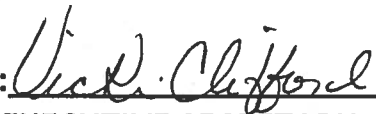
No one present for public comment.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Ms. Buffington moved to adjourn the meeting of August 12, 2015 at 6:30 p. m. Seconded by Mr. Lani, the motion was voted and carried unanimously.



**CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION**

ATTEST: 
EXECUTIVE SECRETARY

The Lander County Planning Commission met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, NV on September 9, 2015 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
KIMBERLIE BUFFINGTON, BOARD MEMBER
MONTE PRICE, BOARD MEMBER
TOM REICHERT, BOARD MEMBER
JAN MORRISON, COMMUNITY SERVICES
VICKI CLIFFORD, EXECUTIVE SECRETARY
ROD DAVIS, ALTERNATE
COMMISSIONER ART CLARK

ABSENT: LOUIS LANI, VICE-CHAIR
TED HERRERA, DA
KEITH WESTENGARD, EXECUTIVE DIRECTOR

The meeting was called to order by John Williams, Chairman.

Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of four board members.

APPROVAL OF AGENDA NOTICE

Mr. Price moved to approve the Agenda notice as posted. Seconded by Ms. Buffington, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of August 12, 2015

Ms. Buffington made the motion to approve the minutes of the Regular Meeting of August 12, 2015. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

Ms. Morrison commented to the Board that it's becoming an issue on the parcel maps, is that it is really getting incredibly difficult to for people to get their parcel maps signed by the utility companies. It's revolving chairs there and sometimes they have to call a surveyor who knows somebody who knows somebody to even

get in. And these maps have to be signed and so her contacts which were good two or three months ago are totally out of date. She just wanted to let the Board know that at some point in time we may be doing NACO (Nevada Association of Counties) to try to get something going. Mr. Wintle, when he comes he may say something. He's been getting the run around. It's difficult Ms. Morrison doesn't know what to do. We may be able to get somebody's attention. Chairman Williams asked if was the power company and Ms. Morrison stated that it was the power company, although they kind of have some back door inroads, however the average person doesn't. AT & T is a huge problem. They have moved to an unmarked office, they don't even have a Nevada phone number. They are just being difficult. Ms. Morrison said that she would contact a couple of the surveyors and see what they say. Something to help the rural areas.

PUBLIC COMMENT

Let the record reflect the presence of Rod Davis. He stated that he will be attending the Nevada Chapter of the American Planters Association state meeting next week. He will be presenting two workshops. One on the Business Matching Model that they did a number of years ago as well as a presentation on how rural communities can access the resources of the American Planters Association.

(1) **Discussion for possible action regarding approval/disapproval of the following Special Use Permit, and other matters properly**

Related thereto:

Applicant: Michael & Eileen Hamilton, "Inn N Out"
Location: 1450 2050 East Street, Battle Mountain, NV 89820
APN: 011 300 14
Type: To operate an RV Storage lot on a property zoned A-2.

Let the record show the presence of Michael & Eileen Hamilton, applicants. Mr. Hamilton explained that they would like to start an outdoor RV storage. They have three acres back there that aren't being used for anything. It's all fenced. It sits on the end of the property closest to the end of the runway. Ms. Morrison told the Board that Lander County is in the process of adopting a land compatibility use zoning. There are about five properties that are adjacent to the runway that would be requiring additional requirements. This gentleman is already grandfathered in. This is a great compatible use with the

airport next to the runway. There was one gentleman who had an objection. He called again, said he wouldn't be at the meeting. He did say that his opposition dates back to a home occupation permit that dates back to 2002, he doesn't object to this current use, just from the fact that he wasn't able to keep his. Which was by the way, he has multiple older items on his lot, but as far as Ms. Morrison could tell, he was never licensed as an RV park. The motion to approve was made by Mr. Price, seconded by Ms. Buffington, the motion was voted and carried unanimously.

(2) **Discussion for possible action regarding approval/disapproval of the following Home Occupation Permit, and other matters properly related thereto:**

Applicant: Diane Hall, "Diane's Dog Grooming"
Location: 1754 220 East St., Battle Mountain, NV 89820
APN: 001 310 30
Type: To conduct a dog grooming business on a property zoned A-2.

Let the record show the presence of Diane Hall, applicant. Ms. Hall explained to the Board that she would be grooming dogs. Chairman William asked Ms. Hall if she expected there to be a lot of traffic there and she responded that she would like there to be, but she didn't know. Ms. Morrison went on to explain the she did receive a phone call from one of the neighbors, Rita Rogers, who said that she fully supports this. Mr. Reichert explained that the reason she had been asked about traffic, is because there is a big difference between a Home Occupation Permit and a Special Use Permit in that a Home Occupation Permit it's still a residence and it's not a commercial operation, so any business that people have to come and park, people coming and going dropping off and picking up dogs all day, changes the atmosphere of the neighbors. Mr. Reichert went on to explain that since it is zoned Agriculture 2 and now there are people driving in and out all day. So it does change the nature of the street. Ms. Hall was asked if she had any boarding or kennels associated with this at all. She responded that she did not. The motion to approve was made by Mr. Reichert, seconded by Ms. Buffington, the motion was voted and carried unanimously.

(3) **Discussion for possible action regarding approval/disapproval of the following Home Occupation Permit, and other matters properly related thereto.**

Applicant: Devin Huhta, "Blind Eye Gunworks"
Location: 690 Maple St, Battle Mountain, NV 89820
APN: 002 180 43
Type: To conduct a gun repair and special order firearms business on a property zoned M-S

Let the record show the presence of Devin Huhta, applicant. Mr. Huhta explained to the Board that he is here to help the community, the sheriff's with maintaining their firearms as well as shipping and receiving for people locally, or purchasing. He understands that there will be background check involved, as well as cleaning. He stated that he will also be a certified gun appraiser to appraise estates as well. Ms. Morrison stated that there were no objections from the Sheriff's office. For the record, Mr. Williams asked if there would be ammunition stored or sold on site. Mr. Huhta responded that there would not be. Mr. Huhta stated that his main focus is to maintain and repair, clean, help people acquire firearms that they would like for less than the 35% markup that you see when you go to Big 5 or Sportsman's Warehouse or Cabelas. Ms. Buffington made the motion to approve the Home Occupation Permit for Blind Eye Gunworks for Devin Huhta at 690 Maple Street in Battle Mountain for gun repair and special order firearms business, excluding ammunition sales. Seconded by Mr. Price, the motion was voted and carried unanimously.

(4) **Discussion for possible action regarding approval/disapproval of the following Special Use Permit, and other matters properly related thereto.**

Applicant: Zacharias
Location: 101 Kingston Drive, Kingston
APN: 003 101 31
Type: To construct and operate an RV park on property Zoned C1

NOTE: This item only was transcribed verbatim by Tiffany Elkington.

(5) **Discussion for possible action regarding approval/disapproval of the following Parcel Map for the purpose of a Merger and Re-subdivision, and other matters properly related thereto.**

Applicant: Maryann and Jeffery Quintana
Location: Kyle Court and Victorine Drive in Kingston
APN: 003-191-03, 58 & 59
Type: Combining three (3) parcels into one (1) parcel.

Let the record show the presence of Maryann and Jeffery Quintana. Ms. Morrison stated to the Board that she could get the surveyor on the phone if they had any questions on the parcel map. She has done this one and also John Boltz the next one after Jay. The motion to approve was made by Ms. Buffington, seconded by Mr. Reichert, the motion was voted and carried unanimously.

(6) **Discussion for possible action to approve/disapprove the following Street Name request, and other matters properly related thereto.**

Applicant: Jay Wintle
Project: Parcel Maps
APN: 002-280-21 & 010-280-25
Type: To reserve a new street name: Faded Sage Drive

Let the record show the presence of Jay Wintle.

Ms. Morrison stated that the street naming committee had been notified. Everyone's fine with it. Lura asked that the Board do this as part of the parcel map even though it's a separately agendaized item because it had to be noticed separately. It's all part of the parcel map.

Ms. Buffington made the motion to approve the name condition upon the parcel maps approval. Seconded by Mr. Price, the motion was voted and carried unanimously.

(7) **Discussion for possible action regarding approval/disapproval of the following Parcel Map, and other matters properly related thereto.**

Applicant: Jay Wintle
Location: Lot 18 – Ashcraft Map # 183519
Generally located west of 28th Street along the Yellow Brick Road alignment, Battle Mountain
APN: 010-280-21
Type: Splitting one (1) parcel into four (4) parcels

Mr. Price made the motion to approve this item as agendaized contingent upon the completion of Yellow Brick Road and Lura's signature. Seconded by Mr. Reichert, the motion was voted and carried **unanimously.**

(8) **Discussion for possible action regarding approval/disapproval of Following Parcel Map, and other matters properly related thereto.**

Applicant: Jay Wintle
Location: Lot 18 – Ashcraft Map #183519
Generally located west of 28th Street along Yellow Brick Road alignment, Battle Mountain
APN: 010-280-25
Type: Splitting one (1) parcel into (4) parcels.

Mr. Reichert made the motion to approve this item contingent upon the completion of Yellow Brick Road and Lura's signature. Seconded by Mr. Price, the motion was voted and carried **unanimously.**

(9) **Discussion for possible action regarding approval/disapproval of the following Parcel Map for the purpose of a Merger and Re-subdivision, and other matters properly related thereto.**

Applicant: John Boltz
Location: 302 Bastian Road, Battle Mountain
APN: 002-436-02 & 03
Type: Merger and Re-subdivision; combining two (2) Parcels into one (1) parcel.

Ms. Morrison stated that she would call the surveyor if there were any questions. Ms. Buffington made the motion to approve this item. Seconded by Mr. Price, the motion was voted and carried **unanimously.**

(10) **Discussion for possible action regarding water and sewer expansions and other updates in Battle Mountain for future development, including but not limited to, town boundaries/service area and other matters properly related thereto.** No one present for comment.

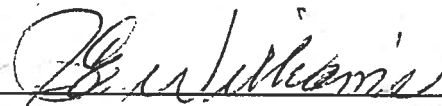
- (11) Discussion for possible action regarding a master plan of streets and highways for the Battle Mountain area to act as a guide for future roadway improvements, and other matters properly related thereto. There was no one present for comment.
- (12) Correspondence/Board and/or Staff issues for potential upcoming agenda items. Ms. Morrison asked the Board that because there is now a Public Works position and Sewer & Water and Road & Bridge report to that, would the Board still like two agenda items or as one. Ms. Buffington stated that she preferred the separate items. Then retracted her statement. Saying she was fine with one agenda item. Ms. Morrison stated that she could agendaize it under Public Works, Road & Bridge South, Road & Bridge North, Water & Sewer. That way everyone is covered. The Board directed her to do so.

PUBLIC COMMENT.

No one present for public comment.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Ms. Buffington moved to adjourn the meeting of September 9, 2015 at 8:42 p. m. Seconded by Mr. Price, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST: 
EXECUTIVE SECRETARY

The Lander County Planning Commission met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, NV on October 14, 2015 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN

KIMBERLIE BUFFINGTON, BOARD MEMBER – via telephone

ROD DAVIS, ALTERNATE

JAN MORRISON, COMMUNITY SERVICES

VICKI CLIFFORD, EXECUTIVE SECRETARY

COMMISSIONER ART CLARK

ABSENT: LOUIS LANI, VICE-CHAIR

MONTE PRICE, BOARD MEMBER

TOM REICHERT, BOARD MEMBER

TED HERRERA, DA

KEITH WESTENGARD, EXECUTIVE DIRECTOR

The meeting was called to order by John Williams, Chairman.

Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of three board members.

APPROVAL OF AGENDA NOTICE

Ms. Buffington moved to approve the Agenda notice as posted. Seconded by Mr. Davis, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of September 9, 2015

Ms. Buffington made the motion to approve the minutes of the Regular Meeting of September 9, 2015. Seconded by Mr. Williams, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

Mr. Davis stated that the University, himself in conjunction with Dr. Stienmann will be conducting a couple of community meetings in Austin and Kingston on some kind of branding issues. That would be at 3:00 p.m. in Kingston on October 23, 10:00 a.m. in Austin on October 24, 2015. The public is invited. Ms. Morrison had one item that it is time to do a review of the master plan. Rex Massey,

consultant for the county is going to has been involved in it before and he is starting to turn his attention to it. So we will schedule some meetings and revisit it since time we have been seeing activity in down in the south county. Ms. Morrison apologized, stating that Bert Ramos was not available for the meeting, but he would be at next month's meeting.

PUBLIC COMMENT

Commissioner Clark wants people to be informed that although the Sage Hen was not listed, there is Sage Hen Habitat mitigation going on that will drastically affect Lander County and all of the Northern Nevada. That being said, he suggested that you go to the County office and pick up a copy of the habitat overlay map so that you can see exactly how we're going be affected. It will be the end of grazing, it will be the end of mining exploration, and access to public lands. We entered into a lawsuit that will go to Federal Court in Reno November 12th and hopefully we get an injunction.

(1) **Discussion for possible action regarding approval/disapproval of the following Home Occupation Permit, and other matters properly Related thereto:**

Applicant: Glen Duvall, "The Fix -it Man"
Location: 505 West Tule, Battle Mountain, NV 89820
APN: 002-244-01
Type: To conduct handyman business in a property zoned R-1.

Let the record show the presence of Glen Duvall, applicant. Mr. Duvall gave a brief description of his business which included small repairs, doors, windows, water heaters, winterizing. No one will be going to his home, they will call him and he will go to them. Mr. Davis made the motion to approve. Seconded by Ms. Buffington, the motion was voted and carried unanimously.

(2) **Discussion for possible action regarding approval/disapproval of the following Special Use Permit Modification, and other matters properly related thereto:**

Applicant: Pelican Nevada Properties, LLC/Watt Group USA Inc. LC1, LLC
Location: East of State Route 305, approximately 12 miles, South of Battle Mountain, NV 89820

APN: 010-430-14
Type: To modify an existing Special Use Permit to increase the production of a proposed photovoltaic (solar) plant up to approximately 100mw on a property zoned M (Industrial).

Ms. Morrison stated that they had had this one before when the Special Use Permits being rather restrictive in their wording. And this one had a certain amount of power in their wording and they're currently working on a larger plant. They've got 640 acres, so they've got plenty of room. And so rather than going on a complete new application they are simply doing a modification to allow for the size. Also we've had some issues in the past where Special Use Permits did not mention the property owner's name and so this one will come out and mention the property owner's name and the corporation that's doing the work. So it will cover all bases. It's a simple modification, it was noticed as if it were a Special Use Permit. The applicant is in southern California with her kids in school. So we'll be speaking to her by phone. Let the record show the presence of Susan Cohen via telephone.

Ms. Cohen explained to the Board that they have 640 acres of land in Battle Mountain that they have changed the zoning on from agricultural to industrial. They got the Special Use Permit a couple of years ago at a time when they were instructed that getting the zoning changed would have been the best thing. They were told they couldn't get that, so they needed to get the Special Use Permit. The purpose they initially came was to get the Special Use Permit, they were able to change the zoning and since they changed the zoning, they thought let's get the Special Use Permit anyway. In the years that have gone by, the initial effort to have the Special Use Permit for 28 megawatts, they have actually discovered that utilities for example, are 2 rps 400 megawatts each. And their land is big enough to possibly do 100 megawatts. But certainly something bigger than 20. And that's why she was advised by Ms. Morrison to pursue a Special Use Permit for something larger than 20 up to a maximum of 100 megawatts. Ms. Buffington made the motion to approve agenda item #2, to change , modify the existing Special Use Permit from 40 megawatts to 100. Seconded by Mr. Davis, the motion was voted and carried unanimously. was voted and carried unanimously.

(3) **Discussion for possible action regarding approval/disapproval of the following Variance, and other matters properly related thereto.**

Applicant: Harold and Mary Adkins
Location: 1280 3300 East Street
APN: 011-260-10
Type: To allow for the use of an RV for sleeping
Purposes on property zoned A-2.

Let the record show the presence of Harold Adkins, applicant. Mr. Adkins explained to the Board that he and his wife are taking care of their three great grandchildren, ages 3, 5, & 7 and are in the process of adopting them. Their grandson, William James Ayers, who has Post Traumatic Stress Disorder (PTSD) is using the RV as his bedroom to give him his space away in a quiet zone away from the hussle and bussle of everyday life at home. There is no water or sewer going to the RV, it's just electric and what he uses for heat. Let the record show the presence of Tom Krakowski, adjacent property owner. Mr. Krakowski stated that was the reason he was there. He was wondering where the RV cop came from that brought this about. He stated that his first impression was no way, why should we keep putting a trailer park in someone's front yard, but after reviewing it and looking at the deed on his property, it says Tom Krakowski owns this property, Tom Krakowski pays the taxes, so if his kids were to come and stay with him, he would feel like it would be fine for them to stay there. Last time he looked, he owned the property and he pays the taxes on it. So where do we stop? Just like the roads and stuff, where do we stop. After a lengthy discussion, the Board agreed to approve the Variance with stipulations regarding the grandson's name be attached to the Variance, that there be a two year review with the fee waived (unless there are other complaints) and that the only utilities are power and propane. Ms. Buffington made the motion to approve with the above stipulations. Seconded by Mr. Davis the motion was voted and carried unanimously.

(4) **Discussion for possible action regarding approval/disapproval of the following Special Use Permit, and other matters properly related thereto.**

Applicant: Performance Computing/PC Internet – Lander County
Location: 50 Route 305, Battle Mountain, NV
APN: 002-320-07
Type: To construct and maintain an antenna for Distribution of internet bandwidth on a property Zoned G-P.

Ms. Morrison explained to the Board that the Special Use Permit may seem like a redo but it is not. It's PC Internet out of Winnemucca. You approved a Special Use Permit for the antenna at Haney's Furniture in the past year. They are now going to provide internet services for the county and they will be placing their antenna on top of the county building. Because it is on top of the county building it will not be seen from the street level. Ms. Morrison did say that like the other Special Use Permits for cell towers, the permit will run concurrent with any lease in effect with the landowner. So it would be Lander County and if Lander County ceases to have a contract the Special Use Permit would go away. Let the record show the presence of Harold (Indiscernible) with Performance Computing/PC Internet via telephone. He explained to the Board that they took into consideration where they would put the antenna so that it would not be seen from the highway. The antenna will only be three feet tall. After his brief explanation, Ms. Buffington made the motion to approve this item as agendaized. Seconded by Mr. Davis, Ms. Morrison asked that the condition that the Special Use Permit run concurrent with the lease with the landowner. Ms. Buffington asked that that be accepted as her friendly amendment to the motion. The motion was voted and carried unanimously.

- (5) **Discussion for possible action regarding changing the date of the November Planning Commission Meeting due to Veterans' Day, and other matters properly related thereto.** The Board agreed that since Veterans Day fell on the same day as the next Planning Commission meeting in November that they would have the meeting on Tuesday November 10, 2015 at 6 p.m. The motion to approve was made by Mr. Davis. Seconded by Ms. Buffington, the motion was voted and carried unanimously.

- (6) *Update from Public Works Director and discussion for possible action regarding roads, water and sewer expansions and other updates in Battle Mountain for future development, including, but not limited to, town boundaries/service area and other matters properly related thereto. There was no one available for comment. However, Ms. Morrison stated that she had spoken to Bert Ramos, Public Works Director, and he said he would be in attendance at the next meeting.
- (7) Correspondence/Board and/or Staff issues for potential upcoming agenda items.

PUBLIC COMMENT.

No one present for public comment.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Ms. Buffington moved to adjourn the meeting of October 14, 2015 at 7:45 p. m. Seconded by Mr. Davis, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST: 

EXECUTIVE SECRETARY

The Lander County Planning Commission met in regular session in the Commission Chambers of the Lander County Courthouse in Battle Mountain, NV on November 10, 2015 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
LOUIS LANI, VICE-CHAIR – via telephone conference
MONTE PRICE, BOARD MEMBER
TOM REICHERT, BOARD MEMBER – via telephone conference
ROD DAVIS, ALTERNATE
JAN MORRISON, COMMUNITY SERVICES
VICKI CLIFFORD, EXECUTIVE SECRETARY
COMMISSIONER ART CLARK
KEITH WESTENGARD, EXECUTIVE DIRECTOR

ABSENT: TED HERRERA, DA
KIMBERLIE BUFFINGTON, BOARD MEMBER
BERT RAMOS, PUBLIC WORKS

The meeting was called to order by John Williams, Chairman.

Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of five board members.

APPROVAL OF AGENDA NOTICE

Mr. Price moved to approve the Agenda notice as posted. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of October 14, 2015

Mr. Williams made the motion to approve the minutes of the Regular Meeting of October 14, 2015. Seconded by Mr. Price, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

No new reports.

PUBLIC COMMENT

Ms. Morrison stated the open house for the new Courthouse/Administrative Building is on Saturday November 21, 2015 at 11:00 a.m. The public is welcome.

(1) **Discussion for possible action regarding approval/disapproval of the following Zone Change request, and other matters properly related thereto:**

Applicant: Jay Wintle
Location: Generally located north of the Yellow Brick Road Alignment and west of Faded Sage Drive, Battle Mountain
APN: 101-280-16
Type: To request a Zone Change from Farm and Ranch District (A-3) to One-Acre Agriculture District (A-1)

Let the record show the presence of Jay Wintle, applicant. Mr. Wintle stated that this was just kind of an expansion of what he had done in April. Will be doing continuous two acre lots or above. Will keep the lots to a minimum of two, there won't be any under two. Probably develop on Faded Sage, be the first development beginning on Faded Sage, probably go 1300 feet farther with this development. Involving both sides of the road. Let the record show the presence of Keith Westengard, Executive Director. Mr. Westengard asked as far as the municipal sewer and water services go, what's the plan for that. Mr. Wintle stated that it was agricultural and would have wells and septic. There being no further discussion, the motion to approve was made by Mr. Price agenda item #1 for Jay Wintle as agendized, with the stipulation of a minimum of two acres. Seconded by Mr. Williams, the motion was voted and carried unanimously.

(2) **Discussion for possible action regarding approval/disapproval of the following Parcel Map for the purpose of Merger and Re-subdivision, and other matters properly related thereto:**

Applicant: Linda Lee McMahon
Location: 502, 504, 506, 508, 510 & 512 Kingston Canyon Road, 201 & 203 Sleeping Valley Road, 103 Del Drive Kingston, Lander County, NV
APN: 003-201-03, 04, 05, 06, 07, 08, 09, 16 and 17.

Type: To combine 9 parcels into 4 parcels.

Mr. Reichert stated that they had always thought that quarter acre lots were a little too small anyway. So this will put them all right around a half acre. After a brief discussion, the Board agreed to approve this item. Mr. Reichert made the motion to approve the applicant Linda Lee McMahon as agendized, seconded by Mr. Lani the motion was voted and carried unanimously.

- (3) **Update from Public Works Director and discussion for possible action regarding roads, water and sewer expansions and other updates in Battle Mountain for future development, including, but not limited to, town boundaries/service area and other matters properly related thereto.** Let the record show the presence of Keith Westengard, Executive Director. Mr. Westengard stated that currently they are going through some code updates. Our records are quite out dated back to 96 or 98. And some of our costs are clear back 20 years ago. So we're going through some updates. Bert won't be making any updates until we find out exactly what the costs are associated with some of these water and sewer lines that we're going to be looking at repairing. So hopefully we'll have those in the next few months. We were unaware of those until actually until Kimberlie Buffington called and asked for some information and we started looking through the codes and they are nowhere near where they're supposed to be. So we're going to have to update those. Mr. Williams stated that they would keep this item on the agenda until they get there.
- (4) **Correspondence/Board and/or Staff issues for potential upcoming agenda items.** Nothing new at this time.

PUBLIC COMMENT.

No one present for public comment.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Mr. Lani made the motion to adjourn the meeting of November 10, 2015 at 6:15 p. m. Seconded by Mr. Price, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST:



EXECUTIVE SECRETARY

Community Services Officer

The Lander County Planning Commission met in regular session in the Community Meeting Room of the Lander County Courthouse in Battle Mountain, NV on January 13, 2016 at 6:00pm.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
LOUIS LANI, VICE-CHAIR – via telephone conference
MONTE PRICE, BOARD MEMBER
TOM REICHERT, BOARD MEMBER – via telephone conference
KIMBERLIE BUFFINGTON, BOARD MEMBER – via telephone conference

JAN MORRISON, COMMUNITY SERVICES OFFICER
COMMISSIONER ART CLARK

ABSENT: KEITH WESTENGARD, EXECUTIVE DIRECTOR
TED HERRERA, District Attorney

*The meeting was called to order by Mr. Williams, Chairman.
Mr. Williams led the Pledge of Allegiance.*

Let the record show the presence of a quorum of five board members.

APPROVAL OF AGENDA NOTICE

Mr. Price moved to approve the Agenda notice as posted. Seconded by Ms. Buffington, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Regular meeting of November 10, 2015

Mr. Reichert made the motion to approve the minutes of the Regular Meeting of November 10, 2015. Seconded by Mr. Price, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

No new reports.

PUBLIC COMMENT

Commissioner Art Clark III expressed hope that all had a good Christmas and a happy New Year.

- 1) *Discussion for possible action regarding approval/disapproval of the following Variance request, and other matters properly related thereto:

Applicant: David Moore
Location: 55 Overland Street, Austin
APN: 001 066 03
Type: To use a 5th wheel trailer as a dwelling on a property zoned AHR-MO (Austin Historic Residential District with Manufactured Housing Overlay)

Per applicant's request, this item will be held over until the February meeting.

- 2) *Discussion for possible action regarding approval/disapproval of a request to allow an accessory building to be served by a domestic well, and authorize the Chair to sign the form required by the Nevada Division of Water Resources, and other matters properly related thereto:

Applicant: Eddyann U. Filippini, Badger/Chiara Ranch
Location: Badger Ranch, Lower Reese River Valley, south of State Route 121, west of State Route 305
APN: 007 020 26
Type: To allow an accessory building to be served by a domestic well.

Max Filippini, son of applicant, was present to answer any questions the commission may have.

Ms. Buffington made the motion to approve the request to allow an accessory building to be served by a domestic well, and authorize the Chair to sign the form required by the Nevada Division of Water Resources as amended, seconded by Mr. Reichert, the motion was voted and carried unanimously.

- 3) *Correspondence/Board and/or Staff issues for potential upcoming agenda items.

Election of officers for the Planning Commission will be held at the February 10, 2016 meeting.

PUBLIC COMMENT

No public comment.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Mr. Lani made the motion to adjourn the meeting of January 13, 2016 at 6:15 pm. Seconded by Mr. Price, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST: 

The Lander County Planning Commission met in regular session in the Community Meeting Room of the Lander County Courthouse in Battle Mountain, NV on February 10, 2016 at 6:00pm.

*PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
LOUIS LANI, VICE-CHAIR
MONTE PRICE, BOARD MEMBER
TOM REICHERT, BOARD MEMBER
JAN MORRISON, COMMUNITY SERVICES OFFICER
COMMISSIONER ART CLARK
KEITH WESTENGARD, EXECUTIVE DIRECTOR
BERT RAMOS, PUBLIC WORKS DIRECTOR*

ABSENT: TED HERRERA, District Attorney

The meeting was called to order at 6:07 by Mr. Williams, Chairman. Mr. Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of four board members.

APPROVAL OF AGENDA NOTICE

Mr. Lani moved to approve the Agenda notice as posted. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Mr. Reichert made the motion to approve the minutes of the Regular Meeting of January 13, 2016. Seconded by Mr. Price, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

No new reports.

PUBLIC COMMENT

Mr. Westengard reported that the County Clerk had asked that tables, microphones, etc. are not moved from their original place in the community meeting room due to an issue with cords.

- 1) *Discussion and possible action for the election of officers for the 2016 Calendar year and other matters properly related thereto.

Mr. Reichert nominated Mr. Williams for Chairman, seconded by Mr. Price. The motion was voted and carried unanimously.

Mr. Price nominated Mr. Lani for Vice Chairman, seconded by Mr. Reichert. The motion was voted and carried unanimously.

- 2) *Discussion for possible action regarding approval/disapproval of the following Variance request, and other matters properly related thereto:

Applicant: David Moore

Location: 55 Overland Street, Austin
APN: 001 066 03
Type: To use a 5th wheel trailer as a dwelling on a property zoned AHR-MO (Austin Historic Residential District with Manufactured Housing Overlay)

The applicant called Planning Department earlier and asked that this item be held one more month as he was on the road.

Mr. Reichert moved that the item be deferred until the March meeting. Seconded by Mr. Price. The motion was voted and carried unanimously.

3) *Discussion for possible action regarding approve/disapprove the following Parcel Map:

Applicant: Bowen etal
Location: Corner of Mt. Lewis & Sheep Range Roads
APN: 002 320 06
Type: Split one (1) parcel into four (4) parcels.

Ms. Morrison noted that the applicants are older and live outside of the area. Their local representative, Lana Melver, will be available by phone if needed.

Mr. Westengard spoke regarding a letter in the file from a former County Water and Sewer Department employee written two years ago, addressing the ability to use septic systems. It may not be valid at this time. Mr. Ramos stated there are State rules regarding the number of septic tanks allowed in an area, so he cannot say if there is capacity for septic systems in that area. More discussion followed.

Mr. Lani stated the discussion is getting off-topic. This application is for a parcel map only and future development is not a consideration at this point. When a map is brought in for residential development, the septic tanks or public sewer will be addressed then.

Mr. Reichert moved that the parcel map (and title/vicinity map if needed) be approved, seconded by Mr. Price. The motion was voted and carried unanimously.

4) *Discussion for possible action regarding approve/disapprove the following Merger and Re-subdivision:

Applicant: William F. & Juanita McKeen
Location: 107, 109 & 111 Cortez Street, Kingston
APN: 003-102-19, 20, & 21
Type: Merge 3 parcels (subdivision lots) into 1 parcel totaling 42,306 sf (.97acre)

Applicant's surveyor informed Planning Department that the applicant was in the process of moving and had the Mylar with them.

Mr. Reichert moved that the item be deferred until the March meeting. Seconded by Mr. Price. The motion was voted and carried unanimously.

- 5) *Discussion for possible action regarding approve/disapprove the following Reversion to Acreage:

Applicant: Paul and Kimberlie Buffington
Location: 535 Ethel Avenue & 405 26th Street, Battle Mountain
APN: 011-050-21 & 011-050-22
Type: Combine 2 parcels into 1 parcel of 5.56 acres (approximately)

Applicant informed the Board that these two parcels were originally one parcel. This action will revert it to that original size and be consistent with the area parcels.

Mr. Reichert moved that the parcel map (and title/vicinity map if needed) be approved, seconded by Mr. Price. The motion was voted and carried unanimously.

- 6) *Correspondence/Board and/or Staff issues for potential upcoming agenda items.

Ms. Morrison informed the Board that the two vacancies on the Board (one permanent, one alternate) are being advertised in the local paper and applications will be accepted through Friday, February 19.

PUBLIC COMMENT


No public comment.

ADJOURNMENT

There being no further business before the Planning Commission at this time, Mr. Lani made the motion to adjourn the meeting of February 10, 2016. Seconded by Mr. Price, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST: 

The Lander County Planning Commission met in regular session in the Community Meeting Room of the Lander County Courthouse in Battle Mountain, NV on March 9, 2016 at 6:00 p.m.

PRESENT: JOHN WILLIAMS, JR., CHAIRMAN
LOUIS LANI, VICE-CHAIR
MONTE PRICE, BOARD MEMBER
TOM REICHERT, BOARD MEMBER
WALT HOLLAND, BOARD MEMBER
JAN MORRISON, COMMUNITY SERVICES OFFICER
COMMISSIONER ART CLARK
KEITH WESTENGARD, EXECUTIVE DIRECTOR

ABSENT: TED HERRERA, DA

The meeting was called to order by Chairman Williams, Chairman.
Chairman Williams led the Pledge of Allegiance.

Let the record show the presence of a quorum of four board members.

APPROVAL OF AGENDA NOTICE

Mr. Reichert moved to approve the Agenda notice as posted. Seconded by Mr. Lani, the motion was voted and carried unanimously.

APPROVAL & ACCEPTANCE OF MINUTES

Mr. Price made the motion to approve the minutes of the Regular Meeting of February 10, 2016. Seconded by Mr. Reichert, the motion was voted and carried unanimously.

BOARD MEMBERS/STAFF REPORTS

Ms. Morrison welcomed new Planning Commission Board Member, Walt Holland. He was sworn in earlier in the day. There are still two openings for alternate members.

PUBLIC COMMENT

No public comment.

- 1) *Discussion for possible action regarding approval/disapproval of the following Home Occupation Permit request:

Applicant:	Tom McKenzie, "Ranch Hand Restoration"
Location:	1030 3400 East, Battle Mountain, NV
APN:	011-250-13
Type:	To request a Home Occupation Permit for a wild life habitat restoration business.

The applicant, Mr. McKenzie, explained that the business would involve government

contracts for clearing or maintaining habitat for sage grouse, building fencing, etc as required by government contracts. Only business records and supplies and minimal equipment (chainsaws, trailer, etc.) would be kept at his home. The work is performed at various locations away from the home.

Ms. Morrison confirmed that the applicant had a State Business License, and a County Business License on hold pending approval of the Home Occupation Permit.

Mr. Reichert moved to approve the Home Occupation Permit for Tom McKenzie, "Ranch Hand Restoration". Seconded by Mr. Lani, the motion was voted and carried unanimously.

2) *Discussion for possible action regarding approval/disapproval of the following Variance request, and other matters properly related thereto:

Applicant: David Moore
Location: 55 Overland Street, Austin
APN: 001 066 03
Type: To use a 5th wheel trailer as a dwelling on a property zoned AHR-MO (Austin Historic Residential District with Manufactured Housing Overlay)

Chairman Williams asked the applicant if there was anything the he wished to say.

Mr. Moore stated that he intended to live there. He would like to build a bigger place but has limited income. For the time being he can't afford anything else. He is currently parked practically across the street.

Ms. Helming asked to speak on the item. She said that the applicant plans on being a full time Austin resident, with a job. In the place he currently is living, he keeps his area nice with a deck and yard. His trailer is not old, it is not new, but is not junky.

Mr. Lani informed the Board he would be abstaining from the discussion and vote, as Mr. Moore works for him.

Mr. Holland asked Chairman Williams that if a Variance were issued, how does that stop a person who has a fifty-year-old trailer from coming after the same variance.

Ms. Helming answered the question by saying the county has an code that only allows trailers up to ten or fifteen years to come into the county.

Mr. Reichert clarified Ms. Helming's statement. He explained that that ordinance applies to manufactured (mobile) homes, not trailers.

Ms. Helming continued that the Austin Chamber has been working on is allowing people who are full time residents to be able to do this type of thing. Also, although there are houses available to rent in Austin, some people can't afford them.

Chairman Williams asked for any comments from Board Members.

Mr. Reichert responded to the applicant, David, that he has been doing all the research that he could. He called four different Planning Departments and went on the internet. He understands Mr. Moore's plight. There is no building department that he could find that says an RV is a permanent residence. They are built different. They don't meet snow loads, they don't meet wind loads, they are just built different from a permanent residence. Permanent residences have to be anchored to the ground, but most building departments say you cannot anchor an RV to the ground. Mono County Ca where single family homes, RVs, are allowed, but it is because it is an avalanche area. They have to take them out before winter time. XXX county in Colorado had some of the best ordinances that he has found. He sees possibly some hope for Austin in the future. He differed though from the thought of full-time residences. He said there a lot of small lots in Austin, and summertime in Austin is heaven on earth. Wintertime is different. But one of the problems in putting an RV on is that it has a VIN number, it's not real property. You don't pay property taxes on it to the county. You pay personal property taxes on it. People who have houses pay property taxes, which go for streets and sheriffs and all the other things that everybody who lives there expects. But the RVs aren't taxes for that so you aren't paying your fair share of those things.

Mr. Moore again said he is only talking about moving his trailer from the park across the street to this lot.

Mr. Reichert further said that he understood two got grandfathered in. Two RVs, that when they pass away (the occupants), the variance ceases to exist. Every county that I have found does allow you to live in an RV if you have drawn a building permit and have temporary power pole, hook up to sewer and water. Different places have a six or twelve-month limit on that.

Mr. Moore asked if he could apply for the year.

Mr. Reichert responded that you must file building plans and draw a permit to build.

Mr. Moore said "Then you actually have to build it...."

Mr. Reichert said he could find no place that allowed this. It was very simple in every code he found. But to get back to what he was saying because Austin is so "nice" in the winter I can see that if out of town people buy a lot, they might want to put an RV on it in the summertime. If the code came in the future that allowed that, they would have to be charged a special assessment in property taxes. I'm not saying we should allow that, but if something came in like that to take advantage of Austin's park-like serenity during the summer months, they would have to be charged extra property taxes to make up for paying for all the road department, sheriffs and all the things the county supplies, and in my opinion they would have to take the RV off, and would be good for 6 months and had to be parked in a storage area after that, and therefore keep them from living there full time. But I can see where some kind of concept for the summer . . . walk to the bar, restaurants, spend a little money in town. It does bring income to town, but at this time even that is not allowed. But if any work is done on an ordinance change for something like that, I would be real interested in working with it to make

sure that those people pay at least their fair share or a little bit more because they have the advantage of just getting the good part. And they have to carry their share of their load for all the time the county spends plowing their street in the winter time even if they are not there.

But at this time I could find no place that considered an RV a permanent residence. . . .

I did look, and went by today and a single wide, 13 x 44 cost about \$50,000 which is less than most RVs. There would be more luck on getting a variance on that, but I can't guarantee that.

Mr. Reichert added that where Mr. Moore's trailer is right now, is a legal use. It is in an RV park, and he (Mr. Reichert) could not approve it going on the lot.

Mr. Westengard, Executive Director for the County spoke. He said "One of the things we are looking at is relaxing and changing some of the codes in the Austin area or in the south part of the county due to the fact of what goes on with RVs and so forth. I feel right now the code is pretty straightforward, strict on that. We are looking at that and hopefully in the near future we're going to be able to relax that code a little bit more in order for these types of things to move forward. It's just a piece of information I wanted to pass on to you guys. We have been talking about it pretty seriously the last little bit here in town... So I let you know that".

Mr. Lani: So you're saying, excuse me, for relaxing the code I mean...

Mr. Westengard: "or chuck or changing the code I should say in order to make this not so strict where the code says they cannot do it, where it would be allowed. So, and we're willing to ??? that. That's in the future and hopefully the near future.

Chairman Williams: "Quick question. Would that just pertain to southern Lander?"

Mr. Westengard: "Well right now that's the main focus. It's certainly open for discussion."

Chairman Williams: "Just curiosity."

Mr. Reichert: "And we can't really go into to other areas right now because of the way this is agendized. But I would like to state that in most of the research I did, a lot of these counties on large parcel agriculture zoning, they did allow workers to live in RVs with proper hook-ups. And just in case I am not on the board when something like this comes up; I just want to point that out because snow birds who are retired from farming make excellent ranch hands for the summertime! And I've always felt that if we have hook-ups, where can they go that's prettier than Reese River? And this is, say someone who retires after years of driving a tractor, I would sure trust them on mine. So that should be looked into at the same time. Now we have ag lots of 5 acres and 1 acre, that some of us don't really consider "ag" the way that is. But large parcel ag is something that also should be looked at."

Chairman Williams: "Monte?"

Mr. Price: "I think everything has been covered."

Chairman Williams: "Anybody else in the audience? Any questions, comments, concerns?"
pause

Just to reiterate, obviously you are aware that this is a non-conforming use. It is not allowed. We haven't a history of doing this. It's not been our appetite. I am sure you are aware of that, I just wanted to make sure. So I will leave it for a motion."

Mr. Reichert: "Has Jan explained to you about variances.... There is a set of rules on variances, you can't do it for economic reasons. Most variances are for things like parcel shape; you know someone says I have to my home closer to the property boundary because there is a big rock outcropping or something. That is the reason why variances are granted; something like that. Variances are not just granted. And precedent is always a dangerous thing to set. A variance means "can I skip the rules". And sometimes they pass, but most often they don't..... I just want to make that clear that because you applied for the variance that it means Also I read the letters. It's nice that you . . . you have a history in Austin and have that many people who support you.

Chairman Williams: "I will entertain a motion."

Mr. Holland moved to deny Mr. Moore's request for a Variance to use a 5th wheel trailer as a dwelling on a property zoned AHR-MO (Austin Historic Residential District with Manufactured Housing Overlay), seconded by Mr. Price. The motion was voted with four commissioners voting "aye", and Mr. Lani abstaining.

There was some discussion from the audience and board members before the final vote regarding a variance that was granted in the past. It was for a person with severe health issues. He was only allowed to use the RV for a bedroom behind his parents' home. Only power (no septic or water) service was allowed to the RV. Another variance was allowed for a terminally ill person, but that was in a garage unit, not an RV. Again, no cooking or even showering. Just a sleeping room. Both variances were specific to the individual.

Mr. Westengard spoke to the applicant and informed him that he could appeal to the County Commission.

Chairman Williams thanked the applicant for appearing and informed him that he has the right to appeal the decision of the Planning Commission to the County Commission if he chooses.

3) *Discussion for possible action regarding approve/disapprove the following Parcel Map:

Applicant: William F. & Juanita McKeen
Location: 107, 109 & 111 Cortez Street, Kingston
APN: 003-102-19, 20, & 21
Type: Merge 3 parcels (subdivision lots) into 1 parcel totaling 42,306 sf (.97acre)

The applicant's surveyor was available by phone to answer any questions. Chairman Williams verified the parcel map conformed to county code requirements.

Ms. Morrison stated that the Kingston Town Clerk has been informed of the map combining parcels. No objection.

Mr. Price moved to approve the Parcel Map (Merger and Re-subdivision) for William F. & Juanita McKeen. Seconded by Mr. Lani, the motion was voted and carried unanimously.

4) *Discussion for possible action regarding approve/disapprove the following Parcel Map Merger and Re-subdivision:

Applicant: Wintle, Jay
Location: 3421 James Monroe Avenue, Battle Mountain
APN: 011-260-16
Type: Split one (1) parcel into two (2) parcels.

The applicant was present to answer any questions. Chairman Williams verified the parcel map conformed to county code requirements.

Mr. Lani moved to approve the Parcel Map for Mr. Wintle. Seconded by Mr. Price, the motion was voted and carried unanimously.

5) *Correspondence/Board and/or Staff issues for potential upcoming agenda items.

Public Comment

Mr. Holland asked Chairman Williams about the master plan being updated if the county changes zoning on property.

County Commissioner Art Clark said that there are a number of people in Austin that think that they would do well to open it up to temporary camp trailers or whatever because we have people in Fallon, Fernley, Reno, Carson that would summer there and you know, Austin needs as much economic development and revenue as they can get.

So that was something we brought forward a few months ago there was a building meeting in Austin with Joe and Anna. That is when they discussed it.

Chairman Williams said, So yes . . . are we due to update the master plan again. Ms. Morrison replied, yes, we should have a review. Rex Massey has done it in the past, so that is something we are going to bring up in development meetings. Chairman Williams: I thought we were doing it this year. So yes, if we get this done, it will be perfect timing to maybe entertain the thought. . . . Mr. Holland: "This is my first meeting, but if you have two or three people who

own RV parks in Austin, I mean how do you protect them because that's actually taking.. They have already invested and built and ...

Commissioner Clark said "People who buy property are investing in the County. If they take an RV spot are investing in somebody's pocket.

Mr. Holland: "...who has invested in the County..."

Commissioner Clark: "Well, they get room tax..."

Mr. Reichert: "It's not going to be simple."

Mr. Lani: "I think changes need to come sooner or later. Because, what are we going to do like about enforcement. I live down there and see both sides of this picture this all the time. People are parking illegally where they shouldn't. If we make some kind of changes, it kind of puts a blanket coverage over some of this, we all have a chance to say look this is the way it's gotta be.

Mr. Westengard: "Once we get this to an agenda item, we can discuss this. There will be a lot of discussion."

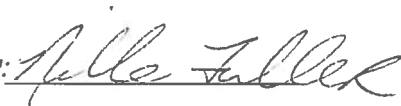
Chairman Williams: "Anything else?"

ADJOURNMENT

There being no further business before the Planning Commission at this time, Mr. Price made the motion to adjourn the meeting of March 8, 2016 at 6:15 p.m. Seconded by Mr. Reichert, the motion was voted and carried unanimously.



CHAIRMAN OR VICE CHAIRMAN OF THE BOARD OF
LANDER COUNTY PLANNING COMMISSION

ATTEST: 

1 The Lander County Planning Commission met in session in the
2 Commission Chambers of the Lander County Courthouse and
3 Administration Building in Battle Mountain, Nevada, 50 State
4 Route 305, on April 13, 2016, at 6:01 p.m. Transcript produced
5 by Tiffany Elkington, C.C.R., #930.
6

7 **PRESENT:** JOHN WILLIAMS, PLANNING COMMISSIONER
8 TOM RIECHART, PLANNING COMMISSIONER (VIA
9 TELECONFERENCE)
10 MONTE PRICE, PLANNING COMMISSIONER
11 WALT HOLLAND, PLANNING COMMISSIONER
12 JAN MORRISON, COMMUNITY SERVICES OFFICER (VIA
13 TELECONFERENCE)
14 ART CLARK, LANDER COUNTY COMMISSIONER
15 KEITH WESTENGARD, EXECUTIVE DIRECTOR (ENTERED
16 AS NOTED IN TRANSCRIPT)
17

18 **ABSENT:** LOUIS LANI, PLANNING COMMISSIONER
19

20 (Let the record reflect the presence of a quorum of four
21 planning commissioners.)
22

23 (The Pledge of Allegiance was recited.)
24

25 CHAIRMAN WILLIAMS: Can we get a roll call, please. You do
26 that? Oh.

27 MITESHELL LANHAM: I guess I will.

28 John Williams.

29 CHAIRMAN WILLIAMS: Here.

30 MITESHELL LANHAM: Louis Lani.

31 No?

32 Monte Price.

33 MONTE PRICE: Here.

34 MITESHELL LANHAM: Tom Riechart?

35 TOM RIECHART: Here.

36 MITESHELL LANHAM: Walt Holland?

37 WALT HOLLAND: Here.

38 MITESHELL LANHAM: Jan Morrison.

39 JAN MORRISON: Here.

40 MITESHELL LANHAM: Art Clark?

1 LANDER COUNTY COMMISSIONER CLARK: Here.
2 MITESHELL LANHAM: Keith Westengard?
3 CHAIRMAN WILLIAMS: No Keith?
4 MITESHELL LANHAM: Ted Herrera?
5 No?
6 CHAIRMAN WILLIAMS: Okay.
7 What am I doing?
8 UNIDENTIFIED TELEPHONIC PARTICIPANT: Trying to do roll
9 call in Austin? And --

10
11

12 AGENDA NOTICE

13

14 CHAIRMAN WILLIAMS: We'd entertain a motion for the agen-
15 -- to approve the agenda posting.
16 TOM RIECHART: So moved.
17 CHAIRMAN WILLIAMS: Do I have a second?
18 MONTE PRICE: Second.
19 CHAIRMAN WILLIAMS: All in favor?
20 MONTE PRICE: Aye.
21 WALT HOLLAND: Aye.

22
23

24 APPROVAL OF MINUTES

25

26 CHAIRMAN WILLIAMS: And approval of the March 9th, regular
27 session meeting minutes.
28 WALT HOLLAND: I'll make a motion to approve the March 9th,
29 regular session meeting minutes.
30 CHAIRMAN WILLIAMS: Do I have a second?
31 MONTE PRICE: Second.
32 CHAIRMAN WILLIAMS: All in favor?
33 MONTE PRICE: Aye.
34 WALT HOLLAND: Aye.
35 CHAIRMAN WILLIAMS: You with us, Tom?
36 TOM RIECHART: Reading those minutes, I talked so much at
37 the last meeting, I don't need to talk during this one.
38 CHAIRMAN WILLIAMS: You all in favor of approving them
39 then?
40 TOM RIECHART: Yeah. We all said aye.

1 CHAIRMAN WILLIAMS: Okay. I guess I missed it. I've
2 turned my hearing aid up.

3
4
5 COMMISSIONER REPORTS

6
7 CHAIRMAN WILLIAMS: Any of the board members have anything
8 they'd like to report on? Meetings they've attended or seminars
9 or anything?

10
11
12 STAFF REPORTS

13
14 CHAIRMAN WILLIAMS: How about staff members?

15 JAN MORRISON: Yes, I don't know -- this is Jan -- I don't
16 know if Keith is there, but we're moving forward with a master
17 plan review and at the same time working and hopefully updating
18 some of the our codes that are pretty disjointed and outdated.

19 Rex Massey, the consultant for the county, he'll be
20 leading that. There will be public hearings, north and south.
21 It will be a process that will be probably completed sometime in
22 the fall.

23 So it'll be a nice, long methodical process, lots of input
24 from everybody.

25 CHAIRMAN WILLIAMS: Keith just walked in.

26 Did you hear the tail end of that?

27 Okay. He's probably already aware of it anyway, though.

28 JAN MORRISON: We talked a little bit about it today.

29 So everyone will get notice as the public hearings come
30 along. And it's just -- it should be very fruitful.

31 CHAIRMAN WILLIAMS: It usually is.

32 Anything else?

33 JAN MORRISON: That's it for me.

34
35
36 PUBLIC COMMENT

37
38 CHAIRMAN WILLIAMS: Okay. At this point in the meeting,
39 we'd open it up for a brief period for public comment on
40 anything that's not agendized here today.

1 Does anybody have anything they'd like to talk about?
2 Complain about? Questions?

3 Okay.

4 I'd like to take the opportunity -- Tom. Monte. And I guess
5 we'll have to pass it on to Louis, Jan, if you can.

6 JAN MORRISON: All right.

7 CHAIRMAN WILLIAMS: We need to get all members to re- --
8 reapply for their positions.

9 TOM RIECHART: Oh. That's the first I've heard.

10 CHAIRMAN WILLIAMS: So if you could, please, get them in to
11 Jan. What's the deadline? June?

12 JAN MORRISON: It is -- the county commission will have it
13 on their agenda sometime in June. Perhaps Keith could let us
14 know. But at any rate, the soonest the better. That's always
15 good.

16 CHAIRMAN WILLIAMS: And I was supposed to have done this
17 last meeting. So I apologize for dropping the ball. As usual.
18 So if you could do it, though, we'd appreciate it.
19 Anybody else -- any board members have anything?

20 Okay.

21 There being no further discussion, we'll move on to Agenda
22 Item Number 1.

23

24 1) Discussion and possible action regarding approval/disapproval
25 of the following home occupation permit request:

26

27 Applicant: Amanda Hall, "Elfy Photography"
28 Location: 540 Yellow Brick Road, Battle Mountain,
29 Nevada
30 APN: 011-020-07
31 Type: To request a home occupation permit for
32 a photography business on a property zoned
33 A-2.
34

35

36 CHAIRMAN WILLIAMS: Discussion and possible action
37 regarding approval/disapproval of the following home occupation
38 permit for Amanda Hall, Elfy Photography, 540 Yellow Brick Road,
39 Battle Mountain; APN 011-020-07. Wants to have a photography
40 business.

40 JAN MORRISON: Um.

1 CHAIRMAN WILLIAMS: Could you take a seat here. Yes.
2 JAN MORRISON: Yes. Chairman Williams, this went
3 through -- went through all department heads, no objections to
4 it.
5 The applicant is -- really needed a home occupation permit
6 because she has a State of Nevada business license and a county
7 business license, which is excellent. Came in front of us. So
8 it's a very, very low impact home occupation.
9 CHAIRMAN WILLIAMS: Okay. Thank you.
10 Is there anything you can add to what -- other than what's
11 already been --
12 AMANDA HALL: I would just be a mobile photography. I
13 don't do anything out of my house. I just -- I would just go
14 where they want me to go.
15 CHAIRMAN WILLIAMS: Maybe billings and stuff out of your
16 house. Huh? Yeah?
17 AMANDA HALL: No, I just kind of charge them when I'm with
18 them.
19 CHAIRMAN WILLIAMS: Oh, okay.
20 Okay. And that's it, then.
21 Yeah, that's a pretty easy one.
22 Anybody in the audience have any questions or comments on
23 this issue? Concerns? Board members, good?
24 MONTE PRICE: Yeah, I'm good.
25 CHAIRMAN WILLIAMS: Tom?
26 TOM RIECHART: I'm fine. Doesn't sound like there's --
27 she's not selling it out of her house. So it's a perfect home
28 occupation permit.
29 CHAIRMAN WILLIAMS: Yeah. This is a good one. Well, we'd
30 entertain a motion to approve, then.
31 MONTE PRICE: I'd make a motion to approve --
32 TOM RIECHART: I'll make that motion.
33 MONTE PRICE: Okay. He did.
34 CHAIRMAN WILLIAMS: Second?
35 MONTE PRICE: Yes. Second.
36 CHAIRMAN WILLIAMS: All in favor?
37 WALT HOLLAND: Aye.
38 TOM RIECHART: Aye.
39 MONTE PRICE: Yep.
40 CHAIRMAN WILLIAMS: Okay. Thank you very much and good

1 luck.

2

3 2) Discussion and possible action regarding approval/disapproval
4 of the following home occupation permit request:

5

6 Applicant: Esteban Guillermo Leon Martinez, "Leon
7 Electric LLC"
8 Location: 201 Sunnyside Drive, Battle Mountain, Nevada
9 APN: 002-435-24
10 Type: To request a home occupation permit for
11 an electrical contractor business on a
12 property zoned R-1.

13

14 CHAIRMAN WILLIAMS: Agenda Item Number 2. Discussion and
15 possible action regarding approval/disapproval of the following
16 home occupation permit for Esteban Guillermo Leon Martinez.

17 JAN MORRISON: Again, this went from -- this -- this is
18 Jan -- this went through the development group.

19 No -- no exceptions to that except that they'd like them to
20 start as soon as possible because people have jobs waiting.

21 But again, low impact. No customers at the house. He will
22 simply going -- be going out to the job site.

23 KEITH WESTENGARD: Correct.

24 CHAIRMAN WILLIAMS: Okay.

25 Do you have anything to add to it? Or --

26 ESTEBAN MARTINEZ: Not really. Basically just what she
27 said. Planning on just -- I needed an address for
28 correspondence. I'm not planning on doing any work out of my
29 house.

30 CHAIRMAN WILLIAMS: Any questions in the audience?
31 Comments? Concerns?

32 Board members?

33 WALT HOLLAND: I don't have any questions. Make a motion
34 to approve.

35 CHAIRMAN WILLIAMS: Do we have a second?

36 UNIDENTIFIED TELEPHONIC PARTICIPANT: Do they know his
37 voice?

38 MONTE PRICE: Yeah, second.

39 CHAIRMAN WILLIAMS: Oh. Excuse me.

40 WALT HOLLAND: Sorry. That was Walt that made the motion.

1 UNIDENTIFIED TELEPHONIC PARTICIPANT: We heard.
 2 WALT HOLLAND: I was trying to sound like John.
 3 CHAIRMAN WILLIAMS: Sorry. We have the second?
 4 MONTE PRICE: Yes.
 5 CHAIRMAN WILLIAMS: Okay. All in favor?
 6 MONTE PRICE: Aye.
 7 WALT HOLLAND: Aye.
 8 TOM RIECHART: Aye.
 9 CHAIRMAN WILLIAMS: Okay. Good luck to you.
 10 ESTEBAN MARTINEZ: I thank you very much.
 11 CHAIRMAN WILLIAMS: Thank you.
 12 TOM RIECHART: John?
 13 CHAIRMAN WILLIAMS: Yes, sir.
 14 TOM RIECHART: You're doing your little spiel on home
 15 occupation permits being open for review and subject to the --
 16 CHAIRMAN WILLIAMS: Oh. Thank you very much.
 17 TOM RIECHART: Certainly. I wouldn't tell you how to do
 18 your job.
 19 CHAIRMAN WILLIAMS: No. Somebody needs to, evidently.
 20 MONTE PRICE: If we ever missed one, those would be two
 21 good ones to miss it on because there's not going to be anything
 22 going on there.
 23 CHAIRMAN WILLIAMS: Okay.
 24 Thank you, Tom. Agend- --
 25 TOM RIECHART: It just make makes it easier to -- later.
 26 CHAIRMAN WILLIAMS: Absolutely. It does.

27
 28 3) Discussion and possible action regarding approval/disapproval
 29 of the following home occupation permit request:

30
 31 Applicant: Tyler Peterson, "Flyin' Low Lawn Care"
 32 Location: 505 26th Street, Battle Mountain,
 33 Nevada
 34 APN: 011-030-11
 35 Type: To request a home occupation permit for
 36 a lawn care business on a property zoned
 37 A-2.
 38

39 CHAIRMAN WILLIAMS: Agenda Item Number 3. Discussion,
 40 possible action regarding approval/disapproval of the following

1 home occupation permit for Tyler Peterson, Flyin' Low, 505 26th
2 Street, Battle Mountain; APN 2 -- or 011-030-11.

3 You're going to -- well, could you just basically state what
4 you want to do?

5 TYLER PETERSON: I'm going to make it easy on you guys
6 pretty much the same thing as the other two. It's just a lawn
7 care -- aeration and dethatching business.

8 We'll have no customers at the house. Just basically a --
9 a mailing address and a phone number. Maybe a little bit of
10 billing and stuff.

11 TOM RIECHART: Will you also cut alfalfa fields?

12 TYLER PETERSON: I can if needed.

13 With a swather.

14 TOM RIECHART: And unload trucks of hay?

15 TYLER PETERSON: Yes, sir. You know it.

16 CHAIRMAN WILLIAMS: Any questions from anyone in the
17 audience?

18 Board members?

19 MONTE PRICE: No, I'm good.

20 CHAIRMAN WILLIAMS: Okay. I'm going to tell you -- you
21 probably heard it -- but if there's a complaint, we'll -- and
22 it's, you know, we can't just handle it on our end, we'll call
23 you and probably -- into a meeting and -- and we'll address it
24 and see what we can do about it.

25 Other than that, not really any problem with the -- the
26 permit.

27 We have motion to approve?

28 TOM RIECHART: Tom Riechart will make that.

29 CHAIRMAN WILLIAMS: We have a second?

30 WALT HOLLAND: Walt Holland will second it.

31 CHAIRMAN WILLIAMS: All in favor?

32 MONTE PRICE: Aye.

33 WALT HOLLAND: Aye.

34 CHAIRMAN WILLIAMS: Okay.

35 TYLER PETERSON: Thank you guys.

36 CHAIRMAN WILLIAMS: Thank you.

37 And good luck.
38
39
40

1 4) Discussion and possible action regarding approval/disapproval
2 of the following home occupation permit request:

3
4 Applicant: Rick Gobel, "Northern Nevada Feed & Supply"
5 Location: 2100 Allen Road, Battle Mountain, Nevada
6 APN: 010-270-08
7 Type: To request a home occupation permit for
8 a feed supply business on a property zoned
9 A-3.

10
11 CHAIRMAN WILLIAMS: Okay. Agenda Item Number 4.
12 Discussion and possible action regarding approval/disapproval of
13 the following home occupation permit: Rick Gobel; Northern
14 Nevada Feed & Supply; 2100 Allen Road; APN 010-270-08. You want
15 a feed supply business?

16 RICK GOBEL: Yes, sir.

17 JAN MORRISON: Chairman Williams?

18 CHAIRMAN WILLIAMS: Yes, ma'am.

19 JAN MORRISON: This is Jan. We did discuss it at the
20 development meeting. There were some -- we did have a
21 neighbor -- and I believe you have a statement to be written
22 into the -- read into the record.

23 CHAIRMAN WILLIAMS: Uh-huh. I do.

24 JAN MORRISON: Great.

25 And other than that, no (indiscernible) from the neighbors.

26 If you recall, you and I spoke about this earlier as to
27 whether it would be a -- a -- a use permit or a home occupation
28 permit.

29 And when I spoke with the applicant, he said that they had
30 no desire to have any resale selling out of the house. No
31 customers come to it.

32 So he can go ahead and finish up with you. But that's why
33 it's coming to you under a home occupation permit.

34 CHAIRMAN WILLIAMS: Okay. Very good.

35 Anything you -- you need to add to what's been said?

36 RICK GOBEL: No, we have been -- we have had a storefront
37 the last two and a half years --

38 CHAIRMAN WILLIAMS: Uh-huh.

39 RICK GOBEL: -- here in Battle Mountain.

40 The economy's slowed down enough for us now that the time we

1 were putting in wasn't worth having the store open.
2 So that's why our change -- our request for changing to a
3 home occupation. And so it's going to be a phone order and
4 delivery.
5 Right now they'll phone up, we'll write it down, load
6 everything in the pickup, come into the town once a day, and meet
7 people at various public locations, and drop their feed off.
8 Larger orders will be delivered to their house.
9 So all the monetary transactions will take place for
10 delivery.
11 The only thing that's going to happen at the home is if we
12 happen to answer the phone when we're at home and the trailer
13 with the feed in it.
14 WALT HOLLAND: So all your supplies will be at your home?
15 RICK GOBEL: Correct. The only --
16 MONTE PRICE: Can I see your --
17 RICK GOBEL: -- thing I do --
18 MONTE PRICE: -- packet?
19 RICK GOBEL: -- have a correction --
20 MONTE PRICE: (Indiscernible) have it in my packet.
21 RICK GOBEL: -- on the --
22 MONTE PRICE: Can I see yours?
23 CHAIRMAN WILLIAMS: No, this is --
24 RICK GOBEL: -- for this permit, it's North --
25 CHAIRMAN WILLIAMS: She only give me one.
26 RICK GOBEL: -- Nevada Feed --
27 MONTE PRICE: Oh, okay.
28 RICK GOBEL: -- and Supply. And --
29 CHAIRMAN WILLIAMS: I've got to read it in, though.
30 RICK GOBEL: -- the location will actually be 2210. 2100
31 is our rental that's at that property.
32 CHAIRMAN WILLIAMS: Oh. Thank you. 2210?
33 RICK GOBEL: Correct.
34 JAN MORRISON: They're all -- and I'm sorry for that. We
35 pulled out several of the acceptance parcel maps when he was in.
36 He owns several parcels all along the road. And they were all
37 operated.
38 CHAIRMAN WILLIAMS: That's the way these land barons are.
39 It's hard to keep up with them.
40 Any questions from anybody in the audience? Comments?

1 Concerns?
2 Jeez, this is good.
3 How about you guys?
4 MONTE PRICE: I've got --
5 TOM RIECHART: Well, I -- I'd rather not comment until I
6 heard you read that letter into the --
7 MONTE PRICE: Okay.
8 CHAIRMAN WILLIAMS: Well, I'd rather not read it until you
9 comment.
10 No. Okay. I'll take this opportunity -- we have one -- I --
11 I'm not familiar out there. Kim Buffington? Where is she in
12 relation to you?
13 RICK GOBEL: Well, not the total end of the road, but past
14 me.
15 CHAIRMAN WILLIAMS: She's on -- down the road from you.
16 RICK GOBEL: Yes.
17 CHAIRMAN WILLIAMS: Okay. I'd like to read this.
18 She wanted this read into -- she has an objection. But I
19 think we've got it cleared up. Anyway.
20 As a neighbor, we would like a condition attached to the
21 permit that absolutely no clients or customers will come to the
22 property for the business.
23 The road is basically a single lane and minimum maintenance
24 at best and cannot handle any additional traffic.
25 We would not support a retail business at this location
26 under any circumstances.
27 Respectfully, Kimberly and Paul Buffington.
28 But that's not a problem because you're just going to have --
29 you're just going to be delivering out of your house.
30 RICK GOBEL: Correct. And we come to town to bring the
31 boys to school and pick them up from school and pick them up
32 from school. So we're not going to have that much more traffic
33 on the roads ourselves.
34 CHAIRMAN WILLIAMS: But you will have deliveries as far as
35 the supplies to your property.
36 RICK GOBEL: Well, the same -- my pickup and gooseneck.
37 Whether I came here and dropped it off and then drove home or I
38 drive home and drop it off. So I'm still coming in and out --
39 CHAIRMAN WILLIAMS: Oh, I see.
40 RICK GOBEL: -- with a pickup and gooseneck.

1 CHAIRMAN WILLIAMS: Okay. Well, I -- I -- yeah, I was
2 thinking maybe a -- a semi load or something like that where --
3 RICK GOBEL: And if it is, it's my semi. So it's the same
4 thing.
5 CHAIRMAN WILLIAMS: Okay.
6 MONTE PRICE: But you aren't having, per se, warehousing a
7 lot out there at your place?
8 RICK GOBEL: No, actually everything fits in my one 48-foot
9 van trailer --
10 MONTE PRICE: Okay.
11 RICK GOBEL: -- that's there.
12 CHAIRMAN WILLIAMS: And it's A-3.
13 RICK GOBEL: Which is kind of interesting to me that with
14 A-3 I'd be allowed a sawmill and a hundred trucks a day. But
15 there's kind of a question with a feed store.
16 TOM RIECHART: Hey, Rick.
17 RICK GOBEL: Yes.
18 TOM RIECHART: Your zoning permits a lot of things. The
19 biggest question was the home occupation permit or a special-use
20 permit for a business.
21 RICK GOBEL: Yeah. And after -- after I talked to Jan
22 about that, we've had some issues with our storefront. Part of
23 the reason we've decided to move out. And we don't want anybody
24 coming to our house. If we have a problem with them, we want to
25 have a problem with them in a public place away from our house.
26 I don't want to have any issues anytime in the future.
27 CHAIRMAN WILLIAMS: I would think that would be preferable.
28 RICK GOBEL: That's a big deterrent to ever have any retail
29 space out there.
30 WALT HOLLAND: Yeah.
31 TOM RIECHART: It's just different, you know. We --
32 obviously, you understand retail because you've had a
33 storefront.
34 RICK GOBEL: Yes.
35 TOM RIECHART: To close that down, would -- normally it
36 would just be changing retail locations, not switching it to a
37 home occupation permit.
38 But by making that change where you don't have customers --
39 because home occupation permits we don't allow customers.
40 RICK GOBEL: Correct.

1 TOM RIECHART: And so that -- that -- that's just a
2 stumbling block that everybody worries about. I was worried
3 that -- not knowing who you were at first, I knew that this one
4 was cheaper to apply for a home occupation permit than a
5 special-use permit. You know, I thought maybe that's why he's
6 doing it that way. But it makes sense now.

7 RICK GOBEL: Yeah. No, we --

8 TOM RIECHART: I appreciate you explaining that.

9 RICK GOBEL: Yeah. We've actually had threats -- threats
10 against ourselves for employment that I'm going to have this
11 summer.

12 And so that was part of the reason why just get out of the
13 public space. And we can a little better decide who we're going
14 to serve and who we don't serve.

15 TOM RIECHART: Okay, that's not the planning department.
16 But if -- we just care about your end result. And the end
17 result is no customers coming to the house.

18 RICK GOBEL: Nope.

19 TOM RIECHART: Okay.

20 CHAIRMAN WILLIAMS: Is that it, Tom?

21 TOM RIECHART: No further comment from me. I just wanted
22 to make sure all that was clear.

23 CHAIRMAN WILLIAMS: Oh, good.

24 TOM RIECHART: And obviously Rick knows that he will be
25 monitored.

26 RICK GOBEL: Yeah.

27 CHAIRMAN WILLIAMS: Yeah. If there's a complaint or -- any
28 -- Monte?

29 MONTE PRICE: I'm good.

30 WALT HOLLAND: I don't have any --

31 CHAIRMAN WILLIAMS: Walt?

32 WALT HOLLAND: -- questions.

33 CHAIRMAN WILLIAMS: Okay. Anyone in the audience have
34 anything?

35 One last shot.

36 Okay. We'd entertain a motion to approve this agenda item.

37 MONTE PRICE: I move to approve Agenda Item Number 4 for
38 Rick Gobel as agendized.

39 CHAIRMAN WILLIAMS: Do we have a second?

40 WALT HOLLAND: Walt will second it.

1 JAN MORRISON: Could -- did you want to add that condition
2 in there with no customers coming to the house?
3 MONTE PRICE: That -- that's a criteria of a home
4 occupation permit in the first place; isn't it?
5 CHAIRMAN WILLIAMS: No, we can put it in there.
6 MONTE PRICE: Okay, if you want.
7 CHAIRMAN WILLIAMS: With that --
8 MONTE PRICE: Add it to it.
9 CHAIRMAN WILLIAMS: With that stipulation to your motion?
10 MONTE PRICE: Yep.
11 CHAIRMAN WILLIAMS: That no customers will be coming to the
12 house.
13 Anything else?
14 Second?
15 TOM RIECHART: Walt seconded it.
16 CHAIRMAN WILLIAMS: Oh.
17 WALT HOLLAND: I did.
18 CHAIRMAN WILLIAMS: I was sleeping again, huh? Okay.
19 WALT HOLLAND: (Indiscernible.)
20 CHAIRMAN WILLIAMS: All in favor?
21 MONTE PRICE: Aye.
22 TOM RIECHART: Aye.
23 WALT HOLLAND: Aye.
24 CHAIRMAN WILLIAMS: Thank you, sir.
25 RICK GOBEL: Thank you very much.
26 CHAIRMAN WILLIAMS: Good luck to you.
27 RICK GOBEL: Thank you.
28 CHAIRMAN WILLIAMS: Agenda Item Number 6. Discussion and
29 possible action regarding approval/disapproval --
30 MONTE PRICE: Still have five.
31 UNIDENTIFIED PARTICIPANT: Mr. Williamson, sir?
32 CHAIRMAN WILLIAMS: Oh.
33 UNIDENTIFIED PARTICIPANT: May I --
34 CHAIRMAN WILLIAMS: Oh, five. I probably --
35 UNIDENTIFIED PARTICIPANT: Okay.
36 CHAIRMAN WILLIAMS: Thank you.
37
38
39
40

1 5) Discussion and possible action regarding approval/disapproval
2 of the following home occupation permit request:
3

4 Applicant: Robert E. Stevenson, "Harp Hound Custom
5 Harps"
6 Location: 706 Globe Court, Gilman Springs, Nevada
7 APN: 004-011-16
8 Type: To request a home occupation permit for
9 sale, service, and repair of harmonicas
10 business on a property zoned A-1.
11

12 CHAIRMAN WILLIAMS: And anyway, discussion, possible action
13 regarding approval/disapproval following home occupation permit
14 for Robert E Stevenson, Harp Hound Customer Harps; 706 Globe
15 Court; Gilman Springs. Is he there?
16

17 (Robert Stevenson participated in the meeting via
18 teleconference.)
19

20 ROBERT STEVENSON: I'm here. Yes.

21 TOM RIECHART: Do you have a brother that wrote about
22 stranded sailors?

23 ROBERT STEVENSON: No. I don't think so.

24 TOM RIECHART: Different Robert Louis Stevenson?

25 ROBERT STEVENSON: Robert Louis Stevenson, yeah.

26 JAN MORRISON: And -- and again, Chairman Williams, this
27 went to our development meeting. Everyone is perfectly fine
28 with this. And a couple of us are pretty excited so...

29 Bob's here to answer any questions.

30 CHAIRMAN WILLIAMS: Looks like he's going to sell and
31 service them?

32 ROBERT STEVENSON: Sell and service and sell new ones.
33 It'll all be through e-commerce, the website. I'll take
34 payments through -- for credit cards. I'll probably ship by
35 postal service.

36 CHAIRMAN WILLIAMS: As far as them coming to you and going
37 out for repairs?

38 ROBERT STEVENSON: No. No one will come. There's not a
39 whole lot of harmonica players in the area. So it'll -- it'll
40 all be people sending their harmonicas to me that need to be

1 repaired. And then I'll just send them back to them.
2 CHAIRMAN WILLIAMS: Okay.
3 Any questions?
4 Monte?
5 MONTE PRICE: Nope. Good.
6 CHAIRMAN WILLIAMS: Walt?
7 WALT HOLLAND: Don't have any questions.
8 CHAIRMAN WILLIAMS: Thomas?
9 TOM RIECHART: No. No, I think it's wonderful. I didn't
10 know you could repair a harmonica. Every time I sat down on my
11 mine, I just threw it away.
12 CHAIRMAN WILLIAMS: I didn't -- I didn't know they broke
13 but --
14 TOM RIECHART: If I sit down on it, they do.
15 CHAIRMAN WILLIAMS: Well, I never had one to sit on.
16 But -- I don't know.
17 Any comments? questions? concerns from the audience?
18 Well, we wish --
19 No.
20 TOM RIECHART: I'll make the motion.
21 CHAIRMAN WILLIAMS: Okay.
22 Now you understand that if we get any complaints and you get
23 too loud with them over there, we're going to have to call you in
24 and talk to you.
25 ROBERT STEVENSON: Make sure my head's down low.
26 CHAIRMAN WILLIAMS: Okay.
27 ROBERT STEVENSON: Thank you.
28 CHAIRMAN WILLIAMS: Thank you. All right.
29 TOM RIECHART: I'll make the motion.
30 CHAIRMAN WILLIAMS: We have a motion. Do we have a second?
31 MONTE PRICE: I'll second it.
32 CHAIRMAN WILLIAMS: All those in favor?
33 MONTE PRICE: Aye.
34 WALT HOLLAND: Aye.
35 CHAIRMAN WILLIAMS: Okay.
36 Thank you and good luck to you.
37 ROBERT STEVENSON: Thank you.
38 TOM RIECHART: Thank you for coming all this way.
39 CHAIRMAN WILLIAMS: All right.
40

1 6) Discussion and possible action regarding approval/disapproval
2 of the following variance request:
3

4 Applicant: Joseph and Karen Ramos
5 Location: 140 Bateman, Austin, Nevada
6 APN: 001-121-02
7 Type: To request a variance for an existing use of
8 a travel trailer as a dwelling on a property
9 zoned AHR-MO (Austin Historical Residential
10 District with Manufactured Housing Overlay).
11

12 CHAIRMAN WILLIAMS: Agen- -- now can I do Agenda Item
13 Number 6?

14 MONTE PRICE: Go for it, John.

15 CHAIRMAN WILLIAMS: Okay. Discussion, possible action to
16 regarding approval/disapproval of the following variance request
17 and other matters properly related thereto.

18 And that opens the door; doesn't it?

19 The applicant is Joseph and Karen Ramos; 140 Bateman Street,
20 Austin, Nevada; APN 011-121-02. Request of variance for an
21 existing use of a travel trailer as a dwelling on a property zoned
22 AHR-MO, Austin Historical Residential District, with manufactured
23 housing overlay.

24 Is Mr. Ramos there?

25

26 (Joseph Ramos participated in the meeting via
27 teleconference.)
28

29 JOSEPH RAMOS: Yes, I am.

30 JAN MORRISON: May I present this first?

31 This -- this is Jan.

32 This went through the -- the development meeting.
33 Circumstances on this particular one are pretty unique. It's --
34 this is an existing use. The owners have come forward to
35 request a variance -- really grateful for.

36 The -- this was sanctioned before. So they're here to make
37 it legitimate for a specific person or time.

38 There is commercial across the street. Just as -- this is
39 not a strictly a residential zoning district. It is a
40 combination. And it's made to accommodate some various uses.

1 So across the street, we have C-1. And there are actually
2 some hookups over there.
3 We also have some commercial adjacent and up the hill.
4 It's the old Austin elementary school and grounds.
5 So there's varied -- there's quite a bit of different
6 zoning in the area.
7 And as we said, this is an existing use that was sanctioned
8 before. And the owners are coming forward simply to get it
9 permitted.
10 So -- and we've received no objections at all.
11 TOM RIECHART: Sanctioned before by the building officials?
12 JAN MORRISON: Apparently -- a former one, apparently, yes.
13 CHAIRMAN WILLIAMS: At any rate, they -- from what I read
14 here, they were never told that that was a nonconforming use; is
15 that correct?
16 JOSEPH RAMOS: (Indiscernible.)
17 JAN MORRISON: A nonconforming use.
18 That's correct.
19 JOSEPH RAMOS: Yes.
20 JAN MORRISON: He said yes.
21 CHAIRMAN WILLIAMS: Okay. So --
22 Yes. As far -- and how long's this been going on?
23 JOSEPH RAMOS: Well, I bought that property back in the
24 '70s or early '80s. It used to have mobile homes -- it had a
25 mobile home when I bought it.
26 Then we had it rented out to -- a little travel trailer for
27 a guy that worked that the State of Nevada Department of
28 Transportation for about -- oh, shit -- five, six, seven years.
29 JAN MORRISON: Yeah.
30 JOSEPH RAMOS: And then it went vacant for a bit. And then
31 I rented it to another guy and then --
32 JAN MORRISON: Yeah. And the current one -- so the answer
33 is, the current one that was sanctioned, it's -- it's been at
34 least a year.
35 And I'd have to look at the records. But it's been close to
36 several years.
37 CHAIRMAN WILLIAMS: And nobody from the Lander County
38 organization has questioned them on it or --
39 JAN MORRISON: Well --
40 CHAIRMAN WILLIAMS: Until now; correct?

1 JAN MORRISON: As I said, a former building official went
2 out and basically sanctioned it.

3 And so --

4 CHAIRMAN WILLIAMS: Okay.

5 JAN MORRISON: And -- and so we're just moving forward and
6 --

7 CHAIRMAN WILLIAMS: Okay. Do you guys have any questions?

8 WALT HOLLAND: Well, I think my question would be is -- is
9 the last meeting -- this is Walt, I'm sorry -- the last meeting,
10 we -- I made a motion to not approve a variance for an RV on a
11 lot that was across from commercial property as well; right?

12 So -- and it didn't have these other things tied to it, but
13 --

14 JAN MORRISON: Actually, that former one was more in -- in
15 the residential district, not in the mixed district like this.
16 And it was going to be a new use.

17 If Mr. Ramos were coming in front of you with a new use,
18 I'm not -- that may, even though there's commercial in the area,
19 it might change it. But this is not a new use. And basically,
20 building and planning on any new uses, of course, they bring
21 them to you. That's a little bit different. And I know it
22 sounds strange to hear me say that. But this is an existing
23 use. So it's -- it's acknowledging what -- what's been allowed.

24 CHAIRMAN WILLIAMS: Okay.

25 Walt, just -- probably got the big picture -- but just for --
26 in simple terms, Lander County official -- the official whatever,
27 somebody screwed up. This thing was allowed to happen and go
28 along. So shame on us and good for him.

29 And I'm going to throw something out and you guys can all
30 chew her up and spit her out or swallow her or whatever you want
31 to do.

32 I think in -- in light of this -- and we've -- in the past,
33 we've had to -- I don't think we have any recourse. I think we
34 have to let this -- this thing exist.

35 And the only -- the only option we would have in doing that
36 would be that as soon as th- -- the current use ceases, then the
37 permit or the variance would no longer be valid and that the
38 trailer would have to be moved off the property.

39 JOSEPH RAMOS: As soon as the existing -- this is Joe
40 Ramos -- as soon as the existing renter I have there -- you say,

1 as soon as that -- she leaves, it's got to be moved?
2 CHAIRMAN WILLIAMS: That would -- that would be one avenue.
3 That's what I'm throwing out. Because it is a nonconforming
4 use.
5 JOSEPH RAMOS: Okay, well, your previous building inspector
6 came up there. And -- I think Anna Penola was down.
7 CHAIRMAN WILLIAMS: Yes.
8 JOSEPH RAMOS: A gentleman named Joe Lindsey I talked to.
9 CHAIRMAN WILLIAMS: Uh-huh.
10 JOSEPH RAMOS: As long as it was 40 foot total, it was
11 legal.
12 And we went up there, which it is -- and 40 foot.
13 And then he said, well, maybe it is. Maybe it isn't.
14 I asked him about another property in town, which I'm not
15 going to mention the name of that.
16 And he seemed -- he said, well, we've got wiggle room there.
17 And I said, how about a little bit of wiggle room here?
18 And he wouldn't go for that. Or he -- well, we'll see
19 about it.
20 But I feel -- I felt that if he's got wiggle room
21 elsewhere, why --
22 You know, I mean, this is a -- this property was there. I
23 had a trailer on there prior to even the trailer park going in
24 across the street, the mobile home park. This has had a trailer
25 on it for years.
26 CHAIRMAN WILLIAMS: Okay. So that still doesn't make it
27 right.
28 I don't know when this ordinance was not in effect.
29 I suppose we could research that, Joe.
30 But -- and so what I'm gathering your -- your stand is that
31 you would like -- you would like to continue this use for the
32 duration of your ownership of the property; is that correct?
33 JOSEPH RAMOS: Well, I -- yes, I would. And I also ask --
34 I asked the gentleman, Mr. Lindsey, about if I can move it onto
35 my home property at home because I still get water bill -- I
36 still get my bills under Joe Ramos Trailer Park. I used to have
37 a trailer park on US 50.
38 CHAIRMAN WILLIAMS: Uh-huh.
39 JOSEPH RAMOS: And he more or less informed me if I moved
40 it, I couldn't move it there.

1 And I thought, what the hell can I do with it besides take
2 it to the dump?
3 He said, well, you'll have to figure that out.
4 So, I mean, I'm kind of in a catch-22 here.
5 We're -- I mean, if this lady I have living there moves
6 out, you're asking me to -- what do I do with the property then?
7 I mean, it's obviously for sale. Anybody wants to buy it,
8 and they want to come up with the money, they can have it.
9 CHAIRMAN WILLIAMS: Let me -- you're making this sound like
10 it's not -- is this a travel trailer?
11 JOSEPH RAMOS: It's a 40-foot trailer with two tip-outs.
12 They're not slide-outs.
13 TOM RIECHART: A park model?
14 JOSEPH RAMOS: They're -- yeah, they --
15 WALT HOLLAND: It's a park model.
16 JOSEPH RAMOS: You got to tip them out, --
17 MONTE PRICE: It's a travel --
18 JOSEPH RAMOS: -- put them on --
19 MONTE PRICE: -- trailer.
20 JOSEPH RAMOS: -- blocks, all of that. It's -- it's not
21 something you can move in and move out like these new ones.
22 It's -- it's the older type.
23 TOM RIECHART: It's the park model, I believe.
24 CHAIRMAN WILLIAMS: Right.
25 WALT HOLLAND: So does the park model fit the ordinance
26 then?
27 JAN MORRISON: Manufactured housing.
28 JOSEPH RAMOS: Manufactured housing is what I --
29 WALT HOLLAND: Because park models are manufactured
30 housing.
31 JOSEPH RAMOS: And --
32 JAN MORRISON: We didn't find it in --
33 MONTE PRICE: Is it?
34 JAN MORRISON: -- the manufactured housing. Do you license
35 it every year?
36 JOSEPH RAMOS: No.
37 CHAIRMAN WILLIAMS: I've never seen parking models
38 mentioned in there.
39 I'm open to suggestions. That -- that's -- like I say,
40 that's one avenue we can approach it from.

1 knows? -- six months or a year, if they're going to change the
2 law, no matter what we do today is going to be null and void.
3 CHAIRMAN WILLIAMS: And -- and that's fine, you know. But
4 my question is, with what you just said and what you're talking,
5 what do we do with this in the meantime?
6 Because that --
7 LANDER COUNTY COMMISSIONER CLARK: You've got it sitting
8 there --
9 CHAIRMAN WILLIAMS: -- until that comes about, --
10 LANDER COUNTY COMMISSIONER CLARK: You know, my
11 perspective --
12 CHAIRMAN WILLIAMS: -- we have an ordinance on the books.
13 And we've denied everyone else --
14 LANDER COUNTY COMMISSIONER CLARK: My perspective is I
15 don't want to see what we have out at Mote and in some of the
16 places in the desert.
17 If it gets close to a nuisance, then that -- that -- that
18 shifts the whole -- the whole deal and the buildings. And they
19 can deal with that.
20 You know, what I'm seeing from the picture is a great big lot
21 with like a 33-foot camper on it.
22 CHAIRMAN WILLIAMS: And -- and it looks very minuscule,
23 doesn't it? It looks just innocent as a -- you know, on all
24 this. And I agree with all that. And the fact that there's
25 commercial across the street and commercial over here and mixed
26 uses here and there -- this happens everywhere -- that doesn't
27 make this situation right. That does not make his property
28 commercial. That does not make it legal to put that on there,
29 according to our ordinances.
30 Now, that's it plain and simple. What do we do? Where do we
31 go from here?
32 I -- the guy has been wronged. And I -- I sympathize with
33 him.
34 But we've got to do something and make it right the best we
35 can according to our ordinances. These ordinances are on the
36 books. That's what we're here for.
37 LANDER COUNTY COMMISSIONER CLARK: And that's why there's
38 variances. And that's why people --
39 CHAIRMAN WILLIAMS: And --
40 LANDER COUNTY COMMISSIONER CLARK: -- come to --

1 CHAIRMAN WILLIAMS: -- variances are --
2 LANDER COUNTY COMMISSIONER CLARK: They can come to you.
3 CHAIRMAN WILLIAMS: If you read on variances, they're very
4 rarely used. And they're very special occasions.
5 LANDER COUNTY COMMISSIONER CLARK: You know, --
6 CHAIRMAN WILLIAMS: And this one doesn't --
7 LANDER COUNTY COMMISSIONER CLARK: -- a few months ago, you
8 permitted the Ayers to move a camp trailer on their property out
9 at Hill Top. Remember that?
10 I mean, that's a variance, right?
11 CHAIRMAN WILLIAMS: We did give them a variance. And we
12 did the same thing with that.
13 LANDER COUNTY COMMISSIONER CLARK: Yeah.
14 CHAIRMAN WILLIAMS: As soon as that use stops, then that's
15 out. That all comes apart.
16 But that's a -- that's a different situation there.
17 I mean, you know, everybody admits there's places for sale in
18 Austin. There's other places to park these things and everything,
19 but nobody wants to do it. They all want to do this.
20 Why?
21 LANDER COUNTY COMMISSIONER CLARK: It's always fun making
22 these decisions.
23 CHAIRMAN WILLIAMS: I don't understand. I really don't.
24 MONTE PRICE: I guess going back to what John's suggestion
25 would be, whether we approve this on a variance with either a
26 time frame or when there's a cease and desist of existing use.
27 And maybe somewhere in that amount of time, if there's an
28 appetite to change the ordinance, then the ordinance changes.
29 But as of today, we've got an ordinance that we can't -- if we
30 sit here and pick and choose who we want to give a variance to
31 without having justified cause --
32 CHAIRMAN WILLIAMS: We're going to have the whole --
33 MONTE PRICE: Yeah.
34 CHAIRMAN WILLIAMS: -- Hill Top and Dusty Acres and every
35 -- we're going to have them all in here. We're going to have to
36 find bigger chambers.
37 MONTE PRICE: (Indiscernible.)
38 LANDER COUNTY COMMISSIONER CLARK: (Indiscernible) --
39 CHAIRMAN WILLIAMS: Unless we open that --
40 LANDER COUNTY COMMISSIONER CLARK: -- today.

1 CHAIRMAN WILLIAMS: -- door.
2 LANDER COUNTY COMMISSIONER CLARK: I understand.
3 CHAIRMAN WILLIAMS: Because we -- all these people we have
4 denied.
5 MONTE PRICE: Yeah.
6 LANDER COUNTY COMMISSIONER CLARK: I understand where
7 you're at.
8 MONTE PRICE: So that -- that -- going back to it, if we do
9 it with a time frame or exis- -- cease of existing use, maybe in
10 that amount of time if the ordinance changes, then it changes.
11 But as of today, as I see it, we -- we can't carte blanche
12 this -- this deal. We can do it with a time frame or existing
13 use would be my thought.
14 CHAIRMAN WILLIAMS: Mr. Ramos, do you see where we're at?
15 Where we're coming from?
16 JOSEPH RAMOS: Yes, I do. I -- I understand that. This is
17 already -- you know, I put -- like I said, there's been trailers
18 there ever since I've owned it in the '80s. And I put this one
19 here there, you know, being that I was told by the prior
20 building inspector if it was 40-foot tow load it was fine. So I
21 went and set it up, skirted it, tore the axles out from under
22 it, tongues, got it all skirted, cleaned it up. And I just went
23 from there and all of a sudden got told that that wasn't the way
24 it works.
25 CHAIRMAN WILLIAMS: Yeah. See and I don't know where
26 things fell apart.
27 The building inspector should have been all over that and in
28 the middle of it. And is it tied down? Have you got tie-downs on
29 it?
30 JOSEPH RAMOS: No, but I've got it on blocks. Every --
31 every six foot, I've got it on blocks. But I can put tie-downs
32 on it.
33 CHAIRMAN WILLIAMS: The problem is, I -- I don't believe
34 you can make that a real home that would qualify. I mean, you
35 could check with FHA. And if they'll loan you money on the
36 thing after you get it done, then it qualifies. That's one
37 thing to do.
38 But -- and then it would be classed as real property. And
39 you would pay a lot more taxes accordingly.
40 And that's one of the reasons why they don't allow RVs to be

1 lived in on private -- anywhere other than the parks.

2 So --

3 JOSEPH RAMOS: Okay, if -- now you're saying I can leave it
4 there until this existing renter moves. Which at this time, the
5 renter I have is kind of financially embarrassed and can't
6 really afford things. And we're more or less giving her a home
7 to keep her from being homeless and this and that and helping
8 her out.

9 And I just haven't got the nerve to kick her out. So I mean,
10 I'm not going to do it.

11 CHAIRMAN WILLIAMS: Well, I -- I can sympathize with you.
12 If I was in your shoes, I -- I would do everything not to do
13 that myself.

14 And that's very admirable.

15 And -- and that's why I'm saying -- that's why I say, this
16 is the only avenue that I can come up with. Now maybe there are
17 others. Maybe somebody else has something. I'm open to it.

18 But this is one thing, one tool we've used in the past.
19 And it would get through this period and take care of this gal
20 as long as she would be in need of it.

21 But as far as our ordinance, unless it changes, like we were
22 talking here earlier, then that -- that would have to be the end
23 of that use. And the trailer would have to be moved off.

24 Or it w- -- it could probably stay there, but you couldn't
25 occupy -- have it occupied.

26 MONTE PRICE: You just can't have it occupied.

27 JOSEPH RAMOS: All right. As long as we're occupied, we're
28 okay with it then? With her?

29 CHAIRMAN WILLIAMS: Well, that -- that's what --

30 WALT HOLLAND: If somebody makes a motion.

31 CHAIRMAN WILLIAMS: That's what we're tossing around right
32 now. Anybody else -- Keith, do you have any ideas on it? Any
33 thoughts?

34 KEITH WESTENGARD: Well, you know, like -- like was talked
35 about, this was existing. It's been existing for a long time.

36 The county -- previous building inspector allowed it to go
37 on. They've come forward to try to make things right.

38 They're asking for a variance. And this is exactly, in my
39 opinion, what a variance is for.

40 If you're going to have all these other people come in

1 with -- with new occupancy, wanting to put their fifth-wheel or
2 their travel trailer on a piece of land, it's -- that's -- that's
3 not a qualification for a variance --

4 CHAIRMAN WILLIAMS: No.

5 KEITH WESTENGARD: -- because it's a new thing.

6 This has been going on for -- for quite a while.

7 When we had our planning meeting, which we do monthly now,
8 prior to your actual planning meetings, you know, I was in support
9 of leaving it the way it is.

10 If you want to put some stipulations in place that when the
11 current tenant moves out that you either revisit it or you stop
12 the -- the variance or you -- you pull back the variance permit,
13 then -- then that's fine.

14 We are in the process -- we're going to start Monday, as a
15 matter of fact, working on some codes, working on the codes
16 and -- and different things to try to remedy the situation for
17 southern Lander County, for Austin area, and -- and hopefully
18 get Kingston involved and Gilman and all those areas.

19 So that's my opinion.

20 I -- I think it's a -- I think this suits the variance
21 request and what the variance is all about.

22 And I think it should be left alone.

23 And like I said, if you guys want to put some stipulations
24 on there that when they move out, you revisit it or whatever you
25 want to do at that point. But I think, they were good enough to
26 come forward --

27 CHAIRMAN WILLIAMS: Absolutely.

28 KEITH WESTENGARD: -- and make mention that, hey, we want
29 to be in compliance with this request.

30 And that's kind of my thoughts on it.

31 LANDER COUNTY COMMISSIONER CLARK: They -- they have
32 utilities.

33 CHAIRMAN WILLIAMS: Thank you.

34 Pardon me?

35 LANDER COUNTY COMMISSIONER CLARK: They have electric and
36 septic and all --

37 CHAIRMAN WILLIAMS: Full utilities, the way I understand,
38 yes. Power, water, sewer. Is that correct, Joe?

39 JOSEPH RAMOS: Yeah. There's water, sewer, power,
40 everything's there.

1 CHAIRMAN WILLIAMS: Yeah.

2 LANDER COUNTY COMMISSIONER CLARK: And if you look in your
3 packet, right across the street, it looks like there's somebody
4 in a camp trailer living there.

5 CHAIRMAN WILLIAMS: Well, I -- is that the RV park?

6 LANDER COUNTY COMMISSIONER CLARK: I don't know.

7 CHAIRMAN WILLIAMS: Because there's an RV park right there.

8 JOSEPH RAMOS: The RV park across the road from us, it came
9 in after I had this (indiscernible) here.

10 CHAIRMAN WILLIAMS: No, I understand. Art's talking about
11 what's across the street in the picture in the packet there.
12 And I believe that's an RV park. Is it not?

13 JOSEPH RAMOS: Yeah, there -- that's where --

14 CHAIRMAN WILLIAMS: There's two trailers parked there.

15 JOSEPH RAMOS: That's a place.

16 JAN MORRISON: That's another issue. That's an item that
17 was grandfathered in. It was --

18 LANDER COUNTY COMMISSIONER CLARK: What was it?

19 WALT HOLLAND: Grandfathered item.

20 CHAIRMAN WILLIAMS: Another item that was grandfathered.
21 Go ahead.

22 JAN MORRISON: That lot across the street, zone C-1. And
23 it is zoned. And it -- I don't know how long it's been zoned.
24 For quite a long time. And that -- that's a preexisting use and
25 been there quite a long time. And it is zoned C-1.

26 CHAIRMAN WILLIAMS: Just so -- but that still doesn't make
27 it right for camp trailers for occupancy.

28 JAN MORRISON: Right.

29 CHAIRMAN WILLIAMS: Unless it's in -- unless that is an RV
30 park.

31 And -- and -- and you know, we can talk about the past
32 building inspector. But this law has been on the books, this
33 ordinance, ever since I've been on here. And I got on here
34 sometime in the '80s, for crying out loud.

35 So, you know -- and these things happen. So we can quit
36 beating that horse, I think. It just something that slipped
37 through the cracks. And we have to deal with it.

38 And, of course, looks like there's another one there.
39 Cheese and rice.

40 Anyway, we can't talk about that right now.

1 Anyway, that's -- that's the only thing I've been able to
2 come up with.

3 And I'm glad to hear Steve -- or Keith say that he's been
4 thinking along the same lines because I was beginning to think I
5 was losing my damn mind.

6 Unless somebody else has something else.

7 I mean, number one and most important is it's a nonexisting
8 use -- or noncomplying use.

9 JOSEPH RAMOS: Okay, I just want to bring to your attention
10 that in the picture is not the trailer that's there now.

11 And it's -- the other one -- this here's a travel trailer the
12 guy had on there for a couple of years. And nothing was ever
13 said. And then I went -- when he moved out, I went ahead and put
14 a permanent one there. It's got a storage shed. It's got
15 everything there. This -- this is not the trailer that's there --
16 that exists there on the property at this time.

17 CHAIRMAN WILLIAMS: Okay.

18 WALT HOLLAND: This is Walt. Hey, Joe, do you know if it's
19 titled as an RV? Or is it a park model?

20 JOSEPH RAMOS: You know, I -- I don't know. I got the
21 title there. I -- I'd have to see it. I really have to look.
22 I never paid much attention to it, if you want to know the
23 truth. But I can sure find out.

24 JAN MORRISON: But a park model or -- or if it -- it's a
25 tow-behind trailer, although it is a very large one. There's no
26 question about it.

27 CHAIRMAN WILLIAMS: There are some very large ones out
28 there. My son-in-law, my daughter have one, 42 feet. It's not
29 legal to put it on a foundation or anything else and live in it.
30 So length is not really a -- the issue here.

31 UNIDENTIFIED PARTICIPANT: But if it's titled as a park
32 model, does it make a difference, Joe?

33 MONTE PRICE: I don't think so.

34 CHAIRMAN WILLIAMS: I -- I've never seen park models
35 mentioned in the ordinance.

36 TOM RIECHART: No, there is a different -- differentiation
37 between park models and -- and standard RVs. The main
38 difference is it doesn't have holding tanks so you can hook it
39 up easier to the straight sewer.

40 JOSEPH RAMOS: This one doesn't have any --

1 TOM RIECHART: That's the difference between a park model
2 and a down-the-road RV, the only big difference. And the
3 park --

4 WALT HOLLAND: They've got --

5 TOM RIECHART: -- models --

6 WALT HOLLAND: -- to be cinder- --

7 TOM RIECHART: -- have --

8 WALT HOLLAND: -- blocked and all that.

9 CHAIRMAN WILLIAMS: They have to have a full foundation.
10 See? So what he's got won't qualify either.

11 JAN MORRISON: This ordinance allows park models of 400
12 square feet or less. They're still licensed by DMV. But they
13 are allowed in parks in our -- in both --

14 CHAIRMAN WILLIAMS: In parks.

15 JAN MORRISON: -- RV parks in our ordinance.

16 WALT HOLLAND: Not residential.

17 CHAIRMAN WILLIAMS: Right. Not residential.

18 WALT HOLLAND: Okay.

19 CHAIRMAN WILLIAMS: Okay.

20 Unless there's any further discussion, we're looking for a
21 motion.

22 MONTE PRICE: I -- I can do that. If somebody's got a
23 better thought or amend my motion before it's seconded.

24 I would make a motion to, basically, approve the variance for
25 this with the stipulation of existing use. And at which time
26 there is a cease and desist of that existing use, the variance
27 would end.

28 CHAIRMAN WILLIAMS: Any discussion on that?

29 Anything anybody would like to add?

30 TOM RIECHART: Could that phrased as the variance is
31 revisited at that time or ending?

32 CHAIRMAN WILLIAMS: Well, which -- which would we rather
33 have?

34 It's your guys' --

35 MONTE PRICE: If you want to change it to revisit it,
36 that's fine with me, Tom.

37 TOM RIECHART: I guess if -- if -- if the code changes
38 between now and then, the variance would -- could end anyway
39 because there could be a different code.

40 CHAIRMAN WILLIAMS: We've got no worries then, --

1 WALT HOLLAND: Yep.

2 CHAIRMAN WILLIAMS: -- foregone conclusion; right?

3 TOM RIECHART: Joe has no worries. We don't have worries;
4 we just have headaches.

5 JAN MORRISON: This is Jan here. There is one little
6 difference. And if you're going to revisit it, then you will
7 revisit it -- as just part of your agenda item. Otherwise,
8 it'll be have to be a brand new application with certified
9 letters and all the proper notice.

10 I -- I don't know that you need to go that route. I think
11 that you could -- unless -- unless we change the ordinance
12 beforehand I would think the planning commission would be up to
13 reviewing it.

14 MONTE PRICE: Okay. May I change my motion to -- at the
15 end of the existing use, the variance will be revisited.

16 That'll save him from having to a reapply and pay a filing
17 fee and all of that. Right?

18 TOM RIECHART: Okay. And I'll make a second to that.

19 CHAIRMAN WILLIAMS: Any further discussion?

20 (No comment.)

21 CHAIRMAN WILLIAMS: All in favor?

22 MONTE PRICE: Aye.

23 WALT HOLLAND: Aye.

24 CHAIRMAN WILLIAMS: Tom?

25 TOM RIECHART: I -- I -- I made the second. So obviously I
26 vote aye.

27 CHAIRMAN WILLIAMS: All right. I just wanted to hear your
28 sweet voice.

29 All right. Thank you very much.

30 Is that -- I -- Mr. Ramos probably isn't smiling, but -- I
31 hope --

32 TOM RIECHART: That's the problem. Mr. Ramos is always
33 smiling.

34 CHAIRMAN WILLIAMS: Well, I hope we -- we helped you out
35 some.

36 JOSEPH RAMOS: Thank you very much. I sure appreciate it.

37 CHAIRMAN WILLIAMS: Thank you. We appreciate your effort.

38

39 7) Correspondence, board and/or staff issues for potential
40 upcoming agenda items.

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CHAIRMAN WILLIAMS: Agenda Item Number 7. Correspondence.
Any of the board members have any correspondence?

MONTE PRICE: No, sir. I've not talked to a single --

CHAIRMAN WILLIAMS: Tom?

MONTE PRICE: -- living soul.

JAN MORRISON: Correspondence?

TOM RIECHART: No correspondence for me.

CHAIRMAN WILLIAMS: Jan?

JAN MORRISON: Remind everybody that as the planning -- we have some new people here. So I'll remind everybody that the master plan is being reviewed. In the past, there was an Austin master plan that -- the county commission --

CHAIRMAN WILLIAMS: Well --

JAN MORRISON: -- there was some master planning done in Kingston. There'll be plenty of public notices.

We want to take our time going through this and bring everything up so that it all gets completed. And it'll come to the county commissioners. And there'll be plenty of time for input along the way.

And also, inconsistencies in the code that will help -- help on some of these decisions. So that's coming along. And I just urge everybody to keep track of this because we want -- we want all the input. This is a good opportunity.

PHILLIP WILLIAMS: (Indiscernible), this is Phillip Williams.

Back when that master plan was written, I was the chairman of the Chamber. And I did go before the commissioners. It was passed by the commissioners. And myself and Dee Helming from the Chamber was -- was down there at the meeting.

JAN MORRISON: You know, Rex and I both researched. We couldn't find where it went to the county commissioners. It did go to the planning commission. We would greatly stand to be corrected if you could show us that. That would be great. Because we haven't been able to find it.

PHILLIP WILLIAMS: (Indiscernible.)

JAN MORRISON: That would be great.

And regardless, we will make sure it goes through the process this time.

CHAIRMAN WILLIAMS: Yeah. Absolutely. I -- I don't know

1 what happened there because we -- you know, it automatically,
2 after it leaves us, it's on the -- automatic on the
3 commissioners' agenda. I don't know what happened.

4 JAN MORRISON: Well, --

5 PHILLIP WILLIAMS: (Indiscernible.)

6 JAN MORRISON: -- it went --

7 PHILLIP WILLIAMS: It was on the next agenda
8 (indiscernible).

9 JAN MORRISON: It was held back for some things. And --

10 CHAIRMAN WILLIAMS: Oh, okay.

11 JAN MORRISON: -- and there was some discussion. And I --
12 and I checked with Rex. He tried to pull things up.

13 But if -- if Pancho can bring the record, that would be
14 fabulous.

15 But regardless, we'll absolutely go through the whole
16 process. We'll make sure it doesn't fall through the cracks.

17 CHAIRMAN WILLIAMS: Yeah. It's time for a review there as
18 well so --

19 Anything else?

20 Nope.

21 Okay. There being no further discussion, orders of
22 business --

23
24
25 PUBLIC COMMENT

26
27 CHAIRMAN WILLIAMS: One last time we'd open it for public
28 comment.

29 Anybody have anything they'd like to talk about? There'll be
30 no whining, but we can --

31 (No comment.)

32
33
34 ADJOURNMENT

35
36 CHAIRMAN WILLIAMS: Okay. We'd entertain a motion for
37 adjournment.

38 WALT HOLLAND: I'll make that motion that we adjourn.

39 CHAIRMAN WILLIAMS: Second?

40 MONTE PRICE: Second.

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TOM RIECHART: Aye.
CHAIRMAN WILLIAMS: Thank you.
All in favor?
WALT HOLLAND: Aye.
CHAIRMAN WILLIAMS: Thank you, guys.


JOHN WILLIAMS, CHAIRMAN

ATTEST: 
JAN MORRISON,
COMMUNITY SERVICES OFFICER

1 STATE OF UTAH)
2) ss.
3 COUNTY OF DAVIS)
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7 I, TIFFANY ELKINGTON, A CERTIFIED COURT REPORTER, DO HEREBY
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9 CERTIFY I TRANSCRIBED THE FOREGOING PROCEEDINGS FROM A "FOR THE
10
11 RECORD" DIGITAL AUDIO RECORDING OF A MEETING WHICH TOOK PLACE
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13 THE 13TH DAY OF APRIL 2016, AND SAID RECORDING AND INFORMATION
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15 PERTAINING TO PARTICIPANT NAMES WAS PROVIDED TO ME BY THE COMMUNITY
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17 SERVICES OFFICER, JAN MORRISON; THAT THE SAME IS FULL, TRUE, AND AS
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19 CORRECT AS THE AUDIO RECORDING ALLOWED.
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22 DATED AT _____
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28 TIFFANY ELKINGTON, CCR #930
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AMANDA HALL: [2] 5/11 5/16 CHAIRMAN WILLIAMS: [187] ESTEBAN MARTINEZ: [2] 6/25 7/9 JAN MORRISON: [44] JOSEPH RAMOS: [36] KEITH WESTENGARD: [4] 6/22 26/33 27/4 27/27 LANDER COUNTY COMMISSIONER CLARK: [22] 1/40 22/26 22/32 23/6 23/9 23/13 23/36 23/39 24/1 24/4 24/6 24/12 24/20 24/37 24/39 25/1 25/5 27/30 27/34 28/1 28/5 28/17 MITESHELL LANHAM: [8] 1/26 1/29 1/33 1/35 1/37 1/39 2/1 2/3 MONTE PRICE: [56] PHILLIP WILLIAMS: [4] 32/24 32/35 33/4 33/6 RICK GOBEL: [32] 9/15 9/35 9/38 10/14 10/16 10/18 10/20 10/23 10/25 10/27 10/29 10/32 11/12 11/15 11/29 11/35 11/39 12/2 12/7 12/10 12/12 12/16 12/20 12/27 12/33 12/39 13/6 13/8 13/17 13/25 14/24 14/26 ROBERT STEVENSON: [8] 15/18 15/22 15/24 15/31 15/37 16/24 16/26 16/36 TOM RIECHART: [54] TYLER PETERSON: [4] 8/4 8/11 8/14 8/34 UNIDENTIFIED PARTICIPANT: [5] 14/30 14/32 14/34 22/31 29/30 UNIDENTIFIED TELEPHONIC PARTICIPANT: [3] 2/7 6/35 6/40 WALT HOLLAND: [37]	33-foot [1] 23/21 4 40 [2] 20/10 20/12 40-foot [2] 21/11 25/20 400 [1] 30/11 42 feet [1] 29/28 48-foot [1] 12/8
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1 The Lander County Planning Commission met in session in the
2 Commission Chambers of the Lander County Courthouse and
3 Administration Building in Battle Mountain, Nevada, 50 State
4 Route 305, on May 11, 2016, at 6:02 p.m. Transcript produced by
5 Tiffany Elkington, C.C.R., #930.

6
7 **PRESENT: JOHN WILLIAMS, PLANNING COMMISSIONER**
8 **TOM REICHERT, PLANNING COMMISSIONER**
9 **LOUIS LANI, PLANNING COMMISSIONER (VIA**
10 **TELECONFERENCE)**
11 **JAN MORRISON, COMMUNITY SERVICES OFFICER**
12 **ART CLARK, LANDER COUNTY COMMISSIONER**

13
14 **ABSENT: MONTE PRICE, PLANNING COMMISSIONER**
15 **WALT HOLLAND, PLANNING COMMISSIONER**
16 **KEITH WESTENGARD, EXECUTIVE DIRECTOR**

17
18 (Let the record reflect the presence of a quorum of three
19 planning commissioners.)

20
21 CHAIRMAN WILLIAMS: Okay. I'd like to call this meeting of
22 Lander County Planning Commission to order. If everyone will
23 rise, please, we'll do the Pledge of Allegiance.

24
25 (Pledge of Allegiance)

26
27
28 **ROLL CALL**

29
30 CHAIRMAN WILLIAMS: Can we get roll call, please.

31 DEONILLA FULLER: John Williams.

32 CHAIRMAN WILLIAMS: Here.

33 DEONILLA FULLER: Louis Lani.

34 LOUIS LANI: Here.

35 DEONILLA FULLER: Monte Price. Absent.

36 Walt Holland. Absent.

37 Tom Reichert.

38 TOM REICHERT: Here.

39 CHAIRMAN WILLIAMS: Okay. Well, it's just the three of us,
40 Louis. Looks like.

1 LOUIS LANI: Okay.

2

3

4 APPROVAL OF AGENDA NOTICE

5

6 CHAIRMAN WILLIAMS: So we'd entertain a motion to approve
7 the agenda posting.

8 TOM REICHERT: I'll make that motion.

9 LOUIS LANI: I'll second it.

10 CHAIRMAN WILLIAMS: All in favor?

11 TOM REICHERT: Aye.

12 CHAIRMAN WILLIAMS: Aye.

13 LOUIS LANI: Aye.

14

15

16 APPROVAL OF MEETING MINUTES

17

18 CHAIRMAN WILLIAMS: Okay. And approval of the April 13th
19 regular session meeting minutes?

20 LOUIS LANI: I'll make that motion to approve them.

21 CHAIRMAN WILLIAMS: We have a second?

22 TOM REICHERT: I read through the first ten pages or so.
23 But it's -- from what I've seen, it seems very accurate.

24 CHAIRMAN WILLIAMS: Well, I -- I -- I managed to make it
25 all the way through. Yeah, I think so.

26 Okay. So I have a second?

27 TOM REICHERT: Second.

28 CHAIRMAN WILLIAMS: All in favor?

29 TOM REICHERT: Aye.

30 LOUIS LANI: Aye.

31 CHAIRMAN WILLIAMS: Aye.

32

33

34 COMMISSIONER REPORTS

35

36 CHAIRMAN WILLIAMS: Okay. Any of the board members have
37 anything they'd like to report on? Meetings? Conferences?
38 Seminars? Anything like that?

39 (No comment.)

40

1 **STAFF REPORTS**

2
3 CHAIRMAN WILLIAMS: Staff?

4 JAN MORRISON: Just that the master plan review will be --
5 we'll start having public hearings towards the end of the
6 summer.

7 Codes are going through, our existing county codes.
8 Nothing is being added. It's been streamlined and getting
9 conflicting items out.

10 We have had Title 16 reviewed by our county surveyor, Bob
11 Morley. And I have those changes. So we'll be reviewing those
12 and sending them up to the -- the DA. And that should bring us
13 into conformance with NRS. So we're moving forward.

14 CHAIRMAN WILLIAMS: Good.

15 Anything else?

16 JAN MORRISON: That's it.

17 CHAIRMAN WILLIAMS: That'll be enough for us for a while,
18 huh?

19
20
21 **PUBLIC COMMENT**

22
23 CHAIRMAN WILLIAMS: Okay. At this point in the meeting,
24 we'd open it for public comment for a brief period and anything
25 that's not agendized today.

26 Anybody have anything?

27 (No comment.)

28 CHAIRMAN WILLIAMS: All right.

29
30 **1) Discussion for possible action regarding approval/disapproval**
31 **of the following parcel map:**

32
33 **Applicant:** **Brian Garner**

34 **Location:** **15 N Second Street, Battle Mountain, Nevada.**

35 **APN:** **002-270-07.**

36 **Type:** **To split one (1) parcel into four (4) parcels.**

37
38 CHAIRMAN WILLIAMS: There being nothing, we'll move on to
39 Agenda Item Number 1. Discussion for possible action regarding
40 approval/disapproval of the following parcel map for Brian

1 Garner, APN 002-270-07. Split one into four.
2 He's not here.
3 JAN MORRISON: You know, I reminded him yesterday about it.
4 Said he would be here.
5 It's a pretty routine map. It's been through the development
6 committee. Nobody had any objections.
7 The map has been signed. You have a copy of it, Chairman,
8 right next to you. The map has been signed by the assessor and
9 the treasurer.
10 This is taking an industrial piece of property over on
11 North Second, splitting it into four parcels.
12 And I believe the county is negotiating with him or talking
13 to him about purchasing one of the parcels that -- that parcel
14 has the Silver State lift station, which is owned by --
15 CHAIRMAN WILLIAMS: The county.
16 JAN MORRISON: -- the county.
17 So the map is all ready.
18 CHAIRMAN WILLIAMS: We went through this again. And just
19 not too -- all right -- how's -- how do the board members feel?
20 Should we go -- go ahead and check the map and approve it if
21 it's in order?
22 Louis?
23 LOUIS LANI: Yeah. I'd say go ahead and let's do it.
24 CHAIRMAN WILLIAMS: How do you feel?
25 TOM REICHERT: As opposed to -- because no one's here?
26 CHAIRMAN WILLIAMS: Yeah. No representative.
27 It's a --
28 TOM REICHERT: It's a simple split, but --
29 JAN MORRISON: It is. And I know the county commission --
30 maybe Commissioner Art Clark can speak to it.
31 It's anticipated to be in front of the county commission
32 the end of May.
33 I've been working with our executive director, Keith, on
34 this and talked to him today. He has no objections. They'd
35 like to move forward and get it done. The -- an appraisal has
36 been done on the property and -- and I don't know the back
37 workings, but apparently we need to --
38 CHAIRMAN WILLIAMS: Expedite it, huh?
39 JAN MORRISON: -- do some work on this -- the lift station.
40 Is that correct, Commissioner? And so --

1 COMMISSIONER CLARK: What?
2 JAN MORRISON: Is that correct that the county needs to do
3 some work on their lift station and that's what started this?
4 To split it so they could acquire it?
5 LANDER COUNTY COMMISSIONER ART CLARK: Oh, I don't -- I
6 don't know.
7 JAN MORRISON: Okay. There was --
8 CHAIRMAN WILLIAMS: I'm sure --
9 JAN MORRISON: -- an agreement --
10 CHAIRMAN WILLIAMS: -- they're doing --
11 JAN MORRISON: -- a few --
12 CHAIRMAN WILLIAMS: -- a lift --
13 JAN MORRISON: -- years ago, --
14 CHAIRMAN WILLIAMS: -- station.
15 JAN MORRISON: -- and it was never transferred over. So
16 it's now at the point where it'll be transferred over.
17 CHAIRMAN WILLIAMS: Well, okay. Maybe this is something
18 that -- what -- what the heck board is it that we put together
19 to keep us on the straight and narrow here? with Keith and --
20 JAN MORRISON: The development --
21 CHAIRMAN WILLIAMS: Development --
22 JAN MORRISON: Right.
23 CHAIRMAN WILLIAMS: -- board.
24 JAN MORRISON: We had --
25 CHAIRMAN WILLIAMS: Okay.
26 JAN MORRISON: -- the development meeting, and it's all go
27 ahead.
28 And again, I checked with Keith this afternoon to make sure
29 that it was fine. He goes, it's good to go.
30 CHAIRMAN WILLIAMS: Yeah. I -- I understand --
31 JAN MORRISON: Yeah.
32 CHAIRMAN WILLIAMS: -- that, you know. But maybe -- maybe
33 we could -- you could pass that along to him or if I need to
34 make a call or what the heck.
35 JAN MORRISON: Right.
36 CHAIRMAN WILLIAMS: There's -- you know, there's special
37 things with every little piece of business that comes in here.
38 Everybody's got a special case and everything.
39 But we're getting to where the word gets around pretty quick
40 we're getting the maps and nobody's coming in. We can't -- you

1 know, we like to -- I know -- I don't remember how we came out the
2 last time. Seemed like it was about November last year when we
3 ran through this again.

4 I know for a while there, we were not approving or even
5 looking at maps unless the representative was here with them.
6 This has been some time back. But -- and then -- and then we
7 get into this. But anyway, maybe we can --

8 LOUIS LANI: I don't know, John. Maybe I'll back out of
9 what I said. I think that's a good idea.

10 If they want to get this stuff done, they ought to have --
11 at least have -- be able to come -- come to the meeting and
12 speak to the board for it -- answer any questions.

13 TOM REICHERT: Well, especially -- if I may speak -- with
14 the minutes being verbatim now, if we ask the applicant a
15 question and they answer it in the minutes, you know, because
16 questions often -- I doubt if -- I don't know if they would with
17 this one, but they often arise as we review the map.

18 So with that accurate a minute, it puts it on the record, I
19 believe, if they say, yes, we're going to --

20 CHAIRMAN WILLIAMS: Uh-huh. Or no, we will not or --

21 Well, mainly, where we've had the problems is we'll get right
22 down to the map and we'll find something in there, either is not
23 there or should be there or is there and is maybe not real clear
24 to us. Who do we ask? What do we do?

25 I mean, we can table the thing.

26 JAN MORRISON: Yeah. And I'm sorry. I don't have a phone
27 number f- -- don't have a cell phone number for Mr. Garner to --

28 CHAIRMAN WILLIAMS: Well, -- this --

29 JAN MORRISON: Wait a minute. I think I do. Would you --

30 CHAIRMAN WILLIAMS: No, I --

31 JAN MORRISON: -- like me to try and call?

32 CHAIRMAN WILLIAMS: I'd say, no. Really.

33 JAN MORRISON: No? Oh.

34 CHAIRMAN WILLIAMS: If he hasn't --

35 JAN MORRISON: Okay.

36 CHAIRMAN WILLIAMS: -- got enough interest to come in here
37 with the map, then by -- I don't think it's our obligation to
38 track him down. I really don't.

39 But I don't know. That's just me. How do you two guys feel
40 about it?

1 LOUIS LANI: I agree with you one hundred percent.
2 JAN MORRISON: Do you mind if, then, I text Keith, our
3 executive director? Because I'm not privy to what the county
4 commission is doing.
5 CHAIRMAN WILLIAMS: Well, and that's another thing, you
6 know. This shouldn't have anything to do with that.
7 JAN MORRISON: Yeah.
8 CHAIRMAN WILLIAMS: What we're --
9 JAN MORRISON: Yeah.
10 CHAIRMAN WILLIAMS: -- doing now, the inference there is
11 we're going to treat this differently than everyone else's
12 because it has to do with the county.
13 JAN MORRISON: Okay.
14 CHAIRMAN WILLIAMS: Am I wrong?
15 I'm -- I'll guarantee you, that's the first thing an outsider
16 would assume. And I don't kn- -- you know, I wouldn't be so sure
17 that that wouldn't be correct either, you know. But --
18 LOUIS LANI: Playing favorites and starting to set a
19 precedence.
20 CHAIRMAN WILLIAMS: Yeah. Hell, yes.
21 You're awful quiet.
22 TOM REICHERT: You guys have covered it well.
23 CHAIRMAN WILLIAMS: I just -- that's -- that's where I'm
24 at.
25 We can go ahead and do this map, and then I think maybe
26 that's something that we need to agendize so it's in a public
27 meeting.
28 And -- we -- we'll -- when we got a few more members here and
29 -- I don't know, I --
30 TOM REICHERT: Well, if not the actual person, at least a
31 representative.
32 CHAIRMAN WILLIAMS: Hm?
33 TOM REICHERT: Oftentimes we do maps for people that live a
34 long ways away, but they usually send a representative.
35 CHAIRMAN WILLIAMS: Sure. Yeah.
36 JAN MORRISON: Or -- or available by phone.
37 CHAIRMAN WILLIAMS: Uh-huh.
38 JAN MORRISON: Yeah.
39 CHAIRMAN WILLIAMS: Yeah.
40 Or the guy lives here in town and sounds like he's going

1 to -- got a deal working with the county with one of these.
2 There's got to be a little money involved there. I -- if it was
3 me, I'd hand carry the thing in there and I'd be right there to --
4 JAN MORRISON: Yeah.
5 CHAIRMAN WILLIAMS: -- ask anything, you know.
6 JAN MORRISON: I'm surprised.
7 CHAIRMAN WILLIAMS: I'm not. But that's off the record.
8 Okay.
9 TOM REICHERT: Nothing- --
10 CHAIRMAN WILLIAMS: Hm?
11 TOM REICHERT: -- -'s off the record now.
12 LOUIS LANI: I don't know. Do we want to take that step
13 and approve the map without him being there? Or just table the
14 whole thing and say, if you want this map approved, come to the
15 board and get it represented that way.
16 CHAIRMAN WILLIAMS: Well, what -- what -- what do you
17 think, Louis? Tom?
18 Oh, wait a minute.
19 There he is. Just in time.
20 Can you take the seat of honor, please.
21 TOM REICHERT: Come on up. If you would give your name to
22 the mic recorder.
23 BRIAN GARNER: Brian Garner.
24 CHAIRMAN WILLIAMS: Louis, Brian just showed up.
25 LOUIS LANI: Oh, okay.
26 CHAIRMAN WILLIAMS: We were talking about these maps and
27 people not coming in with their maps in case we had questions.
28 BRIAN GARNER: Uh-huh.
29 TOM REICHERT: Thank you very much for coming.
30 CHAIRMAN WILLIAMS: Yes, --
31 BRIAN GARNER: (Indiscernible.)
32 CHAIRMAN WILLIAMS: -- we appreciate it.
33 I'd still like to -- you're just going to go one to four;
34 right?
35 BRIAN GARNER: Yep.
36 CHAIRMAN WILLIAMS: Nothing fancy, doesn't look like.
37 BRIAN GARNER: Nothing fancy. We had it all done. And
38 there's really not a lot of industrial, so we're going to try to
39 do some splitting out and making some properties. So --
40 TOM REICHERT: So this is the area map and all the

1 approvals. And then the --
2 CHAIRMAN WILLIAMS: Yeah. We need to -- are you going to
3 read 'er?
4 TOM REICHERT: Sure.
5 CHAIRMAN WILLIAMS: Okay.
6 TOM REICHERT: Parcel map shall be legibly drawn. Black
7 waterproof India ink over mylar or other materials of permanent
8 reproducible nature. The size of each sheet shall be 24 by 32.
9 Margin lines shall be drawn completely around each sheet leaving
10 an entirely blank margin or one inch at the top, bottom, and
11 right edge. Two inches at the left edge along a 24-inch
12 dimension that'll fit.
13 Shall indicate the owner of any adjoining land or
14 right-of-way if owned by persons dividing the land.
15 CHAIRMAN WILLIAMS: Yeah. There.
16 TOM REICHERT: Accompanied by a deed, deed of trust, or
17 evidence of other conveyance demonstrating ownership of land
18 proposed for division?
19 CHAIRMAN WILLIAMS: Yes.
20 TOM REICHERT: If a survey is required, the parcel map
21 shall show. Is a survey required on this one?
22 BRIAN GARNER: Yep.
23 TOM REICHERT: Should --
24 BRIAN GARNER: It's already --
25 CHAIRMAN WILLIAMS: Uh-huh.
26 BRIAN GARNER: -- been done by Wallace and Morris, there at
27 the bottom right.
28 TOM REICHERT: Okay.
29 So survey is required. All monuments found. Separate
30 (indiscernible) deed describing their kind, size, and location and
31 giving other data relating --
32 BRIAN GARNER: The --
33 TOM REICHERT: -- to --
34 Come on up.
35 BRIAN GARNER: These monuments are set. These monuments
36 will be set --
37 TOM REICHERT: Okay.
38 BRIAN GARNER: -- with approval of the map. These are what
39 would be set. And these ones are set. These were found in --
40 TOM REICHERT: So the existing corners are set. And the

1 corners for the part -- the -- the division lines will be set?
2 BRIAN GARNER: Correct, yeah.
3 CHAIRMAN WILLIAMS: And then there's one there on --
4 TOM REICHERT: That's the curve in the street.
5 BRIAN GARNER: Yes.
6 TOM REICHERT: Okay.
7 Thank you. See how handy it is --
8 BRIAN GARNER: Yep.
9 TOM REICHERT: -- having you here?
10 Bearing their witness monuments. Bases are bearing --
11 bearing in length of lines and scale of map.
12 CHAIRMAN WILLIAMS: Yes, sir.
13 TOM REICHERT: Name and legal description of tract or grant
14 in which the survey is located and ties to adjoining tracts.
15 CHAIRMAN WILLIAMS: Yeah.
16 Yep.
17 TOM REICHERT: Memorandum of posts?
18 CHAIRMAN WILLIAMS: Yes, sir.
19 TOM REICHERT: Signature of registered land surveyor?
20 CHAIRMAN WILLIAMS: We have it.
21 TOM REICHERT: Date of survey?
22 CHAIRMAN WILLIAMS: Yes, sir. March 4, 2016.
23 TOM REICHERT: Signature of the owner of the land?
24 CHAIRMAN WILLIAMS: Yes.
25 TOM REICHERT: Okay.
26 CHAIRMAN WILLIAMS: Oh, wait a minute.
27 Till -- yes, sir.
28 TOM REICHERT: Top corner there.
29 CHAIRMAN WILLIAMS: Uh-huh.
30 TOM REICHERT: Any easements granted or dedications made?
31 CHAIRMAN WILLIAMS: Yes. He's got --
32 TOM REICHERT: Is that an easement along the north side
33 there? Or --
34 CHAIRMAN WILLIAMS: Easement there. Here.
35 And these, I don't --
36 TOM REICHERT: On Second Street, there is no easement.
37 Wouldn't be --
38 BRIAN GARNER: There is --
39 CHAIRMAN WILLIAMS: Wouldn't need a --
40 BRIAN GARNER: There is a five-foot easement on Second, --

1 TOM REICHERT: Over at that --
2 BRIAN GARNER: -- but it -- but it encroaches to the --
3 CHAIRMAN WILLIAMS: Street?
4 BRIAN GARNER: Yeah. Because --
5 CHAIRMAN WILLIAMS: That's on the --
6 BRIAN GARNER: -- the street's already narrow. The
7 street's -- it's not 70 feet.
8 Then there's -- this easement is Lander County's easement for
9 sewer station.
10 TOM REICHERT: For the pumping plant?
11 BRIAN GARNER: Yes.
12 Then there's actually an easement, the sanitary sewer
13 easement behind here. Because there's a high-pressure main that
14 comes from Cashman lift station down on --
15 CHAIRMAN WILLIAMS: Down Second Street there?
16 BRIAN GARNER: Down Second Street that comes back here and
17 goes --
18 TOM REICHERT: Third Street.
19 BRIAN GARNER: -- towards the --
20 CHAIRMAN WILLIAMS: Third.
21 BRIAN GARNER: -- sewer.
22 CHAIRMAN WILLIAMS: Yeah.
23 BRIAN GARNER: The proposed Third Street.
24 There used to be an easement in the '80s, an additional
25 street here, but it was relinquished back to the landowner in
26 lieu of this pumping station.
27 TOM REICHERT: Thank you.
28 BRIAN GARNER: There's the five-foot easement around this
29 piece.
30 CHAIRMAN WILLIAMS: Yeah.
31 Okay.
32 Thanks, again.
33 BRIAN GARNER: You bet.
34 TOM REICHERT: Any other data necessary for the intelligent
35 interpretation of various items, locations, points, lines, areas
36 showed, including a vicinity map on the other page of the area
37 proposed for land addition.
38 Got it.
39 CHAIRMAN WILLIAMS: Will do.
40 TOM REICHERT: The means of access to the lots? Off Second

1 Street.

2 CHAIRMAN WILLIAMS: Off Second. Yep. No worries.

3 TOM REICHERT: Calculated acreage of each parcel

4 (indiscernible).

5 CHAIRMAN WILLIAMS: Yes, sir.

6 TOM REICHERT: Okay.

7 So survey is waived. We don't do those. If the requirement

8 of survey is waived, we don't do that.

9 CHAIRMAN WILLIAMS: Yep.

10 TOM REICHERT: References, parcel number, recorder bit,

11 recorded parcel map is a complete legal description of the land

12 obtained in the parcel.

13 Okay.

14 CHAIRMAN WILLIAMS: Are you getting all this, Louis?

15 LOUIS LANI: Yeah, I can hear it.

16 CHAIRMAN WILLIAMS: Okay.

17 TOM REICHERT: Really?

18 Boy, this phone's quite nice, Art. Thank the -- whoever

19 set up the new teleconference system.

20 CHAIRMAN WILLIAMS: Okay.

21 TOM REICHERT: It's better than what we used to have.

22 LANDER COUNTY COMMISSIONER ART CLARK: Oh, that.

23 CHAIRMAN WILLIAMS: The phone. Yeah.

24 LANDER COUNTY COMMISSIONER ART CLARK: Oh.

25 TOM REICHERT: I was down south for the last meeting, and I

26 could actually hear everything.

27 CHAIRMAN WILLIAMS: Any discussion by anyone in the

28 audience or anybody else?

29 Comments, questions, concerns?

30 Board members? Louis, you okay?

31 LOUIS LANI: Sounds -- sounds all right to me.

32 CHAIRMAN WILLIAMS: Tom?

33 TOM REICHERT: I'm good.

34 CHAIRMAN WILLIAMS: Okay. We would entertain a motion to

35 approve the map for Mr. Garner.

36 TOM REICHERT: Splitting one parcel into four parcels.

37 CHAIRMAN WILLIAMS: Yep.

38 TOM REICHERT: APN 002-270-07. I make said motion.

39 LOUIS LANI: And I'll second it.

40 CHAIRMAN WILLIAMS: All those in favor say aye.

1 TOM REICHERT: Aye.
2 CHAIRMAN WILLIAMS: Aye.
3 LOUIS LANI: Aye.
4 CHAIRMAN WILLIAMS: Okay.
5 BRIAN GARNER: Thank you.
6 CHAIRMAN WILLIAMS: Yeah. All just need my signature and
7 --
8 JAN MORRISON: This will be heard at the 26th at the county
9 commission meeting on Thursday the 26th.
10 BRIAN GARNER: Do you keep this?
11 JAN MORRISON: Yeah. I'll keep it for the county
12 commission meeting. You could take it if you wanted to, in the
13 meanwhile, but --
14 CHAIRMAN WILLIAMS: Is this --
15 BRIAN GARNER: I've made enough --
16 CHAIRMAN WILLIAMS: -- the right one?
17 BRIAN GARNER: -- miles with that map.
18 TOM REICHERT: Running around getting everybody to sign it?
19 BRIAN GARNER: Two trips to Reno and then once to Elko.
20 You have to --
21 JAN MORRISON: Yeah.
22 BRIAN GARNER: -- go all the way to Reno to have it signed.
23 Twice.
24 CHAIRMAN WILLIAMS: For the utilities?
25 BRIAN GARNER: Yes.
26 CHAIRMAN WILLIAMS: Yeah.
27 TOM REICHERT: Yeah.
28 JAN MORRISON: Uh-huh.
29 CHAIRMAN WILLIAMS: They're very service-oriented.
30 BRIAN GARNER: Yeah.
31 Yeah. Thank you.
32 CHAIRMAN WILLIAMS: Thank you.
33 TOM REICHERT: Thank you for coming in.
34 BRIAN GARNER: See you later.
35 CHAIRMAN WILLIAMS: Yeah, that -- they just kind of abandon
36 us folks out here in the brush.
37 TOM REICHERT: Date it or just sign it?
38 CHAIRMAN WILLIAMS: Oh, yeah. I'm supposed to, huh? I
39 guess I better. What is today? Eleven?
40 TOM REICHERT: 5/11/2016. Not to tell you your job.

1 CHAIRMAN WILLIAMS: Oh, God. I haven't signed one in a day
2 or two.

3
4 2) Discussion for possible action regarding approval/disapproval
5 of the following special-use permit request, and other
6 matters properly related thereto:
7

8 Applicant: SBA Communications Corp/Southern Pacific
9 Transportation Co.
10 Location: Argenta Mountain/Beowawe Geyser Road, Nevada
11 APN: 010-530-04.
12 Type: To build, operate, and maintain an existing
13 communications tower and supporting ground
14 equipment on a property zoned A-3.
15

16 CHAIRMAN WILLIAMS: Okay. Agenda Item Number 2.
17 Discussion, possible action regarding approval/disapproval of
18 the following special-use permit request and other matters
19 properly related thereto.

20 These guys aren't here either.

21 SBA Communications Corporation/Southern Pacific
22 Transportation Company. Argenta Mountain/Beowawe, Geyser Road.
23 APN 010-530-04. Build and operate, maintain existing
24 communications tower and supporting ground equipment on property
25 zoned A-3.

26 JAN MORRISON: Okay. So this tower is existing. It's been
27 in existence over 20 years.

28 As the towers are coming forward to have modifications made
29 and a building permit is pulled, we're reviewing it. If they
30 don't have a special permit, we're asking that they do.

31 So this is great. I get the FCC numbers. And we get
32 everything current.

33 The representative from SBA is available by phone. He's in
34 Texas, if you want to call him.

35 But this is nice and routine. They immediately filled out
36 the application and sent the check, so we like that.

37 TOM REICHERT: So this will put it on a par with all the
38 new ones that are applying?

39 JAN MORRISON: That's right.

40 TOM REICHERT: And all the paperwork will be done.

1 JAN MORRISON: That's right. We probably have, out of
2 maybe 20 or 30 of these locations, we've got about half of them
3 permitted.

4 And as they come up, we'll be bringing them forward to be
5 permitted.

6 And again, we've had these discussions before because, in the
7 past, as the special-use permits have been issued in the names --
8 everything from the contractors to the landowners to the managing
9 company. And that's why you see two names on it. And we're
10 tracking them now by parcel numbers and by owners. And it's just
11 nice to get all the records in order for you.

12 TOM REICHERT: There were no comments from Building
13 Department or everything's okay?

14 JAN MORRISON: Nope. They've been great with Building.
15 Again, they've been sending them the plans and the plan check
16 fee. And Anna's happy with them too. So...

17 A lot of it has to do that this is a major company that
18 they make sure that they do everything right. And so we enjoy
19 that.

20 TOM REICHERT: I have no questions.

21 CHAIRMAN WILLIAMS: Louis, you have any questions?

22 LOUIS LANI: No, I don't.

23 CHAIRMAN WILLIAMS: Art?

24 No?

25 No questions?

26 Well, we'd entertain a motion to approve the special-use
27 permit for SBA Communications Corporation/Southern Pacific
28 Transportation Company.

29 LOUIS LANI: So moved.

30 CHAIRMAN WILLIAMS: A- --

31 TOM REICHERT: Seconded.

32 CHAIRMAN WILLIAMS: Okay. Excuse me. I better throw the
33 APN in, huh? APN 010-530-04.

34 I have a second?

35 TOM REICHERT: Seconded.

36 CHAIRMAN WILLIAMS: All those in favor?

37 TOM REICHERT: Aye.

38 CHAIRMAN WILLIAMS: Aye.

39 LOUIS LANI: Aye.

40 CHAIRMAN WILLIAMS: Okay.

1 3) Correspondence, board and/or staff issues for potential
2 upcoming agenda items.
3

4 CHAIRMAN WILLIAMS: That being what it is, do we have any
5 correspondence from board members we'd like to speak about?
6 Staff?

7 JAN MORRISON: Nothing else.

8 CHAIRMAN WILLIAMS: Upcoming agendas?
9

10
11 PUBLIC COMMENT
12

13 CHAIRMAN WILLIAMS: Okay. At this point in the meeting,
14 we'd open it up one last time for public comment. Anything
15 anybody'd like to say as long as it's not agendized today, here,
16 now?
17

18
19 ADJOURNMENT
20

21 CHAIRMAN WILLIAMS: Okay. We'd entertain a motion for
22 adjournment.

23 TOM REICHERT: So moved.

24 LOUIS LANI: Second.

25 CHAIRMAN WILLIAMS: All in favor?

26 LOUIS LANI: Aye.

27 CHAIRMAN WILLIAMS: Aye.

28 Thank you, Louis.

29 LOUIS LANI: No problem.

30 CHAIRMAN WILLIAMS: Take care.

31 LOUIS LANI: Same to you guys. Thank you.
32

33 
34 _____
35 JOHN WILLIAMS, CHAIRMAN
36

37
38 ATTEST: 

39 JAN MORRISON,
40 COMMUNITY SERVICES OFFICER

1 STATE OF UTAH)
2) ss.
3 COUNTY OF DAVIS)
4
5
6

7 I, TIFFANY ELKINGTON, A CERTIFIED COURT REPORTER, DO HEREBY
8
9 CERTIFY I TRANSCRIBED THE FOREGOING PROCEEDINGS FROM A "FOR THE
10
11 RECORD" DIGITAL AUDIO RECORDING OF A MEETING WHICH TOOK PLACE
12
13 THE 11TH DAY OF MAY 2016, AND SAID RECORDING AND INFORMATION
14
15 PERTAINING TO PARTICIPANT NAMES WAS PROVIDED TO ME BY THE COMMUNITY
16
17 SERVICES OFFICER, JAN MORRISON; THAT THE SAME IS FULL, TRUE, AND AS
18
19 CORRECT AS THE AUDIO RECORDING ALLOWED.
20

21
22 DATED AT _____
23 THIS _____ DAY OF _____
24

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26 _____
27 TIFFANY ELKINGTON, CCR #930
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BRIAN GARNER: [35] CHAIRMAN WILLIAMS: [123] COMMISSIONER CLARK: [1] 4/40 DEONILLA FULLER: [3] 1/30 1/32 1/34 JAN MORRISON: [40] LANDER COUNTY COMMISSIONER ART CLARK: [3] 5/4 12/21 12/23 LOUIS LANI: [23] TOM REICHERT: [68]	action [4] 3/30 3/39 14/4 14/17 added [1] 3/8 addition [1] 11/37 additional [1] 11/24 adjoining [2] 9/13 10/14 Administration [1] 1/3 afternoon [1] 5/28 agenda [5] 2/4 2/7 3/39 14/16 16/2 agendas [1] 16/8 agendize [1] 7/26 agendized [2] 3/25 16/15 ago [1] 5/13 agree [1] 7/1 agreement [1] 5/9 Allegiance [2] 1/23 1/25 ALLOWED [1] 17/19 along [3] 5/33 9/11 10/32 and/or [1] 16/1 Anna's [1] 15/16 answer [2] 6/12 6/15 anticipated [1] 4/31 anybody'd [1] 16/15 APN [7] 3/35 4/1 12/38 14/11 14/23 15/33 15/33 applicant [3] 3/33 6/14 14/8 application [1] 14/36 applying [1] 14/38 appraisal [1] 4/35 appreciate [1] 8/32 approval [8] 2/4 2/16 2/18 3/30 3/40 9/38 14/4 14/17 approval/disapproval [4] 3/30 3/40 14/4 14/17 approvals [1] 9/1 approve [6] 2/6 2/20 4/20 8/13 12/35 15/26 approved [1] 8/14 approving [1] 6/4 April [1] 2/18 April 13th [1] 2/18 area [2] 8/40 11/36 areas [1] 11/35 aren't [1] 14/20 Argenta [2] 14/10 14/22 arise [1] 6/17 ART [4] 1/12 4/30 12/18 15/23 assessor [1] 4/8 assume [1] 7/16 audience [1] 12/28 AUDIO [2] 17/11 17/19 available [2] 7/36 14/33 away [1] 7/34 awful [1] 7/21 aye [15] 2/11 2/12 2/13 2/29 2/30 2/31 12/40 13/1 13/2 13/3 15/37 15/38 15/39 16/26 16/27
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A-3 [2] 14/14 14/25 abandon [1] 13/35 ABSENT [3] 1/14 1/35 1/36 access [1] 11/40 Accompanied [1] 9/16 accurate [2] 2/23 6/18 acquire [1] 5/4 acreage [1] 12/3	Bases [1] 10/10 Battle [2] 1/3 3/34 bearing [3] 10/10 10/10 10/11 behind [1] 11/13 believe [2] 4/12 6/19 Beowawe [2] 14/10 14/22 bet [1] 11/33 better [3] 12/21 13/39 15/32 bit [1] 12/10 Black [1] 9/6 blank [1] 9/10 board [9] 2/36 4/19 5/18 5/23 6/12 8/15 12/30 16/1 16/5 Bob [1] 3/10

<p>B</p> <p>Boy [1] 12/18 Brian [4] 3/33 3/40 8/23 8/24 brief [1] 3/24 bring [1] 3/12 bringing [1] 15/4 brush [1] 13/36 build [2] 14/12 14/23 building [4] 1/3 14/29 15/12 15/14 business [1] 5/37</p>	<p>D</p> <p>DA [1] 3/12 data [2] 9/31 11/34 Date [2] 10/21 13/37 DATED [1] 17/22 DAVIS [1] 17/3 deal [1] 8/1 dedications [1] 10/30 deed [3] 9/16 9/16 9/30 demonstrating [1] 9/17 Department [1] 15/13 describing [1] 9/30 description [2] 10/13 12/11 development [4] 4/5 5/20 5/21 5/26 differently [1] 7/11 DIGITAL [1] 17/11 dimension [1] 9/12 director [3] 1/16 4/33 7/3 disapproval [4] 3/30 3/40 14/4 14/17 discussion [5] 3/30 3/39 12/27 14/4 14/17 discussions [1] 15/6 dividing [1] 9/14 division [2] 9/18 10/1 don't kn [1] 7/16 doubt [1] 6/16 doubt if [1] 6/16 drawn [2] 9/6 9/9</p>
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STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Kimberlie Buffington, Former Member,
Lander County Planning Commission,
State of Nevada,

Request for Opinion No. **16-59C**

Subject. /

AMENDED NOTICE OF HEARING

(Amendment corrects the County name in the caption of this Notice)

PLEASE TAKE NOTICE, the Nevada Commission on Ethics ("Commission") will consider a **Proposed Stipulated Agreement** regarding the allegations submitted in Third-Party Request for Opinion No. 16-59C at the following time and location:

The Hearing Will Take Place:

Wednesday, February 15, 2017 at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

Pursuant to NRS 281A.440, Subject has waived the provisions of an investigatory panel proceeding and/or determination and the requirement for the Commission to maintain the confidentiality of this proceeding.

If the Proposed Stipulated Agreement is approved, it will serve as the final Opinion in this matter. If the Proposed Stipulated Agreement is not approved, the Commission will issue a Notice of Hearing setting the date, time and location for a hearing to consider the matter.

DATED: February 8, 2017

/s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **NOTICE OF HEARING** in Request for Opinion No. **16-59C**, via Email, addressed to the parties and interested persons as follows:

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Battle Mountain, NV 89820

Email: gcampbell@landerso.org

DATED: February 8, 2017



Employee, Nevada Commission on Ethics

AGENDA ITEM NO. 5

AGENDA ITEM NO. 5



**STATE OF NEVADA
COMMISSION ON ETHICS**

MEMORANDUM

DATE: February 8, 2017
TO: Commissioners
FROM: Judy Prutzman, Commission Associate Counsel
SUBJECT: Third-Party RFO No. 16-83C (Hendrix) – DRAFT STIPULATED
AGREEMENT

This Draft Stipulated Agreement has been prepared for the Commission's consideration during its February 15, 2017 meeting. The terms of the Agreement will not be final until approved by the Commission and signed by all parties.



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Clay Hendrix, Member, Churchill County
School District Board of Trustees,
State of Nevada,

Request for Opinion No. **16-83C**

Subject. /

DRAFT
STIPULATED AGREEMENT

1. **PURPOSE**: This Stipulated Agreement resolves Third-Party Request for Opinion (“RFO”) No. 16-83C before the Nevada Commission on Ethics (“Commission”) concerning Clay Hendrix (“Hendrix”), Member of the Board of Trustees (“Board”) of the Churchill County School District (“CCSD”), State of Nevada, and serves as the final opinion in this matter.

2. **JURISDICTION**: At all material times, Hendrix served as a member of the CCSD Board. As such, Hendrix is a public officer, as defined in NRS 281A.160. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Hendrix in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION:**

a. On or about December 1, 2016, the Commission received RFO No. 16-83C from a member of the public (“Requester”), alleging that Hendrix:

- 1) Failed in his commitment to avoid conflicts between his personal interests and his public duties (NRS 281A.020(1)) and
- 2) Failed to disclose a conflict of interest for which disclosure is required (NRS 281A.420(1)).

- b. On or about December 13, 2016, Staff of the Commission issued a Notice to Subject under NRS 281A.440(2), stating that the Commission accepted jurisdiction to investigate the allegations regarding violations of NRS 281A.020(1) and NRS 281A.420(1). Hendrix was provided an opportunity to respond to the RFO.
- c. On or about January 18, 2017, Hendrix, through legal counsel, filed his response to the RFO.
- d. Hendrix executed a Panel Waiver and Waiver of Confidentiality to permit the Commission to consider this Stipulated Agreement.
- e. In lieu of a panel determination and a hearing, Hendrix and the Commission now enter into this Stipulated Agreement, pursuant to NAC 281A.275, finding no violation of NRS 281A.020(1) or NRS 281A.420(1).
- f. This Stipulated Agreement provides an opportunity for the Commission to promote and clarify the goals of the Ethics Law and to educate all public officers similarly situated to Hendrix.

4. **STIPULATED FACTS**: At all material times, the following events were relevant to this matter: ¹

- a. Clay Hendrix was elected as a Member of the CCSD Board in November, 2010. He is a public officer as defined in NRS 281A.160.
- b. CCSD is a political subdivision as defined in NRS 281A.145.
- c. Hendrix has two sons who attended Churchill County High School during school year 2014-15.
- d. Sharla Hales, Esq., is a lawyer licensed in the State of Nevada and serves as legal counsel for the CCSD Board and, in such capacity, represents Hyde in these RFO proceedings.
- e. The Jump Start College program is a dual-enrollment opportunity for students in selected Nevada high schools, including Churchill County High School. Jump Start participants enroll in college courses through Western Nevada

¹ Stipulated Facts do not constitute part of the "Investigative File" as that term is defined by NRS 281A.440(17). All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Stipulated Agreement.

College and earn an Associates Degree while simultaneously earning high school credits.

- f. At the February 5, 2015 CCSD Board meeting, Agenda Item B, under New Business, related to the Jump Start College program and was noted on the agenda as follows:

B. For Discussion and Possible Action: Regarding the Jump Start Tuition Costs (BMAR-16)

- g. Hendrix did not disclose that his sons attended Churchill County High School because he knew that they were not interested in the Jump Start College program.
- h. Hendrix voted with other Board members to unanimously approve a motion to cover the cost of the Jump Start tuition in the amount of \$1,402.50 per student, the one-time application fee, lab fees, and the cost of books. The Board also voted to have the District purchase a set of books for Jump Start students to use and return at the end of the semester.
- i. In fact, Hendrix's sons did not participate in the Jump Start College program and have since left Churchill County High School.

5. **TERMS / CONCLUSIONS OF LAW:** Based on the foregoing, Hendrix and the Commission agree as follows:

- a. Each of the stipulated facts enumerated in Section 4 of this Stipulated Agreement is agreed to by the parties.
- b. Hendrix holds public office which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the citizens of Churchill County).
- c. Hendrix had a commitment in a private capacity to the interests of his children. See NRS 281A.065(3).
- d. Public officers have a duty to avoid conflicts of interest. See NRS 281A.020. As a public officer, the conflicts of interest provisions of the Ethics Law apply to Hendrix's conduct. Specifically, Hendrix must commit to avoid actual and perceived conflicts of interest, including publicly disclosing sufficient information concerning any private relationships and significant pecuniary

- interests which would reasonably affect his decision on matters before the CCSD Board, as provided in NRS 281A.420(1). As a public officer, Hendrix is also required to abstain from voting or otherwise acting on matters in which such relationships would clearly and materially affect the independence of judgment of a reasonable person in his position. NRS 281A.420(3).
- e. Hendrix understands that he must disclose his relationship with and the interests of his school-aged children whenever any matter that directly involves his children comes before the Board. However, he was not required to disclose those relationships before voting on the Jump Start College program at the February 5, 2015 Board meeting. There is no evidence that Hendrix's children were interested in or intended to participate in the program, or that Hendrix and/or his children would receive any individual benefit from the Board's decision to cover costs for the Jump Start College program. Accordingly, Hendrix's action on the matter would not reasonably be affected by his commitments to the interests of his children.
 - f. Based on the lack of evidence requiring disclosure, Hendrix had no obligation to abstain from voting on the Jump Start College program pursuant to NRS 281A.420(3).
 - g. In appreciation of the public's concerns regarding the disclosure and abstention responsibilities of public officers in the context of the CCSD matters, Hendrix and the Commission agree to promote the Commission's outreach efforts by sponsoring an Ethics in Government Law training conducted by the Executive Director of the Commission to encourage continued compliance with the Ethics Law.
 - h. This Stipulated Agreement depends on and applies only to the specific facts, circumstances and law related to this RFO now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.
 - q. This agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any

admission of liability for any other proceeding, including administrative, civil, or criminal regarding Hendrix.

6. WAIVER:

- a. Hendrix has waived his right to an Investigatory Panel proceeding and, upon approval of this Stipulation by the Commission, Hendrix knowingly and voluntarily waives his right to any related hearing before the full Commission on the allegations in this RFO (No. 16-83C) and of any and all rights he may be accorded with regard to this matter pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.
- b. Hendrix also knowingly and voluntarily waives his right to any judicial review of this matter, as provided in NRS 281A, NRS 233B, any extraordinary writs as provided in NRS Chapter 32, or any other applicable provisions of law.

7. ACCEPTANCE: We, the undersigned parties, have read this Stipulated Agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on February 15, 2017.

DATED this ____ day of _____, 2017. DRAFT
Clay Hendrix

The above Stipulated Agreement is approved by:

FOR CLAY HENDRIX, Subject

DATED this ____ day of _____, 2017. DRAFT
Sharla S. Hales, Esq.

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.
Executive Director, Commission on Ethics

DATED this ____ day of _____, 2017. DRAFT
Judy A. Prutzman, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this ____ day of _____, 2017. DRAFT
Tracy L. Chase, Esq.
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.²

DATED February 15, 2017.

By: DRAFT
Cheryl A. Lau, Esq.
Chair

By: DRAFT
Phillip K. O'Neill
Commissioner

By: DRAFT
Keith A. Weaver, Esq.
Vice-Chair

By: DRAFT
Lynn Stewart
Commissioner

By: DRAFT
Brian Duffrin
Commissioner

By: DRAFT
Amanda Yen, Esq.
Commissioner

By: DRAFT
Barbara Gruenewald, Esq.
Commissioner

² Hendrix waived his right to an Investigatory Panel pursuant to NRS 281A.440. Accordingly, this Stipulated Agreement was executed prior to a Panel hearing in this matter and no Commissioner was precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220.

**NEVADA ETHICS
OPINION REQUEST**

14-83

**NEVADA COMMISSION ON ETHICS
THIRD-PARTY REQUEST FOR OPINION
NRS 281A.440(2)**

RECEIVED
DEC 01 2016

COMMISSION ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

NAME: <small>(Last, First)</small>	Hendrix, Clay		TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>	Trustee
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>	Churchill County School District School Board			
ADDRESS: <small>(Street number and name)</small>	690 So Maine St	CITY, STATE, ZIP CODE	Fallon, NV 89406	
TELEPHONE:	<small>Work:</small> 775-423-5854	<small>Other: (Home, cell)</small> 775-423-8737	E-MAIL:	hendrixc@churchillesd.com

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here if additional pages are attached.

During Churchill County School District Board meeting held Feb 5, 2015, Clay Hendrix Board Trustee approved the school district cover costs for students to participate in the Jump Start program. He did not disclose he has two sons that could participate in the program so he would benefit from the action.

In addition during the May 14, 2015 meeting Mr Hendrix did disclose his sons might attend the charter school in the ~~2015-2017~~ 2015-2016 school year in an action regarding participation of charter school students in CCSD activities and classes but voted on the action without abstaining.

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here if additional pages are attached.

NAME and TITLE: (Person #1)			
ADDRESS:		CITY, STATE, ZIP	
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:			
NAME and TITLE: (Person #2)			
ADDRESS:		CITY, STATE, ZIP	
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:			

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 3.

7. REQUESTER'S INFORMATION:

YOUR NAME:	Elena Marsh		
YOUR ADDRESS:	1030 Dean Lane	CITY, STATE, ZIP:	Fallon, NV 89406
YOUR TELEPHONE:	Day: 722-6721 775- 547-5471	Evening: 775-722-6721	E-MAIL: sawa35@hotmail.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Elena S Marsh
Signature:

~~11-29-16~~ 11-29-16
Date:

Elena S Marsh
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

**Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703**



Forms submitted by facsimile will not be considered as properly filed with the Commission.
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

Trustee Schank requested Item "A" pulled. Trustee Gent made a motion, seconded by Trustee Hyde, **to approve Consent Agenda Items B-F**. There were no public comments. The motion passed unanimously.

Trustee Schank requested clarification from Ms. Dowd regarding the Account Technician position. Ms. Dowd stated that the new hire replaced DeAnna Tomb who resigned in January before Joan Hiibel was approved for early buyout.

Trustee Schank made a motion, seconded by Trustee Gent, **to approve the Recommended Personnel Action Item A**. There were no public comments. The motion passed unanimously.

REPORTS BY BOARD MEMBERS

Trustee Schank reported on her attendance at the Teachers Appreciation Dinner. President Evans reported on his attendance at the Fashion Show for Grad Night, the FFA Banquet and the Teachers Appreciation Dinner. President Evans also reported that he plans to attend the ROTC awards/Change of Officers event on Friday. Trustee Whitaker also attended the FFA Banquet.

POLICIES

A. For Discussion and Possible Action: THIRD READING: Proposed changes to Policy 5601 – Participation of Charter/Private/Home School Students in Churchill County School District Classes and Activities.

1. For Review Only: Regulation 5601 – Participation of Charter/Private Home School Students in Churchill County School District Classes and Activities.

Dr. Sheldon stated that the revised policy and regulation, updated by Ms. Hales, was changed to include language regarding fees for participation of non-Churchill County students.

Trustee Whitaker stated that NRS 281A.420 requires that she disclose a potential conflict. This agenda item involves charter school students and sports. Trustee Whitaker has a daughter attending the 7th grade at the charter school and a child attending Churchill County High School. Trustee Whitaker's daughter does not intend to participate in extracurricular activities offered by the district; therefore, she concludes there is no conflict.

Trustee Hendrix stated that NRS 281A.420 requires him to disclose a potential conflict. He has students attending Churchill County High School, but they may also decide to attend the charter school next year.

Trustee Hyde stated that NRS 281A.420 requires that he disclose a potential conflict of interest. This agenda item involves charter school students and sports. Trustee Hyde has a 2nd grade student attending the charter school, but sports are not offered in the 2nd grade. Trustee Hyde's older children attend Churchill County School District schools and do not intend to change schools; therefore, he concludes that there is no conflict.

Trustee Koenig made a motion, seconded by Trustee Schank, **to approve policy 5601 – Participation of Charter/Private/Home School Students in Churchill County School District Classes and Activities.**

CONSENT AGENDA

- A. Approval of Recommended Personnel Action (Attachment A).
- B. Approval of Vouchers.
- C. Approval of January, 2015, Payroll.
- D. Approval of January 8, 2015, Regular Board Meeting Minutes.
- E. Approval of January 22, 2015, Regular Board Meeting Minutes.
- F. Approval of January 29, 2015, Special Board Meeting Minutes.
- G. Approval of Leave of Absence Report by Shelly Hubbard pursuant to paragraph 14-3 of the Churchill County School District and the Nevada Classified School Employees Association Negotiated Agreement.

Trustee Hendrix made a motion, seconded by Trustee Schank, *to approve Items A-G.* The motion passed unanimously.

REPORTS BY BOARD MEMBERS

Trustee Schank reported on her attendance at the Nevada Association of School Boards training and stated that one of the emphases was a focus on literacy and the idea was brought up to read forty books. Dr. Sheldon updated the Board on the Read Across Nevada program currently at all three of our elementary schools. Students get a ticket for each book they read each week and a ticket is drawn at the end of the week - the winning student gets a book. At the end of the program the school with the highest percentage of books read based on population of the school will get a special assembly and every student in the school will receive a book.

NEW BUSINESS

- A. **For Discussion and Possible Action:** Approval of recommendation by the Calendar Committee for the 2015-2016 School Year Calendar.

Ms. Kerri Angel, Calendar Committee Chair, provided information to the Board regarding the proposed calendar and thanked members of the calendar committee. She commented that the committee would like to form a two year calendar and that they have several four day calendars ready to go, if needed.

Trustee Schank made a motion, seconded by Trustee Gent, *to approve the recommendation of the calendar committee for the 2015-16 school year.* Trustee Hendrix commented that the start date is too early. Ms. Angel stated that the purpose for the early start is to complete semester one prior to winter break. The motion passed 6:1, with Trustee Hendrix opposed.

- B. **For Discussion and Possible Action:** Regarding the Jump Start Tuition Costs.

Dr. Sheldon stated that the District has contacted Western Nevada Community College regarding the cost of registration; \$93.50 per credit. This year students took 12 credits, but the program has evolved. There is a one-time application fee and lab fees.

Mr. Lords provided an update regarding the first year of the Jump Start program. In order to graduate with an AA Degree, the students need to take 15 credits each semester, which

is an additional cost. The Board discussed the impact on the AP classes, discussed the program, and asked additional questions.

Dr. Sheldon stated that the District has started the conversation with WNC to allow WNC to buy teacher's prep periods and allow college classes to be taught at the high school. Nothing has been solidified for next year as yet.

Ms. Barb Hickox asked what happens to students who go into the program and do not complete the classes. Do they have to pay money back? Principal Lords stated that students have to be part of the cohort to get the district's help. If they drop a class, then they are no longer part of the cohort, and they are considered dually enrolled and they cover the costs of the classes. But, if the student fails, the high school is not asking for the money back. Principal Lords would like to see the program on campus, as much as possible.

Trustee Koenig made a motion, seconded by Trustee Schank, ***to cover the cost of the credits (tuition) \$1402.50, one-time application fee, lab fees, and to pay for books.***

President Evans reported that he and Trustee Koenig met with Oasis Academy representatives regarding using District's facilities for extracurricular activities. This will be a decision that will likely come before the Board the end of March. President Evans stated that Oasis Academy is interested in sports and clubs.

Principal Lords stated that he would recommend that the District purchase one set of books for each class and then have the students check them out.

Elena Marsh, high school Pre-Calculus and Algebra I teacher, commented that the Jump Start Program and the AP classes attract different populations of students.

The motion passed unanimously.

Trustee Koenig made a motion, seconded by Trustee Schank, ***that the district purchase a library for students to use and return books at the end the semester.*** The motion passed unanimously.

C. For Discussion and Possible Action: To approve current period budget adjustments per NRS 354.598005.

Ms. Phyllis Dowd stated that while she endeavors to handle changes to the fiscal budget periodically as they happen during the fiscal year instead of waiting until the end of year adjustment, she became ill and did not get this accomplished. An example of a budget adjustment would be the transportation department that recently learned that their server was failing. Mr. Russell is paying less on diesel fuel and has a savings in his fuel budget. When purchasing a piece of equipment he cannot transfer out of the 600 fuel budget to the 700 equipment purchase budget without Board approval. Eventually, Ms. Dowd would like to move this type of approval to the consent agenda. Ms. Dowd will bring this item back.

D. For Discussion and Possible Action: Presentation regarding 4811 Early Retirement Incentive program and review and possible approval of applications for early retirement.

Ms. Dowd explained the Early Retirement Incentive Program handout included in BoardBook. Karen Goings contacted Ms. Dowd and stated that she would pay for 8/10ths of a year, instead of what was in BoardBook. Joan Hiibel has more years of service with the school district as she had a break in service (probably 28 or 29 years), so Ms. Dowd will



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Clay Hendrix, Member, Churchill County
School District Board of Trustees, State
of Nevada,

Request for Opinion No. **16-83C**

Subject. /

AMENDED NOTICE OF HEARING

(Amendment establishes Meeting Location will be in Carson City only)

PLEASE TAKE NOTICE, the Nevada Commission on Ethics ("Commission") will consider a **Proposed Stipulated Agreement** regarding the allegations submitted in Third-Party Request for Opinion No. 16-83C at the following time and location:

The Hearing Will Take Place:

Wednesday, February 15, 2017 at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

Pursuant to NRS 281A.440, Subject has waived the provisions of an investigatory panel proceeding and/or determination and the requirement for the Commission to maintain the confidentiality of this proceeding.

If the Proposed Stipulated Agreement is approved, it will serve as the final Opinion in this matter. If the Proposed Stipulated Agreement is not approved, the Commission will issue a Notice of Hearing setting the date, time and location for a hearing to consider the matter.

DATED: February 7, 2017

/s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **AMENDED NOTICE OF HEARING** in Request for Opinion No. 16-83C, via Email, addressed to the parties and interested persons as follows:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Judy A. Prutzman, Esq.
Associate Counsel
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

Email: ynevarez@ethics.nv.gov

Email: jprutzman@ethics.nv.gov

Sharla S. Hales, Esq.
883 Mahogany Drive
Minden, NV 89423

Email: sharlahailes@gmail.com

Attorney for Subject

Elena Marsh
1030 Dean Lane
Fallon, NV 89406

Email: sawa35@hotmail.com

DATED: February 7, 2017



Employee, Nevada Commission on Ethics

AGENDA ITEM NO. 6

AGENDA ITEM NO. 6



**STATE OF NEVADA
COMMISSION ON ETHICS**

MEMORANDUM

DATE: February 8, 2017
TO: Commissioners
FROM: Judy Prutzman, Commission Associate Counsel
SUBJECT: Third-Party RFO No. 16-84C (Hyde) – DRAFT STIPULATED
AGREEMENT

This Draft Stipulated Agreement has been prepared for the Commission's consideration during its February 15, 2017 meeting. The terms of the Agreement will not be final until approved by the Commission and signed by all parties.



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Matt Hyde, Member, Churchill County
School District Board of Trustees,
State of Nevada,

Request for Opinion No. **16-84C**

Subject. /

DRAFT
STIPULATED AGREEMENT

1. **PURPOSE**: This Stipulated Agreement resolves Third-Party Request for Opinion (“RFO”) No. 16-84C before the Nevada Commission on Ethics (“Commission”) concerning Matt Hyde (“Hyde”), a Member of the Board of Trustees (“Board”) for the Churchill County School District (“CCSD”), State of Nevada, and serves as the final opinion in this matter.

2. **JURISDICTION**: At all material times, Hyde served as a member of the CCSD Board. As such, Hyde is a public officer, as defined in NRS 281A.160. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Hyde in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION:**

a. On or about December 1, 2016, the Commission received RFO No. 16-84C from a member of the public (“Requester”), alleging that Hyde:

- 1) Failed in his commitment to avoid conflicts between his personal interests and his public duties (NRS 281A.020(1));
- 2) Failed to disclose a conflict of interest for which disclosure is required (NRS 281A.420(1)); and

- 3) Failed to abstain from acting on a matter in which he had a conflict of interest (NRS 281A.420(3)).
- b. On or about December 13, 2016, staff of the Commission issued a Notice to Subject under NRS 281A.440(2) stating that the Commission accepted jurisdiction to investigate the allegations regarding violations of NRS 281A.020(1) and NRS 281A.420(1) and (3). Hyde was provided an opportunity to respond to the RFO.
- c. On or about January 18, 2017, Hyde, through legal counsel, provided a written Response to the RFO.
- d. Hyde executed a Panel Waiver and Waiver of Confidentiality to permit the Commission to consider this Stipulated Agreement.
- e. In lieu of a panel determination and a hearing, Hyde and the Commission now enter into this Stipulated Agreement, pursuant to NAC 281A.275, finding no violation of NRS 281A.020(1) or NRS 281A.420(1) and (3).
- f. This RFO presented a case of first impression for the Commission with respect to a public officer voting on a consent agenda item that approves his appointment to a volunteer coaching position that does not involve anything of economic value. This Stipulated Agreement provides an opportunity for the Commission to promote and clarify the goals of the Ethics Law and to educate all public officers similarly situated to Hyde.

4. **STIPULATED FACTS**: At all material times, the following facts were relevant to this matter:¹

- a. Matt Hyde was elected as a Member of the CCSD Board in November, 2015. He is a public officer as defined in NRS 281A.160.
- b. CCSD is a political subdivision as defined in NRS 281A.145.
- c. Hyde has two sons who attended Churchill County High School as sophomores during school year 2014-15.

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¹ Stipulated Facts do not constitute part of the "Investigative File" as that term is defined by NRS 281A.440(17). All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Stipulated Agreement.

- d. Sharla Hales, Esq., is a lawyer licensed in the State of Nevada and serves as legal counsel for the CCSD Board and, in such capacity, represents Hyde in these RFO proceedings.
- e. The Jump Start College program is a dual-enrollment opportunity for students in selected Nevada high schools, including Churchill County High School. Jump Start participants enroll in college courses through Western Nevada College and earn an Associates Degree while simultaneously earning high school credits.
- f. The CCSD Board approves certain recommended personnel actions in the District and such actions are regularly listed in Board materials and included on consent agendas which contain items that the District staff believe to be routine and without any reasonable basis for the Board to vote against the items.

Jump Start College Program

- g. At the February 5, 2015 CCSD Board meeting, Agenda Item B, under New Business, related to the Jump Start College program and was noted on the agenda as follows:
 - B. For Discussion and Possible Action: Regarding the Jump Start Tuition Costs (BMAR-16)
- h. Hyde did not disclose that his sons attended Churchill County High School because, although they were academically qualified to participate, he knew that they were not interested in the Jump Start College program.
- i. Hyde voted with other Board members to unanimously approve a motion to cover the cost of the Jump Start tuition in the amount of \$1,402.50 per student, the one-time application fee, lab fees, and the cost of books. The Board also voted to have the District purchase a set of books for Jump Start students to use and return at the end of the semester.
- j. In fact, Hyde's sons did not participate in the Jump Start College program.

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Volunteer JV Football Coaching Position

- k. At the August 13, 2015 CCSD Board Meeting, there were five items placed on the Consent Agenda. Consent Agenda Item A related to a recommended personnel action that involved Hyde and was noted on the agenda as follows:
 - A. Approval of Recommended Personnel Action (Attachment A)
- l. The Board Agenda included Attachment A, which indicated that Hyde was recommended to fill the position of Assistant JV Football Coach, a part-time non-paid position.
- m. Hyde was the only applicant interested in and considered for the JV coaching position. Hyde's sons played football on the varsity team and therefore would not interact with the JV Football Coach.
- n. The minutes reflect the following:
 - Trustee Hyde stated that his name is listed under Item 6, Extra Curricular Activities Assistant JV Football Coach, which is a non-paid strictly volunteer position.
- o. Hyde voted with the Board to unanimously approve the Consent Agenda.
- p. At the August 13, 2015 meeting, Hyde conferred with Sharla Hales, Esq., and was advised that he did not need to abstain from voting on his coaching position because there was no pay or benefits attached to the volunteer position.
- q. The volunteer coaching position did not provide remuneration for Hyde's services and Hyde had no expectation of receiving anything of value for his coaching assistance.
- r. Hyde did not travel with the JV football team and received no per diem reimbursements or meals. Hyde received a polo shirt and a sweatshirt from the head coach, who received these items free from a company with which the coach did business for the team.
- s. At the end of the football season, the high school boosters club gave \$500 to Hyde as a gift for his volunteer services. This gift was unexpected by Hyde and funds for this gift were acquired from private donations and did not include any public funds from the District.

5. **TERMS / CONCLUSIONS OF LAW:** Based on the foregoing, Hyde and the Commission agree as follows:

- a. Each of the stipulated facts enumerated in Section 4 of this Stipulated Agreement is agreed to by the parties.
- b. Hyde holds public office which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the citizens of Churchill County).
- c. Hyde has a commitment in a private capacity to the interests of his children. See NRS 281A.065(3).
- d. Public officers have a duty to avoid conflicts of interest. See NRS 281A.020. As a public officer, the conflicts of interest provisions of the Ethics Law apply to Hyde's conduct. Specifically, Hyde must commit to avoid actual and perceived conflicts of interest, including publicly disclosing sufficient information concerning any private relationships and significant pecuniary interests which would reasonably affect his decision on matters before the CCSD Board, as provided in NRS 281A.420(1). As a public officer, Hyde is also required to abstain from voting or otherwise acting on matters in which such relationships would clearly and materially affect the independence of judgment of a reasonable person in his position. NRS 281A.420(3).
- e. The disclosure and abstention requirements of NRS 281A.420 extend to consent agenda items. See *In re Tobler and Mayes*, Comm'n Op. Nos. 11-76C and 11-77C (2012). Each matter on a consent agenda requires action for final approval. Without a formal vote of the Board, the consent item is not approved and any staff action does not become effective. Accordingly, when considering items on a consent agenda, public officers are required to properly disclose any significant pecuniary interests or commitments in a private capacity to the interests of others and undertake the statutorily directed abstention analysis on the record to determine whether abstention is appropriate.

Jump Start College Program

- f. Hyde understands that he must disclose his relationship with and the interests of his school-aged children whenever any matter that directly involves his

children comes before the Board. However, he was not required to disclose those relationships before voting on the Jump Start College program at the February 5, 2015 Board meeting. There is no evidence that Hyde's children were interested in or intended to participate in the program, or that Hyde and/or his children would receive any individual benefit from the Board's decision to cover costs for the Jump Start College program. Accordingly, Hyde's action on the matter would not reasonably be affected by his commitments to the interests of his children.

- g. Based on the lack of evidence requiring disclosure, Hyde had no obligation to abstain from voting on the Jump Start College program pursuant to NRS 281A.420(3).

Volunteer JV Football Coaching Position

- h. A "pecuniary interest" means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including anything of economic value. NRS 281A.139.
- i. Hyde's volunteer coaching position is not the type of *significant* pecuniary interest that would reasonably affect his decision on the consent agenda item involving personnel matters, because Hyde's interest in the position did not include the expectation of anything of economic value. However, it is the avoidance of conflict and appearance of impropriety, even though actual impropriety is lacking, that the Ethics Law requires. See *In re Collins*, Comm'n Op. No. 11-78A (2011). A public officer's disclosure is important even where the conflict is remote in some aspects. In *In re Weber*, Comm'n Op. No. 09-47A (2009), the Commission held:

In keeping with the public trust, a public officer's disclosure is paramount to transparency and openness in government. The public policy favoring disclosure promotes accountability and scrutiny of the conduct of government officials...Such disclosures dispel any question concerning conflicts of interest and may very well ward off complaints against the public officer based on failure to disclose.

Therefore, Hyde properly sought legal advice from the Board's legal counsel and disclosed the perceived conflict regarding his recommended appointment to the JV Assistant Football Coach position.

- j. Abstention is only required when a reasonable person's independence of judgment is "materially affected by" the public officer's significant pecuniary interest or commitment in a private capacity. See NRS 281A.420 and *In re Woodbury*, Comm'n Op. No. 99-56(1999). The evidence does not indicate that Hyde had a significant pecuniary interest that would be materially affected by a volunteer coaching position in which there was no expectation of economic value associated with the position.
- k. In appreciation of the public's concerns regarding the disclosure and abstention responsibilities of public officers in the context of the CCSD matters, Hyde and the Commission agree to promote the Commission's outreach efforts by sponsoring an Ethics in Government Law training conducted by the Executive Director of the Commission to encourage continued compliance with the Ethics Law.
- l. This Stipulated Agreement depends on and applies only to the specific facts, circumstances and law related to this RFO now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.
- m. This agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding Hyde.

6. WAIVER:

- a. Hyde has waived his right to an Investigatory Panel proceeding and, upon approval of this Stipulation by the Commission, Hyde knowingly and voluntarily waives his right to any related hearing before the full Commission on the allegations in this RFO (No. 16-84C) and of any and all rights he may be accorded with regard to this matter pursuant to NRS Chapter 281A, the

regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.

- b. Hyde also knowingly and voluntarily waives his right to any judicial review of this matter, as provided in NRS Chapter 281A, NRS Chapter 233B, any extraordinary writs as provided in NRS Chapter 34, or any other applicable provisions of law.

7. **ACCEPTANCE**: We, the undersigned parties, have read this Stipulated Agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on February 15, 2017.

DATED this ____ day of _____, 2017. DRAFT
Matt Hyde

The above Stipulated Agreement is approved by:

FOR MATT HYDE, Subject

DATED this ____ day of _____, 2017. DRAFT
Sharla S. Hales, Esq.

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.
Executive Director, Commission on Ethics

DATED this ____ day of _____, 2017. DRAFT
Judy A. Prutzman, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this ____ day of _____, 2017. DRAFT
Tracy L. Chase, Esq.
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.²

DATED February 15, 2017.

By: DRAFT
Cheryl A. Lau, Esq.
Chair

By: DRAFT
Phillip K. O'Neill
Commissioner

By: DRAFT
Keith A. Weaver, Esq.
Vice-Chair

By: DRAFT
Lynn Stewart
Commissioner

By: DRAFT
Brian Duffrin
Commissioner

By: DRAFT
Amanda Yen, Esq.
Commissioner

By: DRAFT
Barbara Gruenewald, Esq.
Commissioner

² Hyde waived her right to an Investigatory Panel pursuant to NRS 281A.440. Accordingly, this Stipulated Agreement was executed prior to a Panel hearing in this matter and no Commissioner was precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220.

**NEVADA ETHICS
OPINION REQUEST**

16-84

**NEVADA COMMISSION ON ETHICS
THIRD-PARTY REQUEST FOR OPINION
NRS 281A.440(2)**

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COMMISSION
ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

NAME: <small>(Last, First)</small>	Hyde, Matt		TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>	Trustee
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>	Churchill County School District School Board			
ADDRESS: <small>(Street number and name)</small>	690 South Main St	CITY, STATE, ZIP CODE	Fallon NV 89406	
TELEPHONE:	Work: 775-423-5184	Other: (Home, cell) 775-423-4909	E-MAIL:	hydem@churchillesd.com

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here if additional pages are attached.

Matt Hyde, Trustee on Churchill County School District's School Board, has on 3 separate occasions refused to abstain from voting on matters that could/might benefit him & his family. The 1st was on Feb 5, 2015 in approving Jump Start tuition costs. At this time he didn't even disclose he has children in the schools that might participate in the program in the future. The second was at the May 14, 2015 meeting. He did disclose he students were in the charter schools or Reaglan CCSD schools but his 2nd grade student was involved in sports so he went ahead & voted. The third was August 13, 2015 meeting where he approved himself as an unpaid assistant coach.

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe:

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here if additional pages are attached.

NAME and TITLE: (Person #1)			
ADDRESS:		CITY, STATE, ZIP	
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:			
NAME and TITLE: (Person #2)			
ADDRESS:		CITY, STATE, ZIP	
TELEPHONE:	Work:	Other: (Home, cell)	E-MAIL:
NATURE OF TESTIMONY:			

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 4.

7. REQUESTER'S INFORMATION:

YOUR NAME:	Elena S Marsh		
YOUR ADDRESS:	1030 Dean Lane	CITY, STATE, ZIP:	Fallon NV 89406
YOUR TELEPHONE:	Day: 775-722-6721	Evening: 775-722-6721	E-MAIL: sawa35@hotmail.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Elena S Marsh

Signature:

11-29-16

Date:

Elena S Marsh

Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

**Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703**



Forms submitted by facsimile will not be considered as properly filed with the Commission.
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

Trustee Schank requested Item "A" pulled. Trustee Gent made a motion, seconded by Trustee Hyde, **to approve Consent Agenda Items B-F**. There were no public comments. The motion passed unanimously.

Trustee Schank requested clarification from Ms. Dowd regarding the Account Technician position. Ms. Dowd stated that the new hire replaced DeAnna Tomb who resigned in January before Joan Hiibel was approved for early buyout.

Trustee Schank made a motion, seconded by Trustee Gent, **to approve the Recommended Personnel Action Item A**. There were no public comments. The motion passed unanimously.

REPORTS BY BOARD MEMBERS

Trustee Schank reported on her attendance at the Teachers Appreciation Dinner. President Evans reported on his attendance at the Fashion Show for Grad Night, the FFA Banquet and the Teachers Appreciation Dinner. President Evans also reported that he plans to attend the ROTC awards/Change of Officers event on Friday. Trustee Whitaker also attended the FFA Banquet.

POLICIES

A. For Discussion and Possible Action: THIRD READING: Proposed changes to Policy 5601 – Participation of Charter/Private/Home School Students in Churchill County School District Classes and Activities.

1. For Review Only: Regulation 5601 – Participation of Charter/Private Home School Students in Churchill County School District Classes and Activities.

Dr. Sheldon stated that the revised policy and regulation, updated by Ms. Hales, was changed to include language regarding fees for participation of non-Churchill County students.

Trustee Whitaker stated that NRS 281A.420 requires that she disclose a potential conflict. This agenda item involves charter school students and sports. Trustee Whitaker has a daughter attending the 7th grade at the charter school and a child attending Churchill County High School. Trustee Whitaker's daughter does not intend to participate in extracurricular activities offered by the district; therefore, she concludes there is no conflict.

Trustee Hendrix stated that NRS 281A.420 requires him to disclose a potential conflict. He has students attending Churchill County High School, but they may also decide to attend the charter school next year.

Trustee Hyde stated that NRS 281A.420 requires that he disclose a potential conflict of interest. This agenda item involves charter school students and sports. Trustee Hyde has a 2nd grade student attending the charter school, but sports are not offered in the 2nd grade. Trustee Hyde's older children attend Churchill County School District schools and do not intend to change schools; therefore, he concludes that there is no conflict.

Trustee Koenig made a motion, seconded by Trustee Schank, **to approve policy 5601 – Participation of Charter/Private/Home School Students in Churchill County School District Classes and Activities.**

CONSENT AGENDA

- A. Approval of Recommended Personnel Action (Attachment A).
- B. Approval of Vouchers.
- C. Approval of January, 2015, Payroll.
- D. Approval of January 8, 2015, Regular Board Meeting Minutes.
- E. Approval of January 22, 2015, Regular Board Meeting Minutes.
- F. Approval of January 29, 2015, Special Board Meeting Minutes.
- G. Approval of Leave of Absence Report by Shelly Hubbard pursuant to paragraph 14-3 of the Churchill County School District and the Nevada Classified School Employees Association Negotiated Agreement.

Trustee Hendrix made a motion, seconded by Trustee Schank, **to approve Items A-G.** The motion passed unanimously.

REPORTS BY BOARD MEMBERS

Trustee Schank reported on her attendance at the Nevada Association of School Boards training and stated that one of the emphases was a focus on literacy and the idea was brought up to read forty books. Dr. Sheldon updated the Board on the Read Across Nevada program currently at all three of our elementary schools. Students get a ticket for each book they read each week and a ticket is drawn at the end of the week - the winning student gets a book. At the end of the program the school with the highest percentage of books read based on population of the school will get a special assembly and every student in the school will receive a book.

NEW BUSINESS

A. For Discussion and Possible Action: Approval of recommendation by the Calendar Committee for the 2015-2016 School Year Calendar.

Ms. Kerri Angel, Calendar Committee Chair, provided information to the Board regarding the proposed calendar and thanked members of the calendar committee. She commented that the committee would like to form a two year calendar and that they have several four day calendars ready to go, if needed.

Trustee Schank made a motion, seconded by Trustee Gent, **to approve the recommendation of the calendar committee for the 2015-16 school year.** Trustee Hendrix commented that the start date is too early. Ms. Angel stated that the purpose for the early start is to complete semester one prior to winter break. The motion passed 6:1, with Trustee Hendrix opposed.

B. For Discussion and Possible Action: Regarding the Jump Start Tuition Costs.

Dr. Sheldon stated that the District has contacted Western Nevada Community College regarding the cost of registration; \$93.50 per credit. This year students took 12 credits, but the program has evolved. There is a one-time application fee and lab fees.

Mr. Lords provided an update regarding the first year of the Jump Start program. In order to graduate with an AA Degree, the students need to take 15 credits each semester, which

is an additional cost. The Board discussed the impact on the AP classes, discussed the program, and asked additional questions.

Dr. Sheldon stated that the District has started the conversation with WNC to allow WNC to buy teacher's prep periods and allow college classes to be taught at the high school. Nothing has been solidified for next year as yet.

Ms. Barb Hickox asked what happens to students who go into the program and do not complete the classes. Do they have to pay money back? Principal Lords stated that students have to be part of the cohort to get the district's help. If they drop a class, then they are no longer part of the cohort, and they are considered dually enrolled and they cover the costs of the classes. But, if the student fails, the high school is not asking for the money back. Principal Lords would like to see the program on campus, as much as possible.

Trustee Koenig made a motion, seconded by Trustee Schank, ***to cover the cost of the credits (tuition) \$1402.50, one-time application fee, lab fees, and to pay for books.***

President Evans reported that he and Trustee Koenig met with Oasis Academy representatives regarding using District's facilities for extracurricular activities. This will be a decision that will likely come before the Board the end of March. President Evans stated that Oasis Academy is interested in sports and clubs.

Principal Lords stated that he would recommend that the District purchase one set of books for each class and then have the students check them out.

Elena Marsh, high school Pre-Calculus and Algebra I teacher, commented that the Jump Start Program and the AP classes attract different populations of students.

The motion passed unanimously.

Trustee Koenig made a motion, seconded by Trustee Schank, ***that the district purchase a library for students to use and return books at the end the semester.*** The motion passed unanimously.

C. For Discussion and Possible Action: To approve current period budget adjustments per NRS 354.598005.

Ms. Phyllis Dowd stated that while she endeavors to handle changes to the fiscal budget periodically as they happen during the fiscal year instead of waiting until the end of year adjustment, she became ill and did not get this accomplished. An example of a budget adjustment would be the transportation department that recently learned that their server was failing. Mr. Russell is paying less on diesel fuel and has a savings in his fuel budget. When purchasing a piece of equipment he cannot transfer out of the 600 fuel budget to the 700 equipment purchase budget without Board approval. Eventually, Ms. Dowd would like to move this type of approval to the consent agenda. Ms. Dowd will bring this item back.

D. For Discussion and Possible Action: Presentation regarding 4811 Early Retirement Incentive program and review and possible approval of applications for early retirement.

Ms. Dowd explained the Early Retirement Incentive Program handout included in BoardBook. Karen Goings contacted Ms. Dowd and stated that she would pay for 8/10ths of a year, instead of what was in BoardBook. Joan Hiibel has more years of service with the school district as she had a break in service (probably 28 or 29 years), so Ms. Dowd will

The State expects an average quarterly enrollment report from Infinite Campus within 90 days. Power School is not as interested in creating the report, as they are well aware that the State is pushing districts towards Infinite Campus.

Ms. Dowd reported the business office being fully staffed and preparing for the audit. Auditors will be in the office the end of September.

UPCOMING BOARD EVENTS

- A. **August 14, Friday, 8:00/10:00: Welcome Back All Staff Meeting**
- B. **August 17, Monday: First Day of School**

CONSENT AGENDA

- A. **Approval of Recommended Personnel Action (Attachment A)**
- B. **Approval of Vouchers**
- C. **Approval of June, 2015 Payroll**
- D. **Approval of June 26, 2015, Regular Board Meeting Minutes**
- E. **Approval of July 9, 2015, Regular Board Meeting Minutes**

Item C was deleted and Items A and E was pulled.

Trustee Gent made a motion, seconded by Trustee Koenig, **to approve consent agenda action items B and D as provided.** There were no public comments. The motion passed unanimously.

Trustee Schank requested clarification on Item #3 of the Recommended Personnel Action form asking if these resignations were due to the reduction in force. Dr. Sheldon indicated those staff members were reduced-in-force and that some were later offered positions within the District, but chose to resign. Trustee Schank asked in section IV where Instructional Assistants are assigned. Dr. Sheldon explained.

Becky Dodd brought to the Board's attention an oversight as Miguel Orduna was removed from a Recommended Personnel Action form as a soccer coach and never placed back on a form for approval.

Trustee Hyde stated that his name is listed under Item 6, Extra Curricular Activities Assistant JV Football Coach, which is a non-paid strictly volunteer position.

Trustee Hyde requested the July 9, 2015 minutes amended to indicate that he was present at the meeting.

Trustee Gent made a motion, seconded by Trustee Whitaker, **to approve A and E as discussed and provided.** There were no public comments. The motion passed unanimously.

POLICIES

- A. **For Discussion and Possible Action: SECOND READING – Revisions to Policy 3301.0 – Contracting Authority.**



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Matt Hyde, Member, Churchill County
School District Board of Trustees, State
of Nevada,

Request for Opinion No. **16-84C**

Subject. /

AMENDED NOTICE OF HEARING

(Amendment establishes Meeting Location will be in Carson City only)

PLEASE TAKE NOTICE, the Nevada Commission on Ethics ("Commission") will consider a **Proposed Stipulated Agreement** regarding the allegations submitted in Third-Party Request for Opinion No. 16-84C at the following time and location:

The Hearing Will Take Place:

Wednesday, February 15, 2017 at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

Pursuant to NRS 281A.440, Subject has waived the provisions of an investigatory panel proceeding and/or determination and the requirement for the Commission to maintain the confidentiality of this proceeding.

If the Proposed Stipulated Agreement is approved, it will serve as the final Opinion in this matter. If the Proposed Stipulated Agreement is not approved, the Commission will issue a Notice of Hearing setting the date, time and location for a hearing to consider the matter.

DATED: February 7, 2017

/s/ Tracy L. Chase
Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **AMENDED NOTICE OF HEARING** in Request for Opinion No. **16-84C**, via Email, addressed to the parties and interested persons as follows:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Judy A. Prutzman, Esq.
Associate Counsel
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

Email: ynevarez@ethics.nv.gov

Email: jprutzman@ethics.nv.gov

Sharla S. Hales, Esq.
883 Mahogany Drive
Minden, NV 89423

Email: sharlahailes@gmail.com

Attorney for Subject

Elena Marsh
1030 Dean Lane
Fallon, NV 89406

Email: sawa35@hotmail.com

DATED: February 7, 2017



Employee, Nevada Commission on Ethics

AGENDA ITEM NO. 7

AGENDA ITEM NO. 7



**STATE OF NEVADA
COMMISSION ON ETHICS**

MEMORANDUM

DATE: February 8, 2017
TO: Commissioners
FROM: Judy Prutzman, Commission Associate Counsel
SUBJECT: Third-Party RFO No. 16-85C (Strasdin) – DRAFT STIPULATED
AGREEMENT

This Draft Stipulated Agreement has been prepared for the Commission's consideration during its February 15, 2017 meeting. The terms of the Agreement will not be final until approved by the Commission and signed by all parties.



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Tricia Strasdin, Member, Churchill
County School District Board of Trustees,
State of Nevada,

Request for Opinion No. **16-85C**

Subject. /

DRAFT
STIPULATED AGREEMENT

1. **PURPOSE**: This Stipulated Agreement resolves Third-Party Request for Opinion (“RFO”) No. 16-85C before the Nevada Commission on Ethics (“Commission”) concerning Tricia Strasdin (“Strasdin”), a Member of the Board of Trustees (“Board”) for the Churchill County School District (“CCSD”), State of Nevada, and serves as the final opinion in this matter.

2. **JURISDICTION**: At all material times, Strasdin served as a member of the CCSD Board. As such, Strasdin is a public officer, as defined in NRS 281A.160. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Strasdin in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION:**

- a. On or about December 1, 2016, the Commission received RFO No. 16-85C from a member of the public (“Requester”), alleging that Strasdin:
- 1) Failed in her commitment to avoid conflicts between her personal interests and her public duties (NRS 281A.020(1));
 - 2) Failed to disclose a conflict of interest for which disclosure is required (NRS 281A.420(1)); and

**NEVADA ETHICS
OPINION REQUEST**

**NEVADA COMMISSION ON ETHICS
THIRD-PARTY REQUEST FOR OPINION**
NRS 281A.440(2)

RECEIVED

DEC 01 2016

COMMISSION
ON ETHICS

1. Provide the following information for the public officer or employee you allege violated the Nevada Ethics in Government Law, NRS Chapter 281A. (If you allege that more than one public officer or employee has violated the law, use a separate form for each individual.)

NAME: <small>(Last, First)</small>	Strasdin, Tricia		TITLE OF PUBLIC OFFICE: <small>(Position: e.g. city manager)</small>	Trustee
PUBLIC ENTITY: <small>(Name of the entity employing this position: e.g. the City of XYZ)</small>	Churchill County School District School Board			
ADDRESS: <small>(Street number and name)</small>	190 South Maine	CITY, STATE, ZIP CODE	Fallon, NV 89406	
TELEPHONE:	Work: 775-423-5184	Other: (Home, cell) 775-426-8014	E-MAIL:	strasdint@churchillesd.com

2. Describe in specific detail the public officer's or employee's conduct that you allege violated NRS Chapter 281A. (You must include specific facts and circumstances to support your allegation: times, places, and the name and position of each person involved.)

Check here if additional pages are attached.

August 11, 2016 Ms Strasdin voted in approval without disclosure to hire her partner Michelle Dalager as 5th grade girls basketball coach for the 2016-2017 school year.

In addition in the Oct 27, 2016 meeting (CCSD school board meeting) she approved with disclosure to hire her partner Michelle Dalager as the JV Boys Basketball coach because she has coached in this position for a long time. Without abstaining her vote - she is influencing her home & her partner.

~~In addition all of her actions on the board have not involved~~

Tricia Strasdin is a Churchill County School District Board of Trustee member.

3. Is the alleged conduct the subject of any action currently pending before another administrative or judicial body? If yes, describe: No

4. What provisions of NRS Chapter 281A are relevant to the conduct alleged? Please check all that apply.

Statute	Essence of Statute:
<input checked="" type="checkbox"/> NRS 281A.020(1)	Failing to hold public office as a public trust; failing to avoid conflicts between public and private interests.
<input type="checkbox"/> NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, engagement, emolument or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.
<input type="checkbox"/> NRS 281A.400(2)	Using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a commitment in a private capacity to the interests of that person.
<input type="checkbox"/> NRS 281A.400(3)	Participating as an agent of government in the negotiation or execution of a contract between the government and any business entity in which he has a significant pecuniary interest.

<input type="checkbox"/>	NRS 281A.400(4)	Accepting any salary, retainer, augmentation, expense allowance or other compensation from any private source for the performance of his duties as a public officer or employee.
<input type="checkbox"/>	NRS 281A.400(5)	Acquiring, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, and using the information to further the pecuniary interests of himself or any other person or business entity.
<input type="checkbox"/>	NRS 281A.400(6)	Suppressing any governmental report or other document because it might tend to affect unfavorably his pecuniary interests.
<input type="checkbox"/>	NRS 281A.400(7)	Using governmental time, property, equipment or other facility to benefit his personal or financial interest. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(8)	A State Legislator using governmental time, property, equipment or other facility for a nongovernmental purpose or for the private benefit of himself or any other person, or requiring or authorizing a legislative employee, while on duty, to perform personal services or assist in a private activity. (Some exceptions apply).
<input type="checkbox"/>	NRS 281A.400(9)	Attempting to benefit his personal or financial interest through the influence of a subordinate.
<input type="checkbox"/>	NRS 281A.400(10)	Seeking other employment or contracts through the use of his official position.
<input type="checkbox"/>	NRS 281A.410	Failing to file a disclosure of representation and counseling of a private person before public agency.
<input checked="" type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input checked="" type="checkbox"/>	NRS 281A.420(3)	Failing to abstain from acting on a matter in which abstention is required.
<input type="checkbox"/>	NRS 281A.430/530	Engaging in government contracts in which public officer or employee has a significant pecuniary interest.
<input type="checkbox"/>	NRS 281A.500	Failing to timely file an ethical acknowledgment.
<input type="checkbox"/>	NRS 281A.510	Accepting or receiving an improper honorarium.
<input type="checkbox"/>	NRS 281A.520	Requesting or otherwise causing a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question or candidate during the relevant timeframe.
<input type="checkbox"/>	NRS 281A.550	Failing to honor the applicable "cooling off" period after leaving public service.

5. Identify all persons who have knowledge of the facts and circumstances you have described, as well as the nature of the testimony the person will provide. Check here if additional pages are attached.

NAME and TITLE: (Person #1)			
ADDRESS:		CITY, STATE, ZIP	
TELEPHONE:	<i>Work:</i>	<i>Other: (Home, cell)</i>	E-MAIL:
NATURE OF TESTIMONY:			
NAME and TITLE: (Person #2)			
ADDRESS:		CITY, STATE, ZIP	
TELEPHONE:	<i>Work:</i>	<i>Other: (Home, cell)</i>	E-MAIL:
NATURE OF TESTIMONY:			

6. YOU MUST SUBMIT EVIDENCE TO SUPPORT YOUR ALLEGATIONS PURSUANT TO NRS 281A.440(2)(b)(2).

Attach all documents or items you believe provide credible evidence to support your allegations. NAC 281A.435(3) defines credible evidence as any reliable and competent form of proof provided by witnesses, records, documents, exhibits, minutes, agendas, videotapes, photographs, concrete objects, or other similar items that would reasonably support the allegations made. A newspaper article or other media report will not support your allegations if it is offered by itself.

State the total number of additional pages attached (including evidence) 3.

7. REQUESTER'S INFORMATION:

YOUR NAME:	Elena S Marsh		
YOUR ADDRESS:	1030 Dean Lane	CITY, STATE, ZIP:	Fallon NV 89406
YOUR TELEPHONE:	Day: 775 722 6721	Evening: 775 722 6721	E-MAIL: sawa35@hotmail.com

By my signature below, I affirm that the facts set forth in this document and all of its attachments are true and correct to the best of my knowledge and belief. I am willing to provide sworn testimony if necessary regarding these allegations.

I acknowledge that, pursuant to NRS 281A.440(8) and NAC 281A.255(3), this Request for Opinion, the materials submitted in support of the allegations, and the Commission's investigation are confidential until the Commission's Investigatory Panel renders its determination, unless the Subject of the allegations authorizes their release.

Elena S Marsh
Signature:

11-29-14
Date:

Elena S Marsh
Print Name:

You must submit an original and two copies of this form bearing your signature, and three copies of the attachments to:

Executive Director
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, Nevada 89703



Forms submitted by facsimile will not be considered as properly filed with the Commission.
NAC 281A.255(3)

TELEPHONE REQUESTS FOR OPINION ARE NOT ACCEPTED.

- D. Approval of October 13, 2016, Regular Board Meeting Minutes
- E. Approval to change the November 16 Board meeting to November 15
- F. Approval of Quarter 1 – Class Size Reduction Report
- G. Approval of Student 16-19 and Student 16-20 to Enter the General Education Development (GED) program
- H. Approval of Student 16-21, 16-22, 16-23, 16-25, 16-25, 16-26, 16-27, 16-28, 16-29, 16-30, 16-34, 16-35, 16-36, 16-37, 16-38, 16-39, and 16-40 for Exemption from Receiving Immunizations based on Religious Reasons (NRS 392.435)
- I. Approval of Revision to Policy 5119.1 – Attendance Policy – All Churchill County Schools (Students)
 - 1. *Review of Regulation 5119.1 – Attendance Policy – All Churchill County Schools*
- J. Approval of Revisions to Policy 5136.1 – Students with Disabilities Aversive Interventions and Mechanical and Physical Restraints (Students)
- K. Approval of Revisions of policy 5135.6 – Students with Disabilities Aversive Interventions and Mechanical and Physical Restraints (Students)
 - 1. *Review of Regulation 5135.6 – Students with Disabilities Aversive Interventions and Mechanical and Physical Restraints (Students)*

Trustee Gent made a motion, seconded by Trustee Schank, to approve A-K, as provided.

Vice President Greg Koenig disclosed that on the licensed personnel sheet, addition to the substitute list, Kennedy Brown is his daughter, but he doesn't believe approving her along with everyone else on the list is providing any extra advantage to Kennedy.

Dr. Sheldon disclosed that on the personnel sheet Kristen Empson is her daughter and is being recommended for the Family and Community Engagement Coordinator. Dr. Sheldon stated that she was in no way involved in the application process, the interview process, or the determination of which applicant to choose. Dr. Sheldon stated that she disclosed to the Board before the interview that her daughter applied for the position.

Trustee Strasdin disclosed that under extra-curricular activities on the personnel sheet that her partner, Michelle Dalager, is recommended for the Head JV Boys Basketball Coaching position for which she has coached for a long time.

Trustee Schank disclosed that Donald Schank is her brother-in-law and is being hired as the Varsity Boys Basketball Coach.

Trustee Schank asked if board members could get a job description on the grant-funded Family and Community Engagement Coordinator.

There were no public comments. The motion passed unanimously; Trustees Hendrix, Hyde, and Whitaker were absent.

REPORTS BY BOARD MEMBERS

Trustee Schank reported on a recent Policy Committee meeting. Trustee Strasdin reported on her attendance at Northside Early Learning Center's Family Night.

OLD BUSINESS

- A. **For Discussion Only:** Ms. Lisa Bliss will report on the 2015-2016 Smarter Balanced and NWEA Map results

Jennifer Sanchez, E.C. Best Library Specialist, commented that the four day reduction of hours for classified had an impact on her duties. She stated that she would be working those four days anyway, and would like to be paid for them. -

SUPERINTENDENT UPDATE

A. Update regarding district related items

Dr. Sheldon reported that staff would return on August 12 and that many teachers have been preparing classrooms getting ready for students. Principals were present at the board meeting and introduced new staff members to the Board.

Dr. Sheldon reported that she will be hosting the Nevada Association of School Superintendent's meeting on August 30 and 31, with a tour of the Naval Air Station on August 30, followed by dinner, and then a breakfast meeting on August 31.

CONSENT AGENDA

- A. Approval of Recommended Personnel Action (Attachment A)**
- B. Approval of Vouchers**
- C. Approval of July, 2016, Payroll**
- D. Approval of June 23, 2016, Regular Board Meeting Minutes**
- E. Approval of July 28, 2016, Regular Board Meeting Minutes**
- F. Approval of Contract with Chartwells**
- G. Approval of Policy 5410.0 – Safe and Respectful Learning Environment Free from Bullying and Cyber-Bullying – Second Reading. Policy 4139.0 is identical to this policy and would also be updated.**
 - 1. Review of Regulation 5410.0 – Safe and Respectful Learning Environment Free from Bullying and Cyber-Bullying. Regulation 4139.0 is identical to this regulation and would also be updated.**

Trustee Gent made a motion, seconded by Trustee Whitaker, **to approve Consent Agenda Action Items A-G as provided.** The motion passed unanimously; Present Hendrix was absent.

REPORTS BY BOARD MEMBERS

Trustee Schank reported on her tour of construction projects. Trustee Whitaker reported that she spent time at Lahontan while teachers prepared for students and that staff discussed ways to ensure transportation runs smoothly at Lahontan.

NEW BUSINESS

A. For Discussion Only: Update regarding new and ongoing grants.

Kimi Melendy, Director of Educational Services, reported on the list of grants (document in BoardBook). Board members asked questions.

B. For Discussion Only: Update regarding transition of the Special Education Director.

Derild Parsons reported on his transition to Special Education Director. Mr. Parsons reported on the summer school programs, Infinite Campus, individual education plans, increasing technology needs of special education teachers, staff assignments, working with

RECOMMENDED PERSONNEL ACTION

August 11, 2016

I. LICENSED PERSONNEL – HIRING

* Stacey Sugg - 2nd Grade Teacher ECB (S. Bragg)

II. CLASSIFIED PERSONNEL -- HIRING

* Debbie Irvin - P/T Paraprofessional Instructional Assistant LES (new)
* Rebecca Kammerer - P/T Paraprofessional Instructional Assistant LES (new)
* Miranda Gutierrez - P/T Paraprofessional Instructional Assistant ECB (new)
* Jennifer Palmer - P/T Paraprofessional Instructional Assistant ECB (new)
* Cassie Beugler - P/T Paraprofessional Instructional Assistant NU (new)
* Claudette Tognazzini - P/T Paraprofessional Instructional Assistant NU (new)
* Deborah Fiedler - P/T Library Specialist- CCHS (new)
* Patara Bitto - Duty Assistant CCMS (B. Nelson)
* Karri French - Duty Assistant CCMS (J. Holmgren)
* Victoria Berg - Library Specialist LES (W. Mello)

III. CLASSIFIED PERSONNEL – RESIGNATION

* Yvonne Bivens - School Secretary II CCMS (effective 8/19/16)

IV. EXTRACURRICULAR ACTIVITIES 2016-17

* Brian McAlexander - Athletic Director CCMS
* Ed Ferris - Cross Country CCMS
* Keith Lund - 7th Grade Girls Basketball
* Michelle Dalager - 8th Grade Girls Basketball
* Bert Serrano - 7th Grade Boys Basketball
* Brian McAlexander - 8th Grade Boys Basketball
* Heather Stokes - 7th Grade Volleyball
* Nicole Rogne - 8th Grade Volleyball
* Kari Lister - 6th Grade Girls Track
* Kris Hadley - 7th Grade Girls Track
* Warren Wood - 8th Grade Girls Track
* Ed Ferris - 6th Grade Boys Track
* Keith Lund - 7th Grade Boys Track
* Brian McAlexander - 8th Grade Boys Track
* Victoria Purrell - Yearbook CCMS
* Kathy Buckmaster - Honor Society CCMS
* Amy Nichols - Student Council CCMS 50%
* Torri Conley - Student Council CCMS 50%
* Lucas Koenig - Electives Department Chairperson CCMS
* Sandra Gilbert - Science Department Chairperson CCMS
* Gary Butori - Math Department Chairperson CCMS
* Emily Alexander - Social Studies Department Chairperson CCMS
* Kathy Buckmaster - English Department Chairperson CCMS 50%
* Torri Conley - English Department Chairperson CCMS 50%
* Amy Nichols - Special Education Department Chairperson CCMS

V. CURRENT OPEN POSITIONS

* Licensed
Speech Language Pathologist (A. Stuart-Lougheed)
Special Education Teacher NU (C. Adams)
Early Childhood Teachers NELC (M. Malnack, new, A. Lister)
Kindergarten Teacher LES (A. Bell)
Kindergarten Teacher LES (S. Lawrence)
3rd Grade Teacher ECB (M. Savitz)
School Psychologist (S. Jackson)

- 3) Failed to abstain from acting on a matter in which she had a conflict of interest (NRS 281A.420(3)).
- b. On or about December 13, 2016, staff of the Commission issued a Notice to Subject under NRS 281A.440(2), stating that the Commission accepted jurisdiction to investigate the allegations regarding violations of NRS 281A.020(1) and NRS 281A.420(1) and (3). Strasdin was provided an opportunity to respond to the RFO.
- c. On or about January 18, 2017, Strasdin, through legal counsel, Sharla Hales, Esq., provided a written Response to the RFO.
- d. Strasdin waived her right to a panel determination pursuant to NRS 281A.440 and acknowledges that credible evidence establishes just and sufficient cause for the Commission to render an opinion regarding the allegations implicating NRS 281A.020 and 281A.420(1) and (3).
- e. In lieu of a panel determination and a hearing, Strasdin now enters into this Stipulated Agreement acknowledging her duty as a public officer to commit herself to protect the public trust and conform her conduct to Chapter 281A of the Nevada Revised Statutes.

4. **STIPULATED FACTS**: At all material times, the following facts were relevant to this matter: ¹

- a. Tricia Strasdin was appointed as a Member of the CCSD Board on June 23, 2016. She is a public officer as defined in NRS 281A.160.
- b. CCSD is a political subdivision as defined in NRS 281A.145.
- c. Michelle Dalager (“Dalager”) resides with Strasdin and is employed by CCSD as a teacher at Churchill County High School.
- d. Sharla Hales, Esq., is a lawyer licensed in the State of Nevada and serves as legal counsel for the CCSD Board and is representing Strasdin in these RFO proceedings.
- e. The CCSD Board approves certain recommended personnel actions in the district and such actions are regularly listed on the Board agenda and materials

¹ Stipulated Facts do not constitute part of the “Investigative File” as that term is defined by NRS 281A.440(17). All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Stipulated Agreement.

and are included on consent agendas which contain items that the District staff believe to be routine and without any reasonable basis for the Board to vote against the items.

- f. As a Board member, Strasdin holds final authority over decisions that affect Ms. Dalager's terms and conditions of employment with CCSD, including her benefits and salary.

August 11, 2016 CCSD Board Meeting

- g. At the August 11, 2016 meeting, the Consent Agenda included seven items. Consent Agenda Item A involved Ms. Dalager and was noted on the agenda as follows:

- A. Approval of Recommended Personnel Action (Attachment A)

- h. Attachment A to the agenda listed Ms. Dalager as the person recommended to fill the position of 8th Grade Girls Basketball Coach, a part-time paid position.
- i. The August 11, 2016 meeting was the second full Board meeting attended by Strasdin as a new Board member.
- j. Strasdin does not recall that Consent Agenda Item A involved Ms. Dalager. Consequently, she did not provide a disclosure regarding her relationship with Ms. Dalager and voted with the Board to approve the Consent Agenda unanimously.

October 27, 2016 CCSD Board Meeting

- k. At the October 27, 2016 meeting, the Consent Agenda included eleven items. Consent Agenda Item A involved Ms. Dalager and was noted on the agenda as follows:

- A. Approval of Recommended Personnel Action (Attachment A)

- l. The original Board Material Packet included Attachment A, which did not list Ms. Dalager as the person recommended to fill the position of Head JV Boys Basketball Coach, a part-time paid position.
- m. A revised Attachment A, which included Dalager's name, was provided to Strasdin and other Board members when they arrived at the meeting.
- n. The minutes reflect the following:

Trustee Strasdin disclosed that under extra-curricular activities on the personnel sheet that her partner, Michelle Dalager, is recommended for the Head JV Boys Basketball Coaching position for which she has coached for a long time.

- o. Strasdin did not have time to confer with Sharla Hales, Esq. about her abstention obligation before she voted with the Board to approve the Consent Agenda unanimously.

5. **TERMS / CONCLUSIONS OF LAW:** Based on the foregoing, Strasdin and the Commission agree as follows:

- a. Each of the stipulated facts enumerated in Section 4 of this Stipulated Agreement is agreed to by the parties.
- b. Strasdin holds public office which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the citizens of Churchill County).
- c. Strasdin has a commitment in a private capacity to the interests of Ms. Dalager because she has a relationship with Dalager that is substantially similar to a domestic partnership. See NRS 281A.065(6).
- d. Public officers have a duty to avoid conflicts of interest. See NRS 281A.020. As a public officer, the conflicts of interest provisions of the Ethics Law apply to Strasdin's conduct. Specifically, Strasdin must commit to avoid actual and perceived conflicts of interest, including publicly disclosing sufficient information concerning any private relationships and pecuniary interests which would reasonably affect her decision on matters before the CCSD Board. See NRS 281A.420(1). As a public officer, Strasdin is also required to abstain from voting or otherwise acting on matters in which the interests of persons with whom she shares such relationships would clearly and materially affect the independence of judgment of a reasonable person in her position. NRS 281A.420(3).
- e. The disclosure and abstention requirements of NRS 281A.420 extend to consent agenda items. See *In re Tobler and Mayes*, Comm'n Op. Nos. 11-76C and 11-77C (2012). Each matter on a consent agenda requires action for final

- approval. Without a formal vote of the Board, the consent item is not approved and any staff action does not become effective. Accordingly, when considering items on a consent agenda, public officers are required to properly disclose any significant pecuniary interests or commitments in a private capacity to the interests of others and undertake the statutorily directed abstention analysis on the record to determine whether abstention is appropriate.
- f. Strasdin understands that she must disclose her relationship with Ms. Dalager whenever a matter involving Dalager comes before the Board, even though the relationship is a matter of public record by virtue of Strasdin's disclosure at the October 27, 2016. Such matters include, but are not limited to, the topics of labor management, discussions about salaries, job duties, employment benefits, pension plans, disciplinary matters, litigation, general terms and conditions of employment, and personnel policy issues. See *In re Murnane*, Comm'n Op. No. 15-45A (2016).
 - g. Under prior Commission precedent, public officials must vigilantly search for reasonably ascertainable potential conflicts of interest and cannot remain unaware of readily knowable facts. *In re Atkinson Gates, Williams and Malone*, Comm'n Op. Nos. 97-54, 97-59, 97-66, 97-53 and 97-52 (1997). Instead, public officials must design and implement systems to spot and respond to potential ethical conflicts. *Id.*
 - h. Disclosures required by the Ethics Law must occur "at the time the matter is considered." NRS 281A.420(1). The Ethics Law does not recognize a continuing disclosure or a disclosure by reference. Silence based upon a prior disclosure at a prior meeting fails to inform the public of the nature and extent of the conflict at the meeting where no actual disclosure occurred. See *In re Buck*, Comm'n Opinion No. 11-63C (2011) (holding that incorporation by reference of her prior disclosure even though based upon the advice of counsel, did not satisfy the disclosure requirements of NRS 281A.420(1)).
 - i. As a public officer, Strasdin is also prohibited from voting upon or advocating for or against the passage of a matter in which the independence of judgment of a reasonable person in her situation would be materially affected by her

- commitment to Ms. Dalager. NRS 281A.420(3)(c). However, it is presumed that the independence of judgment of a reasonable person is not materially affected if the resulting benefits or detriments to the public officer, or the person to whom the public officer has a commitment in a private capacity, are not more or less than those accruing to any other member of the group affected by the matter. NRS 281A.420(4)(a). Accordingly, provided Strasdin makes a proper disclosure, she need not abstain on matters where the result of Board action provides no special advantage or particular benefit or detriment to either herself or Ms. Dalager, but will impact all District employees in the same manner.
- j. Strasdin understands that she has a continuing duty to conduct an abstention analysis under NRS 281A.420(3) and must abstain from acting on matters in which the independence of judgment of a reasonable person in Strasdin's situation would be materially affected by her commitment in a private capacity to the interests of Ms. Dalager. In particular, Strasdin clearly has an obligation to abstain when the Board considers the terms and conditions of Dalager's employment. Strasdin must also take responsibility for the analysis of non-employment matters that come before the Board and make a reasonable determination as to whether her relationship with Ms. Dalager would tend to influence a reasonable person in her situation in rendering votes or other decisions, including whether there would be an appearance that her vote would be influenced by her private relationship with Ms. Dalager. *See In re Public Officer*, Comm'n Op. No. 16-14A (2016) (discussing disclosure and abstention standards applicable to spouses).
 - k. Strasdin's actions constitute a single course of conduct resulting in one nonwillful violation of the Ethics Law, implicating the provisions of NRS 281A.020(1) and NRS 281A.420(1) and (3).
 - l. Based upon the consideration and application of the statutory mitigating criteria set forth in NRS 281A.475, the Commission concludes that Strasdin's violation in this case should not be deemed a "willful violation" pursuant to NRS 281A.170 and the imposition of a civil penalty pursuant to NRS 281A.480 is not appropriate for the reasons that follow:

- 1) The gravity of the violation is not substantial;
 - 2) Strasdin has not previously been the subject of any violation of the Ethics Law;
 - 3) Strasdin has not received any personal financial gain as the result of her conduct in this matter;
 - 4) Strasdin has been diligent to cooperate with and participate in the Commission's investigation and analysis, as well as the resolution of this matter; and
 - 5) Strasdin, as a recently appointed Board member, is holding her first public office.
- m. Strasdin agrees to attend an Ethics in Government Law training session with the Commission's Executive Director for the CCSD Board members, to ensure that the Board members understand the disclosure and abstention requirements, including responsibilities related to consent agenda items. See, e.g., *In re Woodbury*, Comm'n Op. No. 16-40C (2016).
- n. This Stipulated Agreement depends on and applies only to the specific facts, circumstances and law related to this RFO now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.
- o. This agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding Strasdin.

6. WAIVER:

- a. Strasdin knowingly and voluntarily waives her right to an Investigatory Panel proceeding and any related hearing before the full Commission on the allegations in this RFO (No. 16-85C) and of any and all rights she may be accorded with regard to this matter pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada

Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.

- b. Strasdin knowingly and voluntarily waives her right to any judicial review of this matter, as provided in NRS Chapter 281A, NRS Chapter 233B, any extraordinary writs as provided in NRS Chapter 34, or any other applicable provisions of law.

7. **ACCEPTANCE**: We, the undersigned parties, have read this Stipulated Agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on February 15, 2017.

DATED this ____ day of _____, 2017. DRAFT
Tricia Strasdin

The above Stipulated Agreement is approved by:

FOR TRICIA STRASDIN, Subject

DATED this ____ day of _____, 2017. DRAFT
Sharla Hales, Esq.

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.
Executive Director, Commission on Ethics

DATED this ____ day of _____, 2017. DRAFT
Judy A. Prutzman, Esq.
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this ____ day of _____, 2017. DRAFT
Tracy L. Chase, Esq.
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.²

DATED February 15, 2017.

By: DRAFT
Cheryl A. Lau, Esq.
Chair

By: DRAFT
Phillip K. O'Neill
Commissioner

By: DRAFT
Keith A. Weaver, Esq.
Vice-Chair

By: DRAFT
Lynn Stewart
Commissioner

By: DRAFT
Brian Duffrin
Commissioner

By: DRAFT
Amanda Yen, Esq.
Commissioner

By: DRAFT
Barbara Gruenewald, Esq.
Commissioner

² Strasdin waived her right to an Investigatory Panel pursuant to NRS 281A.440. Accordingly, this Stipulated Agreement was executed prior to a Panel hearing in this matter and no Commissioner was precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220.



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request
for Opinion Concerning the Conduct of
Tricia Strasdin, Member, Churchill
County School District Board of Trustees,
State of Nevada,

Request for Opinion No. **16-85C**

Subject. /

AMENDED NOTICE OF HEARING

(Amendment establishes Meeting Location will be in Carson City only)

PLEASE TAKE NOTICE, the Nevada Commission on Ethics ("Commission") will consider a **Proposed Stipulated Agreement** regarding the allegations submitted in Third-Party Request for Opinion No. 16-85C at the following time and location:

The Hearing Will Take Place:

Wednesday, February 15, 2017 at 9:00 a.m., or as soon thereafter as the Commission is able to hear the matter, at the following location:

**Gaming Control Board
1919 College Parkway
Carson City, NV 89706**

Pursuant to NRS 281A.440, Subject has waived the provisions of an investigatory panel proceeding and/or determination and the requirement for the Commission to maintain the confidentiality of this proceeding.

If the Proposed Stipulated Agreement is approved, it will serve as the final Opinion in this matter. If the Proposed Stipulated Agreement is not approved, the Commission will issue a Notice of Hearing setting the date, time and location for a hearing to consider the matter.

DATED: February 7, 2017

/s/ Tracy L. Chase

Tracy L. Chase, Esq.
Commission Counsel

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **AMENDED NOTICE OF HEARING** in Request for Opinion No. **16-85C**, via Email, addressed to the parties and interested persons as follows:

Yvonne M. Nevarez-Goodson, Esq.
Executive Director
Judy A. Prutzman, Esq.
Associate Counsel
Nevada Commission on Ethics
704 W. Nye Lane, Suite 204
Carson City, NV 89703

Email: ynevarez@ethics.nv.gov

Email: jprutzman@ethics.nv.gov

Sharla S. Hales, Esq.
883 Mahogany Drive
Minden, NV 89423

Email: sharlahailes@gmail.com

Attorney for Subject

Elena Marsh
1030 Dean Lane
Fallon, NV 89406

Email: sawa35@hotmail.com

DATED: February 7, 2017



Employee, Nevada Commission on Ethics

AGENDA ITEM NO. 9

AGENDA ITEM NO. 9

State of Nevada - Budget Division
Line Item Detail & Summary
2017-2019 Biennium (FY18-19)

Section A1: Line Item Detail by GL

Budget Account: 1343 COMMISSION ON ETHICS

The Nevada Commission on Ethics is an eight member body appointed by the Governor and Legislative Commission to interpret and enforce the provisions of the Ethics in Government Law set forth in NRS Chapter 281A ("Ethics Law"). The Ethics Law establishes the public policy and standards of conduct necessary to ensure the integrity and impartiality of government, free from conflicts of interest between public duties and private interests of state, local public officers and employees. The commission and its staff focus on four main functions: 1) interpreting and enforcing the provisions of the Ethics Law; 2) investigating and adjudicating public complaints alleging ethics violations by public officers and employees; 3) providing outreach and education to public officers and employees to enhance their awareness and understanding of ethics requirements and prohibitions under Nevada law; and 4) accepting and monitoring various filings required of certain public officers.

[See Attachment]

Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
B000	BASE				
	This request continues funding for six positions and associated operating costs. One-time expenditures have been eliminated and partial year costs have been annualized. [See Attachment]				
REVENUE					
2501	APPROPRIATION CONTROL	174,489	173,701	314,846	314,846
2510	REVERSIONS	-20,382	0	0	0
2511	BALANCE FORWARD FROM PREVIOUS YEAR	110,929	67,625	67,625	67,625
2512	BALANCE FORWARD TO NEW YEAR	-67,624	0	0	0
4103	COUNTY REIMBURSEMENTS	544,932	600,605	472,268	472,268
4203	PRIOR YEAR REFUNDS	102	0	32	32
	TOTAL REVENUES FOR DECISION UNIT B000	742,446	841,931	854,771	854,771
EXPENDITURE					
01	PERSONNEL				
5100	SALARIES	408,748	454,002	440,398	440,398
5200	WORKERS COMPENSATION	5,959	5,118	5,118	5,118
5300	RETIREMENT	91,515	77,157	101,871	101,871
5400	PERSONNEL ASSESSMENT	2,695	2,724	2,296	2,296
5500	GROUP INSURANCE	48,750	50,346	50,346	50,346
5700	PAYROLL ASSESSMENT	635	635	616	616
5750	RETIRED EMPLOYEES GROUP INSURANCE	8,731	10,713	10,394	10,394
5800	UNEMPLOYMENT COMPENSATION	393	316	306	306
5840	MEDICARE	5,696	6,582	6,386	6,386
5860	BOARD AND COMMISSION PAY This request continues funding for Board and Commission pay.	4,480	7,680	4,480	4,480
5929	ELIMINATE LONGEVITY PAY	0	-350	0	0
5930	LONGEVITY PAY	0	350	0	0
	TOTAL FOR CATEGORY 01	577,602	615,273	622,211	622,211
03	IN-STATE TRAVEL				
6200	PER DIEM IN-STATE	7,108	8,655	7,108	7,108
6210	FS DAILY RENTAL IN-STATE	596	1,102	596	596
6215	NON-FS VEHICLE RENTAL IN-STATE	438	223	438	438
6230	PUBLIC TRANSPORTATION IN-STATE	85	0	85	85
6240	PERSONAL VEHICLE IN-STATE	1,893	3,856	1,893	1,893
6250	COMM AIR TRANS IN-STATE	14,233	9,876	14,233	14,233
	TOTAL FOR CATEGORY 03	24,353	23,712	24,353	24,353

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Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
04	OPERATING EXPENSES				
7020	OPERATING SUPPLIES	903	763	903	903
7025	OPERATING SUPPLIES-E	4	0	4	4
7026	OPERATING SUPPLIES-F	532	208	532	532
7030	FREIGHT CHARGES	708	1,279	708	708
7044	PRINTING AND COPYING - C	1,220	1,275	1,220	1,220
7045	STATE PRINTING CHARGES	145	62	145	145
7050	EMPLOYEE BOND INSURANCE	7	7	7	7
7051	AGENCY OWNED - PROP. & CONT. INSURANCE	66	0	66	66
7054	AG TORT CLAIM ASSESSMENT	694	694	694	694
705A	NON B&G - PROP. & CONT. INSURANCE	0	23	0	0
705B	B&G - PROP. & CONT. INSURANCE	0	43	0	0
7060	CONTRACTS	80	92	80	80
7061	CONTRACTS - A	135	0	135	135
7080	LEGAL AND COURT	0	500	0	0
7100	STATE OWNED BLDG RENT-B&G	3,434	3,574	3,434	3,434
7103	STATE OWNED MEETING ROOM RENT	303	1,486	303	303
7110	NON-STATE OWNED OFFICE RENT	26,777	27,457	26,777	26,777
7230	MINOR IMPRV-BLGS/FIXTRS	5,373	0	5,373	5,373
7255	B & G LEASE ASSESSMENT	442	454	442	442
7285	POSTAGE - STATE MAILROOM	650	4,407	650	650
7286	MAIL STOP-STATE MAILROM	4,366	0	4,366	4,366
7290	PHONE, FAX, COMMUNICATION LINE	1,582	1,309	1,582	1,582
7291	CELL PHONE/PAGER CHARGES	3,157	3,360	3,157	3,157
7294	CONFERENCE CALL CHARGES	223	329	223	223
7296	EITS LONG DISTANCE CHARGES	175	137	175	175
7301	MEMBERSHIP DUES	445	445	445	445
7340	INSPECTIONS & CERTIFICATIONS	44	47	44	44
7370	PUBLICATIONS AND PERIODICALS	1,526	198	1,526	1,526
7430	PROFESSIONAL SERVICES	495	0	495	495
7980	OPERATING LEASE PAYMENTS	4,815	5,008	4,815	4,815
8241	NEW FURNISHINGS <\$5,000 - A	74	0	74	74
	TOTAL FOR CATEGORY 04	58,375	53,157	58,375	58,375
05	EQUIPMENT				
7060	CONTRACTS	1,200	0	1,200	1,200
7460	EQUIPMENT PURCHASES < \$1,000	2,655	0	2,655	2,655
7771	COMPUTER SOFTWARE <\$5,000 - A	200	0	200	200
8271	SPECIAL EQUIPMENT <\$5,000 - A	2,385	0	2,385	2,385
	TOTAL FOR CATEGORY 05	6,440	0	6,440	6,440

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Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
11	COURT REPORTING SERVICES				
7060	CONTRACTS	12,727	30,189	12,727	12,727
7750	NON EMPLOYEE IN-STATE TRAVEL	0	1,066	0	0
	TOTAL FOR CATEGORY 11	12,727	31,255	12,727	12,727
15	INVESTIGATIONS/PARALEGAL COSTS				
7060	CONTRACTS	2,861	2,947	2,861	2,861
	TOTAL FOR CATEGORY 15	2,861	2,947	2,861	2,861
26	INFORMATION SERVICES				
7020	OPERATING SUPPLIES	196	310	196	196
7023	OPERATING SUPPLIES-C	0	25	0	0
7026	OPERATING SUPPLIES-F	162	0	162	162
7060	CONTRACTS	770	1,430	770	770
7290	PHONE, FAX, COMMUNICATION LINE	1,392	1,392	1,392	1,392
7460	EQUIPMENT PURCHASES < \$1,000	689	280	689	689
7532	EITS SHARED WEB SERVER HOSTING	2,342	2,889	2,342	2,342
7533	EITS EMAIL SERVICE	310	275	310	310
7542	EITS SILVERNET ACCESS	3,387	3,328	3,387	3,387
7545	EITS 18-19 ELIM (OLD EITS VPN SECURE LINK)	418	0	418	418
7554	EITS INFRASTRUCTURE ASSESSMENT	891	928	928	928
7556	EITS SECURITY ASSESSMENT	585	640	639	639
7771	COMPUTER SOFTWARE <\$5,000 - A	1,936	0	1,936	1,936
8371	COMPUTER HARDWARE <\$5,000 - A	5,703	0	5,703	5,703
	TOTAL FOR CATEGORY 26	18,781	11,497	18,872	18,872
30	TRAINING				
6100	PER DIEM OUT-OF-STATE	2,659	2,454	2,659	2,659
6130	PUBLIC TRANS OUT-OF-STATE	263	155	263	263
6140	PERSONAL VEHICLE OUT-OF-STATE	86	216	86	86
6150	COMM AIR TRANS OUT-OF-STATE	246	2,759	246	246
6240	PERSONAL VEHICLE IN-STATE	102	0	102	102
6250	COMM AIR TRANS IN-STATE	857	0	857	857
7300	DUES AND REGISTRATIONS	2,334	2,140	2,334	2,334
7302	REGISTRATION FEES	849	0	849	849
7306	DUES & REG - EMPLOYEE REIMBURSEMENT	120	0	120	120
	TOTAL FOR CATEGORY 30	7,516	7,724	7,516	7,516
82	DEPT COST ALLOCATION				
7389	16-17 CENTRALIZED PERSONNEL SERVICES COST ALLOC	2,615	2,998	2,615	2,615
7439	DEPT OF ADMIN - ADMIN SER DIV	22,278	25,260	22,278	22,278
	TOTAL FOR CATEGORY 82	24,893	28,258	24,893	24,893

Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
86	RESERVE				
9178	RESERVE - BAL FWD TO SUBSEQUENT FY	0	67,625	67,625	67,625
	TOTAL FOR CATEGORY 86	0	67,625	67,625	67,625
87	PURCHASING ASSESSMENT				
7393	PURCHASING ASSESSMENT	294	483	294	294
	TOTAL FOR CATEGORY 87	294	483	294	294
88	STATEWIDE COST ALLOCATION PLAN				
9159	STATEWIDE COST ALLOCATION	8,572	0	8,572	8,572
	TOTAL FOR CATEGORY 88	8,572	0	8,572	8,572
93	RESERVE FOR REVERSION TO GENERAL FUND				
9169	TRANSFER OF GENERAL FD APPROPS	32	0	32	32
	TOTAL FOR CATEGORY 93	32	0	32	32
	TOTAL EXPENDITURES FOR DECISION UNIT B000	742,446	841,931	854,771	854,771
M100	STATEWIDE INFLATION				
	This request funds rate changes for internal service funds such as the Attorney General, Fleet Services, information technology services, state-owned building rent, vehicle insurance, personnel assessments, and property and contents insurance.				
REVENUE					
00	REVENUE				
2501	APPROPRIATION CONTROL	0	0	-4,151	-4,013
4103	COUNTY REIMBURSEMENTS	0	0	-6,228	-6,020
	TOTAL REVENUES FOR DECISION UNIT M100	0	0	-10,379	-10,033
EXPENDITURE					
01	PERSONNEL				
5400	PERSONNEL ASSESSMENT	0	0	-1,043	-996
5700	PAYROLL ASSESSMENT	0	0	-108	-118
	TOTAL FOR CATEGORY 01	0	0	-1,151	-1,114
04	OPERATING EXPENSES				
7050	EMPLOYEE BOND INSURANCE	0	0	2	2
7054	AG TORT CLAIM ASSESSMENT	0	0	-103	-112
705A	NON B&G - PROP. & CONT. INSURANCE	0	0	-1	-1
705B	B&G - PROP. & CONT. INSURANCE	0	0	-1	-1
7100	STATE OWNED BLDG RENT-B&G	0	0	-65	172
	TOTAL FOR CATEGORY 04	0	0	-168	60
26	INFORMATION SERVICES				
7532	EITS SHARED WEB SERVER HOSTING	0	0	-1,500	-1,500

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Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
7533	EITS EMAIL SERVICE	0	0	1,863	1,861
7542	EITS SILVERNET ACCESS	0	0	-1,737	-1,737
7554	EITS INFRASTRUCTURE ASSESSMENT	0	0	247	341
7556	EITS SECURITY ASSESSMENT	0	0	-73	133
	TOTAL FOR CATEGORY 26	0	0	-1,200	-902
87	PURCHASING ASSESSMENT				
7393	PURCHASING ASSESSMENT	0	0	113	275
	TOTAL FOR CATEGORY 87	0	0	113	275
88	STATEWIDE COST ALLOCATION PLAN				
9159	STATEWIDE COST ALLOCATION	0	0	-8,572	-8,572
	TOTAL FOR CATEGORY 88	0	0	-8,572	-8,572
89	AG COST ALLOCATION PLAN				
7391	ATTORNEY GENERAL COST ALLOC	0	0	599	220
	TOTAL FOR CATEGORY 89	0	0	599	220
	TOTAL EXPENDITURES FOR DECISION UNIT M100	0	0	-10,379	-10,033
M106	EITS COST POOLS AND RATES				
	This request funds methodology changes for information technology service rates and cost pools.				
	REVENUE				
00	REVENUE				
2501	APPROPRIATION CONTROL	0	0	-187	-187
4103	COUNTY REIMBURSEMENTS	0	0	-280	-280
	TOTAL REVENUES FOR DECISION UNIT M106	0	0	-467	-467
	EXPENDITURE				
26	INFORMATION SERVICES				
7545	EITS 18-19 ELIM (OLD EITS VPN SECURE LINK)	0	0	-467	-467
	TOTAL FOR CATEGORY 26	0	0	-467	-467
	TOTAL EXPENDITURES FOR DECISION UNIT M106	0	0	-467	-467
M107	AG COST ALLOCATION CHANGE				
	This request funds the General Fund portion of the Attorney General Cost Allocation Plan.				
	REVENUE				
00	REVENUE				
2501	APPROPRIATION CONTROL	0	0	233	86
	TOTAL REVENUES FOR DECISION UNIT M107	0	0	233	86
	EXPENDITURE				
89	AG COST ALLOCATION PLAN				
7391	ATTORNEY GENERAL COST ALLOC	0	0	233	86

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	TOTAL FOR CATEGORY 89	0	0	233	86
	TOTAL EXPENDITURES FOR DECISION UNIT M107	0	0	233	86
M150	ADJUSTMENTS TO BASE				
	This request funds adjustments to base expenditures including eliminating one-time expenditures such as equipment, and adjusts for partial year costs for the continuation of programs.				
REVENUE					
00	REVENUE				
2501	APPROPRIATION CONTROL	0	0	-128	368
4103	COUNTY REIMBURSEMENTS	0	0	-193	552
4203	PRIOR YEAR REFUNDS	0	0	-32	-32
	TOTAL REVENUES FOR DECISION UNIT M150	0	0	-353	888
EXPENDITURE					
01	PERSONNEL				
5860	BOARD AND COMMISSION PAY	0	0	3,200	3,200
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium. Pursuant to NRS 281A.210 2 the board is entitled to receive a salary not more than \$80 per day, while engaged in the business of the Commission.				
	8 Commissioners x \$80 = \$640 x 12 months = \$7,680.				
	TOTAL FOR CATEGORY 01	0	0	3,200	3,200
04	OPERATING EXPENSES				
7051	AGENCY OWNED - PROP. & CONT. INSURANCE	0	0	-66	-66
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.				
705A	NON B&G - PROP. & CONT. INSURANCE	0	0	23	23
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.				
705B	B&G - PROP. & CONT. INSURANCE	0	0	43	43
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.				
7060	CONTRACTS	0	0	-80	-80
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.				
7061	CONTRACTS - A	0	0	-135	-135
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.				
7100	STATE OWNED BLDG RENT-B&G	0	0	140	140
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.				
7103	STATE OWNED MEETING ROOM RENT	0	0	972	972
	In the base year LCB facilities were unavailable due to upgrading of video-teleconferencing equipment, resulting in meetings being held at inadequate locations. The Commission of Ethics will use this facilities in fiscal years 2018-2019.				
7110	NON-STATE OWNED OFFICE RENT	0	0	680	1,361
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.				
7230	MINOR IMPRV-BLGS/FIXTRS	0	0	-5,373	-5,373

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Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
	Eliminate one-time expenditures per Budget Instructions.				
7255	B & G LEASE ASSESSMENT This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	-45	23
7370	PUBLICATIONS AND PERIODICALS This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	0	-580
7430	PROFESSIONAL SERVICES This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	-495	-495
8241	NEW FURNISHINGS <\$5,000 - A Eliminate one-time expenditures per Budget Instructions.	0	0	-74	-74
TOTAL FOR CATEGORY 04		0	0	-4,410	-4,241
05	EQUIPMENT				
7060	CONTRACTS This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	-1,200	-1,200
7460	EQUIPMENT PURCHASES < \$1,000 Eliminate one-time equipment expenditures per Budget Instructions.	0	0	-2,655	-2,655
7771	COMPUTER SOFTWARE <\$5,000 - A Eliminate one-time expenditures per Budget Instructions.	0	0	-200	-200
8271	SPECIAL EQUIPMENT <\$5,000 - A Eliminate one-time equipment expenditures per Budget Instructions.	0	0	-2,385	-2,385
TOTAL FOR CATEGORY 05		0	0	-6,440	-6,440
11	COURT REPORTING SERVICES				
7060	CONTRACTS This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	471	471
TOTAL FOR CATEGORY 11		0	0	471	471
15	INVESTIGATIONS/PARALEGAL COSTS				
7060	CONTRACTS This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	174	265
TOTAL FOR CATEGORY 15		0	0	174	265
26	INFORMATION SERVICES				
7290	PHONE, FAX, COMMUNICATION LINE This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium. This increase is due to the upgrade of the internet system. \$230 per month x 12 months = \$2,760.	0	0	1,368	1,368
7460	EQUIPMENT PURCHASES < \$1,000 This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium. This is based on a three year average. See equipment schedule.	0	0	-350	-350
7533	EITS EMAIL SERVICE	0	0	275	275

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Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
	This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium. To adjust agency requirements for fourteen Email Service accounts for fiscal years 2018 and 2109. The adjustment is driven by the Enterprise Information Technology Services schedule.				
7545	14 accounts x 12 months = 168 quantity for schedule. EITS 18-19 ELIM (OLD EITS VPN SECURE LINK) This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium. To adjust agency requirements for four VPN Secure Lind accounts for fiscal years 2018 and 2109. The adjustment is driven by the Enterprise Information Technology Services schedule.	0	0	49	49
7771	4 accounts x 12 months = 48 quantity for schedule. COMPUTER SOFTWARE <\$5,000 - A Eliminate one-time expenditures per Budget Instructions.	0	0	-1,936	-1,936
8371	COMPUTER HARDWARE <\$5,000 - A Eliminate one-time equipment expenditures per Budget Instructions.	0	0	-5,703	-5,703
TOTAL FOR CATEGORY 26		0	0	-6,297	-6,297
82	DEPT COST ALLOCATION				
7389	16-17 CENTRALIZED PERSONNEL SERVICES COST ALLOC This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	306	425
7439	DEPT OF ADMIN - ADMIN SER DIV This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	12,675	13,537
TOTAL FOR CATEGORY 82		0	0	12,981	13,962
93	RESERVE FOR REVERSION TO GENERAL FUND				
9169	TRANSFER OF GENERAL FD APPROPS This adjustment recognizes the difference between the actual expenditures for fiscal year 2016 and the anticipated expenditures for the 2018-2019 biennium.	0	0	-32	-32
TOTAL FOR CATEGORY 93		0	0	-32	-32
TOTAL EXPENDITURES FOR DECISION UNIT M150		0	0	-353	888
M300	FRINGE BENEFITS RATE ADJUSTMENT This request funds changes to fringe benefits rates.				
REVENUE					
00	REVENUE				
2501	APPROPRIATION CONTROL	0	0	1,859	1,668
4103	COUNTY REIMBURSEMENTS	0	0	2,789	2,503
TOTAL REVENUES FOR DECISION UNIT M300		0	0	4,648	4,171
EXPENDITURE					
01	PERSONNEL				
5500	GROUP INSURANCE	0	0	3,150	3,000
5750	RETIRED EMPLOYEES GROUP INSURANCE	0	0	1,320	836
5800	UNEMPLOYMENT COMPENSATION	0	0	178	335
TOTAL FOR CATEGORY 01		0	0	4,648	4,171

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Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
	TOTAL EXPENDITURES FOR DECISION UNIT M300	0	0	4,648	4,171
E225	EFFICIENT AND RESPONSIVE STATE GOVERNMENT				
	This request changes the funding methodology used to calculate the biennial State/Local Government assessment pursuant to NRS 281A.270.				
	The Ethic Commission budget is funded through a proportionate split between the State General Fund and Local Government funding from Cities and Counties. The current methodology is based on the number of Requests for Opinion (RFOs), for both advisory and complaint, received during the prior 2 fiscal years regarding the conduct of State public officers and employees versus Local Government public officers and employees. The proposed methodology change would be based on the Commissions overall jurisdiction of State public officers and employees versus Local Government public officer and employees. This methodology would reflect a more appropriate and consistent spit based on the overall jurisdiction of the Commission.				
	[See Attachment]				
REVENUE					
00	REVENUE				
2501	APPROPRIATION CONTROL	0	0	-93,840	-95,031
	The methodology change: the General Funds would represent 28% of the budget				
4103	COUNTY REIMBURSEMENTS	0	0	93,840	95,031
	The methodology change: the County Reimbursements would represent 72% of the budget				
	TOTAL REVENUES FOR DECISION UNIT E225	0	0	0	0
EXPENDITURE					
86	RESERVE				
9178	RESERVE - BAL FWD TO SUBSEQUENT FY	0	0	0	0
	TOTAL FOR CATEGORY 86	0	0	0	0
	TOTAL EXPENDITURES FOR DECISION UNIT E225	0	0	0	0
E710	EQUIPMENT REPLACEMENT				
	This request funds replacement computer hardware and associated software per Enterprise Information Technology Services' recommended replacement schedule.				
	[See Attachment]				
REVENUE					
00	REVENUE				
2501	APPROPRIATION CONTROL	0	0	0	3,880
4103	COUNTY REIMBURSEMENTS	0	0	0	5,820
	TOTAL REVENUES FOR DECISION UNIT E710	0	0	0	9,700
EXPENDITURE					
26	INFORMATION SERVICES				
7060	CONTRACTS	0	0	0	770
8371	COMPUTER HARDWARE <\$5,000 - A	0	0	0	8,930
	TOTAL FOR CATEGORY 26	0	0	0	9,700
	TOTAL EXPENDITURES FOR DECISION UNIT E710	0	0	0	9,700
	TOTAL REVENUES FOR BUDGET ACCOUNT 1343	742,446	841,931	848,453	859,116
	TOTAL EXPENDITURES FOR BUDGET ACCOUNT 1343	742,446	841,931	848,453	859,116

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Section B1: Summary by GL**Budget Account: 1343 COMMISSION ON ETHICS**

The Nevada Commission on Ethics is an eight member body appointed by the Governor and Legislative Commission to interpret and enforce the provisions of the Ethics in Government Law set forth in NRS Chapter 281A ("Ethics Law"). The Ethics Law establishes the public policy and standards of conduct necessary to ensure the integrity and impartiality of government, free from conflicts of interest between public duties and private interests of state, local public officers and employees. The commission and its staff focus on four main functions: 1) interpreting and enforcing the provisions of the Ethics Law; 2) investigating and adjudicating public complaints alleging ethics violations by public officers and employees; 3) providing outreach and education to public officers and employees to enhance their awareness and understanding of ethics requirements and prohibitions under Nevada law; and 4) accepting and monitoring various filings required of certain public officers.

[See Attachment]

Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
REVENUE					
2501	APPROPRIATION CONTROL	174,489	173,701	218,632	221,617
2510	REVERSIONS	-20,382	0	0	0
2511	BALANCE FORWARD FROM PREVIOUS YEAR	110,929	67,625	67,625	67,625
2512	BALANCE FORWARD TO NEW YEAR	-67,624	0	0	0
4103	COUNTY REIMBURSEMENTS	544,932	600,605	562,196	569,874
4203	PRIOR YEAR REFUNDS	102	0	0	0
TOTAL REVENUES FOR BUDGET ACCOUNT 1343		742,446	841,931	848,453	859,116
EXPENDITURE					
01	PERSONNEL				
5100	SALARIES	408,748	454,002	440,398	440,398
5200	WORKERS COMPENSATION	5,959	5,118	5,118	5,118
5300	RETIREMENT	91,515	77,157	101,871	101,871
5400	PERSONNEL ASSESSMENT	2,695	2,724	1,253	1,300
5500	GROUP INSURANCE	48,750	50,346	53,496	53,346
5700	PAYROLL ASSESSMENT	635	635	508	498
5750	RETIRED EMPLOYEES GROUP INSURANCE	8,731	10,713	11,714	11,230
5800	UNEMPLOYMENT COMPENSATION	393	316	484	641
5840	MEDICARE	5,696	6,582	6,386	6,386
5860	BOARD AND COMMISSION PAY	4,480	7,680	7,680	7,680
5929	ELIMINATE LONGEVITY PAY	0	-350	0	0
5930	LONGEVITY PAY	0	350	0	0
TOTAL FOR CATEGORY 01		577,602	615,273	628,908	628,468
03	IN-STATE TRAVEL				
6200	PER DIEM IN-STATE	7,108	8,655	7,108	7,108
6210	FS DAILY RENTAL IN-STATE	596	1,102	596	596
6215	NON-FS VEHICLE RENTAL IN-STATE	438	223	438	438
6230	PUBLIC TRANSPORTATION IN-STATE	85	0	85	85
6240	PERSONAL VEHICLE IN-STATE	1,893	3,856	1,893	1,893
6250	COMM AIR TRANS IN-STATE	14,233	9,876	14,233	14,233
TOTAL FOR CATEGORY 03		24,353	23,712	24,353	24,353
04	OPERATING EXPENSES				
7020	OPERATING SUPPLIES	903	763	903	903

State of Nevada - Budget Division
Line Item Detail & Summary
2017-2019 Biennium (FY18-19)

Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
7025	OPERATING SUPPLIES-E	4	0	4	4
7026	OPERATING SUPPLIES-F	532	208	532	532
7030	FREIGHT CHARGES	708	1,279	708	708
7044	PRINTING AND COPYING - C	1,220	1,275	1,220	1,220
7045	STATE PRINTING CHARGES	145	62	145	145
7050	EMPLOYEE BOND INSURANCE	7	7	9	9
7051	AGENCY OWNED - PROP. & CONT. INSURANCE	66	0	0	0
7054	AG TORT CLAIM ASSESSMENT	694	694	591	582
705A	NON B&G - PROP. & CONT. INSURANCE	0	23	22	22
705B	B&G - PROP. & CONT. INSURANCE	0	43	42	42
7060	CONTRACTS	80	92	0	0
7061	CONTRACTS - A	135	0	0	0
7080	LEGAL AND COURT	0	500	0	0
7100	STATE OWNED BLDG RENT-B&G	3,434	3,574	3,509	3,746
7103	STATE OWNED MEETING ROOM RENT	303	1,486	1,275	1,275
7110	NON-STATE OWNED OFFICE RENT	26,777	27,457	27,457	28,138
7230	MINOR IMPRV-BLGS/FIXTRS	5,373	0	0	0
7255	B & G LEASE ASSESSMENT	442	454	397	465
7285	POSTAGE - STATE MAILROOM	650	4,407	650	650
7286	MAIL STOP-STATE MAILROM	4,366	0	4,366	4,366
7290	PHONE, FAX, COMMUNICATION LINE	1,582	1,309	1,582	1,582
7291	CELL PHONE/PAGER CHARGES	3,157	3,360	3,157	3,157
7294	CONFERENCE CALL CHARGES	223	329	223	223
7296	EITS LONG DISTANCE CHARGES	175	137	175	175
7301	MEMBERSHIP DUES	445	445	445	445
7340	INSPECTIONS & CERTIFICATIONS	44	47	44	44
7370	PUBLICATIONS AND PERIODICALS	1,526	198	1,526	946
7430	PROFESSIONAL SERVICES	495	0	0	0
7980	OPERATING LEASE PAYMENTS	4,815	5,008	4,815	4,815
8241	NEW FURNISHINGS <\$5,000 - A	74	0	0	0
	TOTAL FOR CATEGORY 04	58,375	53,157	53,797	54,194
05	EQUIPMENT				
7060	CONTRACTS	1,200	0	0	0
7460	EQUIPMENT PURCHASES < \$1,000	2,655	0	0	0
7771	COMPUTER SOFTWARE <\$5,000 - A	200	0	0	0
8271	SPECIAL EQUIPMENT <\$5,000 - A	2,385	0	0	0
	TOTAL FOR CATEGORY 05	6,440	0	0	0
11	COURT REPORTING SERVICES				
7060	CONTRACTS	12,727	30,189	13,198	13,198
7750	NON EMPLOYEE IN-STATE TRAVEL	0	1,066	0	0

State of Nevada - Budget Division
Line Item Detail & Summary
2017-2019 Biennium (FY18-19)

Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
	TOTAL FOR CATEGORY 11	12,727	31,255	13,198	13,198
15	INVESTIGATIONS/PARALEGAL COSTS				
7060	CONTRACTS	2,861	2,947	3,035	3,126
	TOTAL FOR CATEGORY 15	2,861	2,947	3,035	3,126
26	INFORMATION SERVICES				
7020	OPERATING SUPPLIES	196	310	196	196
7023	OPERATING SUPPLIES-C	0	25	0	0
7026	OPERATING SUPPLIES-F	162	0	162	162
7060	CONTRACTS	770	1,430	770	1,540
7290	PHONE, FAX, COMMUNICATION LINE	1,392	1,392	2,760	2,760
7460	EQUIPMENT PURCHASES < \$1,000	689	280	339	339
7532	EITS SHARED WEB SERVER HOSTING	2,342	2,889	842	842
7533	EITS EMAIL SERVICE	310	275	2,448	2,446
7542	EITS SILVERNET ACCESS	3,387	3,328	1,650	1,650
7545	EITS 18-19 ELIM (OLD EITS VPN SECURE LINK)	418	0	0	0
7554	EITS INFRASTRUCTURE ASSESSMENT	891	928	1,175	1,269
7556	EITS SECURITY ASSESSMENT	585	640	566	772
7771	COMPUTER SOFTWARE <\$5,000 - A	1,936	0	0	0
8371	COMPUTER HARDWARE <\$5,000 - A	5,703	0	0	8,930
	TOTAL FOR CATEGORY 26	18,781	11,497	10,908	20,906
30	TRAINING				
6100	PER DIEM OUT-OF-STATE	2,659	2,454	2,659	2,659
6130	PUBLIC TRANS OUT-OF-STATE	263	155	263	263
6140	PERSONAL VEHICLE OUT-OF-STATE	86	216	86	86
6150	COMM AIR TRANS OUT-OF-STATE	246	2,759	246	246
6240	PERSONAL VEHICLE IN-STATE	102	0	102	102
6250	COMM AIR TRANS IN-STATE	857	0	857	857
7300	DUES AND REGISTRATIONS	2,334	2,140	2,334	2,334
7302	REGISTRATION FEES	849	0	849	849
7306	DUES & REG - EMPLOYEE REIMBURSEMENT	120	0	120	120
	TOTAL FOR CATEGORY 30	7,516	7,724	7,516	7,516
82	DEPT COST ALLOCATION				
7389	16-17 CENTRALIZED PERSONNEL SERVICES COST ALLOC	2,615	2,998	2,921	3,040
7439	DEPT OF ADMIN - ADMIN SER DIV	22,278	25,260	34,953	35,815
	TOTAL FOR CATEGORY 82	24,893	28,258	37,874	38,855
86	RESERVE				
9178	RESERVE - BAL FWD TO SUBSEQUENT FY	0	67,625	67,625	67,625

State of Nevada - Budget Division
 Line Item Detail & Summary
 2017-2019 Biennium (FY18-19)

Item No	Description	Actual 2015-2016	Work Program 2016-2017	G01 Year 1 2017-2018	G01 Year 2 2018-2019
	TOTAL FOR CATEGORY 86	0	67,625	67,625	67,625
87	PURCHASING ASSESSMENT				
7393	PURCHASING ASSESSMENT	294	483	407	569
	TOTAL FOR CATEGORY 87	294	483	407	569
88	STATEWIDE COST ALLOCATION PLAN				
9159	STATEWIDE COST ALLOCATION	8,572	0	0	0
	TOTAL FOR CATEGORY 88	8,572	0	0	0
89	AG COST ALLOCATION PLAN				
7391	ATTORNEY GENERAL COST ALLOC	0	0	832	306
	TOTAL FOR CATEGORY 89	0	0	832	306
93	RESERVE FOR REVERSION TO GENERAL FUND				
9169	TRANSFER OF GENERAL FD APPROPS	32	0	0	0
	TOTAL FOR CATEGORY 93	32	0	0	0
	TOTAL EXPENDITURES FOR BUDGET ACCOUNT 1343	742,446	841,931	848,453	859,116

Cheryl A. Lau, Esq.
Chair

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February 7, 2017

Senate Committee on Finance
Nevada Legislature
79th Legislative Session (2017)

RE: **ETHICS COMMISSION STAFF SALARY ENHANCEMENT REQUEST**

Dear Chair Woodhouse and Members of the Senate Committee on Finance:

The Nevada Commission on Ethics is responsible for advising and educating State and local government public officers and employees regarding the provisions of the Nevada Ethics in Government Law (NRS 281A). The Commission also serves as a quasi-judicial body responsible for interpreting and enforcing the Ethics Law, adjudicating complaints and defending its administrative decisions in various judicial forums.

The Commission's mission is accomplished through its staff, consisting of six (6) unclassified employees. The salaries and titles of the Commission's staff are currently set by the Unclassified Pay Bill during each Legislative Session. Pursuant to NRS 281A.270, the Commission's overall budget is funded through a proportionate split between the State General Fund and Counties and Cities with certain threshold populations, currently 21% State, 79% Local Government – and if the current budget is approved as proposed, the State's portion will become 28% and the Local Government's share will be 72%. Accordingly, the requested compensation and title adjustments will have a limited direct impact on the State General Fund.

The Commission has unwaveringly supported efforts during the last two Legislative Sessions and now the current Session to increase the salaries and correct the titles of certain staff to establish parity with its sister agency in the Judicial Branch, the Judicial Discipline Commission, as well as many other comparable agencies in the State. Specifically, the Commission seeks compensation and title adjustments for the Commission's Executive Director, Commission Counsel, Associate Counsel, Executive Assistant and Senior Legal Researcher, all of which currently fall far short of the salaries and titles of their respective counterparts in other agencies with similar duties and responsibilities. (See Exhibit A)

Despite the Commission's efforts for more than 6 years, the Commission has felt powerless to effect any meaningful change to ensure and support its statutory mandate. The Commission is wholly reliant upon a qualified staff to achieve its mission, and respectfully requests your support of its efforts.

The salary disparities and title/position discrepancies of Commission staff should not continue. During the last 6 years, these pay and title disparities have resulted in increased turnover, extended vacancies and significant shortage of qualified candidates for an already limited number of staff. Notably, the Commission has suffered multiple vacancies at the hands of the Judicial Discipline Commission, which has already recruited two Commission employees at significantly enhanced titles and higher salaries for similar positions, duties and responsibilities. The State should not continue to ignore the Commission's reasonable and responsible requests for parity in staff salaries in connection with the State's goals to ensure the public's trust in government, promote efficient and responsive State Government, secure the retention of top-performing employees and stimulate professional development.

This request is not presented in a vacuum. The Commission stands dedicated to produce actual and meaningful reforms in the processing of matters before the Commission and production of quality and consistent opinions. The Commission has recently revamped its performance measures, streamlined its internal processes and case management and has submitted a bill with the Governor's sponsorship to further achieve these reforms. The Commission has achieved success in overcoming its backlogs of Commission opinions and maintains a current caseload. With the Legislature's approval of the Commission's pending BDR concepts, certain statutory amendments are expected to eliminate or streamline cumbersome processes and reduce operational costs in the Commission's budget. With these amendments, the Commission staff will be expected to meet additional challenges and achieve the revised performance measures.

The functions and staff duties and responsibilities of Nevada's Judicial Discipline Commission mirror those of the Commission, yet the salaries and titles for equivalent positions are excessively disparate. In fact, the Commission has jurisdiction of approximately 135,000 public officers and employees to warrant a more considered view of its staff responsibilities.

The Commission has routinely faced the consequences of these salary and title inequalities, including its loss of 2 employees to the Judicial Discipline Commission for similar duties and responsibilities at significantly increased pay and more respectable titles. Though the Commission is presently staffed with qualified, dedicated employees, the tenure of these employees is at risk. The Commission will be unable to recruit and compete for the same quality staff needed to achieve its mission at current salary levels, especially given its small 6-member staff. Further, retention of quality staff is critical to produce consistent work product in an efficient and professional manner, including qualified responses to important legal and judicial matters. Institutional knowledge in a unique agency such as the Commission on Ethics is invaluable. Appropriate salaries will limit excessive turnover, low quality of applicants for vacant positions, and comparison of private sector and local government pay.

The Commission requests salary increases for the Executive Director, Commission Counsel and Senior Legal Researcher, and title and salary changes for the Associate Counsel and Executive Assistant. Each request is detailed below.

Executive Director and Commission Counsel:

The Commission's Executive Director and Commission Counsel are currently paid at the lowest end of the unclassified pay scale for agency directors and attorneys in the State. The Executive Director is statutorily appointed by the Commission and charged with administering the agency; appointing and supervising the staff; preparing, directing and approving all budgetary matters; training and educating public officers and employees; investigating complaints, presenting evidentiary and legal hearings, proposing and presenting regulations and legislation; serving as the agency's public information officer; and serving as back-up legal support for the Commission Counsel. The Commission Counsel is also statutorily appointed by the Commission and is responsible for serving as the Commission's legal advisor in all matters. Commission Counsel is responsible for providing legal advice and interpretation in all matters before the Commission, including hearings, both advisory and adjudicatory, writing all final orders and opinions of the Commission and defending the Commission in any litigation.

Both positions operate with significant autonomy to a part-time Commission, and each offers the Commission licensed, legal professionals who also provide continuing legal education to the State and local Bars. However, both positions are paid at the level of a deputy attorney general in the State, which is typically a supervised attorney without independent authority. Indeed, in the recent past, the Executive Director and Commission Counsel successfully spearheaded a case through the Supreme Court of the United States, at entry level salaries.

For comparison, the Commission relies heavily on the salaries and titles of the Judicial Discipline Commission, as it is the only agency of government that operates in the same fashion as the Commission and imposes the same duties and responsibilities on staff. The salaries in that agency far exceed the salaries of the Commission's Executive Director and Commission Counsel. In addition to its higher salaries, the Judicial Branch also funds separate outside investigators and attorneys to handle much of the process that is handled in house by the Commission's Executive Director and Commission Counsel.

Associate Counsel:

In 2013, the Commission acquired its Associate Counsel Position, under the direction of the Executive Director and indirect report to Commission Counsel, and is subordinate to both positions. This position was a critical addition to the staff to ensure proper due process of third-party complaints between the roles of the Executive Director related to investigations and the Commission Counsel in its advisory capacity, and also to ensure that the Commission expedited and finalized its cases and resolved its backlog of written opinions.

Unfortunately, the Legislature included this position within the 2013 Unclassified Pay Bill as a second "Commission Counsel," instead of "Associate Counsel," as presented and approved in the Governor's Recommended Budget. Statutorily, the Commission may appoint only one Commission Counsel as the legal advisor to the agency (NRS 281A.250), and it is not appropriate that the Associate Counsel earns the same salary as the Executive Director and Commission Counsel.

The original request for the Associate Counsel position sought the entry attorney level salary, and the Commission expected the compensation of the Executive Director and

Commission Counsel would be adjusted upward accordingly. Unfortunately, during both the 2013 and 2015 Legislative Sessions, these salaries were not adjusted in the respective Unclassified Pay Bills. The Commission has endeavored to overcome these salary disparities and title errors for two legislative sessions. Accordingly, the Commission requests a title change from a second “Commission Counsel” to “Associate Counsel.” Given the demands of the position since 2013 and to again draw parity to the Judicial Discipline Commission, the Commission further seeks a salary enhancement for this position.

As further evidence of the disparity, in 2015, the Judicial Discipline Commission sought and received approval for an Associate Counsel position at nearly \$12,000 more per year than the Commission’s Executive Director, Commission Counsel and Associate Counsel.

Executive Assistant:

The Executive Assistant’s duties are, and should be, more in line with those of a Management Analyst. The Executive Assistant’s duties certainly include administrative responsibilities, but more importantly, they include substantive analysis and research and overall office management responsibilities. The Executive Assistant partners with the Executive Director to prepare, monitor and maintain the Commission’s biennial budget, including projecting future costs and needs of the agency, researching options and preparing feasibility reports to accommodate the Commission’s needs. The Executive Assistant is also responsible for personnel-related and human resource issues, tracking and collecting data related to the agency’s Performance Measures and compiling the statistical data for reports to the Executive Director/Commission, Governor’s Office of Finance and the Legislature, and utilizing that data to suggest improved work flow, budget demands and service to the Commission’s customers.

The Executive Assistant also maintains the agency’s forms and filings, suggesting edits and revisions as appropriate, and assists the Executive Director in updating internal policies in conformance with the State’s policies.

A requirement for the Management Analyst series includes a Bachelor’s degree and management experience, which will ultimately improve the level of qualifications in future applicants for this position. If the Commission were to lose the current staff member holding the position, a certified public manager, it is unlikely that the current title as an Executive Assistant and related pay scale will produce candidates capable of the skills, duties and responsibilities described above. The position warrants a change in title to a Management Analyst III.

Again, the equivalent position in the Judicial Discipline Commission operates as a Management Analyst IV, with the same educational requirements and duties assigned. The distinction between the Management Analyst III and IV relates to supervisory roles. The Commission currently does not have sufficient staff to present supervisory responsibilities in our agency and therefore the level III with related salary is requested for this agency.

Senior Legal Researcher:

The Commission’s Senior Legal Researcher provides a unique position within the Unclassified Pay Bill. The Senior Legal Researcher serves as the Commission’s para-professional legal support staff, including substantive legal research, paralegal

responsibilities, legal secretarial duties and case management of all legal matters for the Commission's three attorneys.

The salary for this position has an unfortunate history. The position was originally created as the only *classified* position in the agency to accommodate a particular person. When that person left in 2010, the Commission moved this position to the unclassified service in 2011, and an unfortunate error occurred in the approved salary in the Unclassified Pay Bill. A senior level position was transferred to the lowest paid position within the agency, at a salary less than the Commission's Executive Assistant and less than a non-senior level legal researcher in other agencies represented in the Unclassified Pay Bill. The Commission has attempted to correct this issue in each Session since 2011.

Notably, in 2015, the Nevada Legislature approved a compensation adjustment throughout the Unclassified Pay Bill for "Legal Researchers," but the salary of the Commission's Senior Legal Researcher was not likewise adjusted. The consequence was higher salaries for *non-senior* legal researchers than the Commission's *Senior* Legal Researcher. At a very minimum this salary should be adjusted appropriately to reflect a proper salary for a senior level researcher distinct from the legal researchers in other agencies.

Moreover, the responsibilities of this single position within the agency warrant a closer look at comparable positions in State Government. The Commission's Senior Legal Researcher is responsible for supporting 3 lawyers within the agency, substantive research and coordination, and case management. The equivalent position in the Judicial Discipline Commission is a Management Analyst.

The Executive Assistant and Senior Legal Researcher provide unique and distinct duties, but are equally tasked with substantive and significant responsibilities and should be equivalent in salary. Due to our small staff, both positions are also cross-trained to fill in for one another in the event of absences and vacancies. Accordingly, the Commission seeks a salary adjustment commensurate with that of the Executive Assistant. See attached chart.

Total Cost Summary:

The Commission seeks the following salary and title adjustments:

<u>Position (New Title)</u>	<u>Current Salary (Maximum)</u>	<u>Requested Salary (Maximum)</u>
Executive Director	\$97,901	\$125,340
Commission Counsel	\$95,650	\$125,340
Commission Counsel (2): (Associate Counsel)	\$95,650	\$108,179
Executive Assistant: (Management Analyst III)	\$56,265	\$74,813
Senior Legal Researcher	\$54,332	\$74,813

If the Salaries are funded as requested, the State's total share per fiscal year would be \$30,432 (28%) and the local government share would be \$78,255 (72%), split proportionately between the local governments according to respective populations. (See Exhibit B) The Commission has provided back-up materials to evidence the discrepancies

in staff salaries and titles and encourages a frank discussion with the Legislature to address these issues during this Legislative Session. (See Exhibit A)

Please feel free to contact the Commission with any questions. Thank you for your time and consideration regarding this matter.

/s/ Cheryl A. Lau
Cheryl A. Lau, Esq.
Chair

/s/ Keith A. Weaver
Keith A. Weaver, Esq.
Vice-Chair

AGENDA ITEM NO. 10

AGENDA ITEM NO. 10

SENATE BILL NO. 30—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE ATTORNEY GENERAL)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to the solicitation or acceptance of gifts by the Attorney General. (BDR 23-377)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to the Office of the Attorney General; revising provisions relating to the solicitation or acceptance of gifts by the Attorney General; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The Nevada Ethics in Government Law sets forth standards for the conduct of
2 public officers and employees, which standards are interpreted and enforced by the
3 Commission on Ethics. (Chapter 281A of NRS) In particular, the Nevada Ethics in
4 Government Law prohibits a public officer, including the Attorney General, from
5 seeking or accepting a gift which would tend improperly to influence a reasonable
6 person in the public officer’s position to depart from the faithful and impartial
7 discharge of the public officer’s public duties. (NRS 281A.400) The term “gift” is
8 not defined for the purposes of that prohibition. In addition to that prohibition, this
9 bill prohibits the Attorney General from soliciting or accepting money, services or
10 anything of value unless consideration of equal or greater value is received.
11 However, this bill excludes from the prohibition political contributions, loans,
12 certain ceremonial gifts, payments associated with certain meetings, events or trips
13 and items received from persons related to or dependent on the Attorney General.
14 Because this new prohibition is part of the Nevada Ethics in Government Law, it
15 will be enforced by the Commission on Ethics.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 281A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 1. *The Attorney General shall not solicit or accept any gift.*

4 2. *As used in this section:*

5 (a) *“Anything of value,” with respect to an educational or*
6 *informational meeting, event or trip, includes, without limitation,*
7 *any actual expenses for food, beverages, registration fees, travel or*
8 *lodging provided or given to or paid for the benefit of the Attorney*
9 *General or reimbursement for any such actual expenses paid by*
10 *the Attorney General, if the expenses are incurred on a day during*
11 *which the Attorney General undertakes or attends an educational*
12 *or informational meeting, event or trip or during which the*
13 *Attorney General travels to or from an educational or*
14 *informational meeting, event or trip.*

15 (b) *“Educational or informational meeting, event or trip”:*

16 (1) *Means any meeting, event or trip undertaken or*
17 *attended by the Attorney General if, in connection with the*
18 *meeting, event or trip:*

19 (I) *The Attorney General receives anything of value*
20 *from an interested person to undertake or attend the meeting,*
21 *event or trip; and*

22 (II) *The Attorney General provides or receives any*
23 *education or information on matters relating to the prosecutorial,*
24 *administrative or political action of the Attorney General.*

25 (2) *Includes, without limitation, any reception, gathering,*
26 *conference, convention, discussion, forum, roundtable, seminar,*
27 *symposium, speaking engagement or other similar meeting, event*
28 *or trip with an educational or informational component.*

29 (3) *Does not include a meeting, event or trip undertaken or*
30 *attended by the Attorney General for personal reasons or for*
31 *reasons relating to any professional or occupational license held*
32 *by the Attorney General, unless the Attorney General participates*
33 *as one of the primary speakers, instructors or presenters at the*
34 *meeting, event or trip.*

35 (c) *“Gift” means any payment, conveyance, transfer,*
36 *distribution, deposit, advance, loan, forbearance, subscription,*
37 *pledge or rendering of money, services or anything else of value,*
38 *unless consideration of equal or greater value is received. The*
39 *term does not include:*

40 (1) *Any political contribution of money or services related*
41 *to a political campaign.*



1 (2) *Any commercially reasonable loan made in the ordinary*
2 *course of business.*

3 (3) *Anything of value provided for an educational or*
4 *informational meeting, event or trip.*

5 (4) *Any ceremonial gift received for a birthday, wedding,*
6 *anniversary, holiday or other ceremonial occasion from a donor*
7 *who is not an interested person.*

8 (5) *Anything of value received from a person who is:*

9 (I) *Related to the Attorney General, or to the spouse or*
10 *domestic partner of the Attorney General, by blood, adoption,*
11 *marriage or domestic partnership within the third degree of*
12 *consanguinity or affinity; or*

13 (II) *A member of the Attorney General's household.*

14 (d) *"Interested person" means a person who has a substantial*
15 *interest in the prosecutorial, administrative or political action of*
16 *the Attorney General. The term includes, without limitation, a*
17 *group of interested persons acting in concert, regardless of*
18 *whether formally organized.*

19 (e) *"Member of the Attorney General's household" means:*

20 (1) *The spouse or domestic partner of the Attorney*
21 *General;*

22 (2) *A person who is related to the Attorney General, or to*
23 *the spouse or domestic partner of the Attorney General, by blood,*
24 *adoption, marriage or domestic partnership within the third*
25 *degree of consanguinity or affinity and who lives in the same*
26 *home or dwelling as the Attorney General; or*

27 (3) *A person, regardless of whether a relative of the*
28 *Attorney General or the spouse or domestic partner of the*
29 *Attorney General, who:*

30 (I) *Lives in the same home or dwelling as the Attorney*
31 *General and who is dependent on and receiving substantial*
32 *support from the Attorney General;*

33 (II) *Does not live in the same home or dwelling as the*
34 *Attorney General but who is dependent on and receiving*
35 *substantial support from the Attorney General; or*

36 (III) *Lived in the same home or dwelling as the Attorney*
37 *General for 6 months or more during the year immediately*
38 *preceding the date of any provision or transfer of anything of*
39 *value to the Attorney General and who was dependent on and*
40 *receiving substantial support from the Attorney General during*
41 *that period.*

42 **Sec. 2.** NRS 281A.400 is hereby amended to read as follows:

43 281A.400 A code of ethical standards is hereby established to
44 govern the conduct of public officers and employees:



1 1. ~~IA~~ *In addition to the provisions of section 1 of this act, a*
2 public officer or employee shall not seek or accept any gift, service,
3 favor, employment, engagement, emolument or economic
4 opportunity which would tend improperly to influence a reasonable
5 person in the public officer's or employee's position to depart from
6 the faithful and impartial discharge of the public officer's or
7 employee's public duties.

8 2. A public officer or employee shall not use the public
9 officer's or employee's position in government to secure or grant
10 unwarranted privileges, preferences, exemptions or advantages for
11 the public officer or employee, any business entity in which the
12 public officer or employee has a significant pecuniary interest, or
13 any person to whom the public officer or employee has a
14 commitment in a private capacity to the interests of that person. As
15 used in this subsection, "unwarranted" means without justification
16 or adequate reason.

17 3. A public officer or employee shall not participate as an agent
18 of government in the negotiation or execution of a contract between
19 the government and any business entity in which the public officer
20 or employee has a significant pecuniary interest.

21 4. A public officer or employee shall not accept any salary,
22 retainer, augmentation, expense allowance or other compensation
23 from any private source for the performance of the public officer's
24 or employee's duties as a public officer or employee.

25 5. If a public officer or employee acquires, through the public
26 officer's or employee's public duties or relationships, any
27 information which by law or practice is not at the time available to
28 people generally, the public officer or employee shall not use the
29 information to further a significant pecuniary interest of the public
30 officer or employee or any other person or business entity.

31 6. A public officer or employee shall not suppress any
32 governmental report or other official document because it might
33 tend to affect unfavorably a significant pecuniary interest of the
34 public officer or employee.

35 7. Except for State Legislators who are subject to the
36 restrictions set forth in subsection 8, a public officer or employee
37 shall not use governmental time, property, equipment or other
38 facility to benefit a significant personal or pecuniary interest of the
39 public officer or employee. This subsection does not prohibit:

40 (a) A limited use of governmental property, equipment or other
41 facility for personal purposes if:

42 (1) The public officer or employee who is responsible for
43 and has authority to authorize the use of such property, equipment
44 or other facility has established a policy allowing the use or the use
45 is necessary as a result of emergency circumstances;



1 (2) The use does not interfere with the performance of the
2 public officer's or employee's public duties;

3 (3) The cost or value related to the use is nominal; and

4 (4) The use does not create the appearance of impropriety;

5 (b) The use of mailing lists, computer data or other information
6 lawfully obtained from a governmental agency which is available to
7 members of the general public for nongovernmental purposes; or

8 (c) The use of telephones or other means of communication if
9 there is not a special charge for that use.

10 ➤ If a governmental agency incurs a cost as a result of a use that is
11 authorized pursuant to this subsection or would ordinarily charge a
12 member of the general public for the use, the public officer or
13 employee shall promptly reimburse the cost or pay the charge to the
14 governmental agency.

15 8. A State Legislator shall not:

16 (a) Use governmental time, property, equipment or other facility
17 for a nongovernmental purpose or for the private benefit of the State
18 Legislator or any other person. This paragraph does not prohibit:

19 (1) A limited use of state property and resources for personal
20 purposes if:

21 (I) The use does not interfere with the performance of the
22 State Legislator's public duties;

23 (II) The cost or value related to the use is nominal; and

24 (III) The use does not create the appearance of
25 impropriety;

26 (2) The use of mailing lists, computer data or other
27 information lawfully obtained from a governmental agency which is
28 available to members of the general public for nongovernmental
29 purposes; or

30 (3) The use of telephones or other means of communication
31 if there is not a special charge for that use.

32 (b) Require or authorize a legislative employee, while on duty,
33 to perform personal services or assist in a private activity, except:

34 (1) In unusual and infrequent situations where the
35 employee's service is reasonably necessary to permit the State
36 Legislator or legislative employee to perform that person's official
37 duties; or

38 (2) Where such service has otherwise been established as
39 legislative policy.

40 9. A public officer or employee shall not attempt to benefit a
41 significant personal or pecuniary interest of the public officer or
42 employee through the influence of a subordinate.

43 10. A public officer or employee shall not seek other
44 employment or contracts through the use of the public officer's or
45 employee's official position.



1 **Sec. 3.** This act becomes effective upon passage and approval.

③



* S B 3 0 *

SENATE BILL NO. 36—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE OFFICE OF THE GOVERNOR)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to ethics in government.
(BDR 23-230)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to ethics in government; removing State Legislators entirely from the jurisdiction of the Commission on Ethics; revising the membership of the Commission; revising the provisions governing the assessments paid by cities and counties to the Commission; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under the Nevada Constitution, the legislative House of which a Legislator is a
2 member has exclusive jurisdiction over discipline of its members. (Nev. Const. Art.
3 4, § 6) In 2009, the Nevada Supreme Court held that under the constitutional
4 doctrine of separation of powers, the House of which a Legislator is a member is
5 the only governmental entity that is authorized to sanction the Legislator for
6 conduct within the sphere of legitimate legislative activity, such as voting or
7 abstention on legislation and, by extension, disclosure of conflicts of interest.
8 Moreover, the Court held that the Legislature cannot delegate its authority to
9 discipline state legislators for conduct within the sphere of legitimate legislative
10 activity to another branch of government. (*Comm’n on Ethics v. Hardy*, 125 Nev.
11 285, 294-96 & n.9 (2009)) Existing law sets forth a nonexhaustive list of actions by
12 a Legislator that are considered within the sphere of legitimate legislative activity
13 based on long-standing case law interpreting and applying the constitutional
14 doctrines of separation of powers and legislative privilege and immunity under the
15 Speech or Debate Clause of Section 6 of Article I of the United States Constitution.
16 (NRS 41.071)

17 The Commission on Ethics, which is an agency of the Executive Department of
18 the State Government, was created under existing law to administer and enforce the



19 Nevada Ethics in Government Law. (NRS 281A.200) The Commission has
20 concurrent jurisdiction over Legislators with respect to alleged ethical violations
21 that do not fall within the sphere of legitimate legislative activity, such as misuse of
22 office. (NRS 281A.280; *Hardy*, 125 Nev. at 294-96 & n.9)

23 **Sections 1-3 and 6-9** of this bill remove State Legislators entirely from the
24 jurisdiction of the Commission on Ethics. Therefore, determination of all issues
25 relating to the ethical conduct of Legislators will be within the exclusive
26 jurisdiction of the House of which the Legislator is a member. Since the *Hardy*
27 decision in 2009, each House of the Legislature has had a standing rule in place that
28 provides for a committee on ethics to address questions regarding breaches of
29 ethics and conflicts of interest of Legislators for their respective Houses. (*See, e.g.*,
30 Senate Standing Rule No. 23, File No. 4, Statutes of Nevada 2015, p. 3981;
31 Assembly Standing Rule No. 23, File No. 1, Statutes of Nevada 2015, p. 3956)

32 Under existing law, the Commission on Ethics consists of eight members, with
33 four members appointed by the Legislative Commission and four members
34 appointed by the Governor. **Section 4** of this bill eliminates the members appointed
35 by the Legislative Commission and adds another member appointed by the
36 Governor, which results in a total of five members of the Commission on Ethics.

37 Existing law requires certain cities and counties to cover some of the costs
38 incurred by the Commission on Ethics in carrying out its functions by paying
39 assessments during each biennium. (NRS 281A.270) **Section 5** of this bill removes
40 the requirement that the Executive Director of the Commission on Ethics consult
41 with the Budget Division of the Office of Finance and the Fiscal Analysis Division
42 of the Legislative Counsel Bureau before determining the amount of such
43 assessments due for each city and county for a biennium.

44 Pursuant to **section 11** of this bill, the Commission on Ethics retains its
45 concurrent jurisdiction over any requests for an opinion regarding a Legislator's
46 conduct that are pending before the Commission on the effective date of this bill.
47 **Section 11** also provides that the revised composition of the Commission on Ethics
48 does not affect the status of any requests for an opinion pending before the
49 Commission on the effective date of this bill.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 281A.020 is hereby amended to read as
2 follows:

3 281A.020 1. It is hereby declared to be the public policy of
4 this State that:

5 (a) A public office is a public trust and shall be held for the sole
6 benefit of the people.

7 (b) A public officer or employee must commit himself or herself
8 to avoid conflicts between the private interests of the public officer
9 or employee and those of the general public whom the public officer
10 or employee serves.

11 2. The Legislature finds and declares that:

12 (a) The increasing complexity of state and local government,
13 more and more closely related to private life and enterprise, enlarges
14 the potentiality for conflict of interests.



1 (b) To enhance the people's faith in the integrity and
2 impartiality of public officers and employees, adequate guidelines
3 are required to show the appropriate separation between the roles of
4 persons who are both public servants and private citizens.

5 ~~[(c) In interpreting and applying the provisions of this chapter
6 that are applicable to State Legislators, the Commission must give
7 appropriate weight and proper deference to the public policy of this
8 State under which State Legislators serve as "citizen Legislators"
9 who have other occupations and business interests, who are
10 expected to have particular philosophies and perspectives that are
11 necessarily influenced by the life experiences of the Legislator,
12 including, without limitation, professional, family and business
13 experiences, and who are expected to contribute those philosophies
14 and perspectives to the debate over issues with which the
15 Legislature is confronted.~~

16 ~~—(d) The provisions of this chapter do not, under any
17 circumstances, allow the Commission to exercise jurisdiction or
18 authority over or inquire into, intrude upon or interfere with the
19 functions of a State Legislator that are protected by legislative
20 privilege and immunity pursuant to the Constitution of the State of
21 Nevada or NRS 41.071.]~~

22 **Sec. 2.** NRS 281A.080 is hereby amended to read as follows:

23 281A.080 1. The making of a "decision" is the exercise of
24 governmental power to adopt laws, regulations or standards, render
25 quasi-judicial decisions, establish executive policy or determine
26 questions involving substantial discretion.

27 2. The term does not include:

28 (a) The functions of the judiciary.

29 (b) The functions of a State Legislator . ~~[that are protected by
30 legislative privilege and immunity pursuant to the Constitution of
31 the State of Nevada or NRS 41.071.]~~

32 **Sec. 3.** NRS 281A.160 is hereby amended to read as follows:

33 281A.160 1. "Public officer" means a person who is:

34 (a) Elected or appointed to a position which:

35 (1) Is established by the Constitution of the State of Nevada,
36 a statute of this State or a charter or ordinance of any county, city or
37 other political subdivision; and

38 (2) Involves the exercise of a public power, trust or duty; or

39 (b) Designated as a public officer for the purposes of this
40 chapter pursuant to NRS 281A.182.

41 2. As used in this section, "the exercise of a public power, trust
42 or duty" means:

43 (a) Actions taken in an official capacity which involve a
44 substantial and material exercise of administrative discretion in the
45 formulation of public policy;



- 1 (b) The expenditure of public money; and
2 (c) The administration of laws and rules of the State or any
3 county, city or other political subdivision.
4 3. "Public officer" does not include:
5 (a) Any justice, judge or other officer of the court system;
6 (b) Any member of a board, commission or other body whose
7 function is advisory;
8 (c) Any member of a special district whose official duties do not
9 include the formulation of a budget for the district or the
10 authorization of the expenditure of the district's money; ~~for~~
11 (d) A county health officer appointed pursuant to NRS 439.290
12 ~~for~~; or
13 (e) *A State Legislator.*
14 4. "Public office" does not include an office held by:
15 (a) Any justice, judge or other officer of the court system;
16 (b) Any member of a board, commission or other body whose
17 function is advisory;
18 (c) Any member of a special district whose official duties do not
19 include the formulation of a budget for the district or the
20 authorization of the expenditure of the district's money; ~~for~~
21 (d) A county health officer appointed pursuant to NRS 439.290
22 ~~for~~; or
23 (e) *A State Legislator.*
24 **Sec. 4.** NRS 281A.200 is hereby amended to read as follows:
25 281A.200 1. The Commission on Ethics, consisting of ~~eight~~
26 *five* members, is hereby created.
27 2. ~~The Legislative Commission shall appoint to the~~
28 ~~Commission four residents of the State, at least two of whom must~~
29 ~~be former public officers or employees, and at least one of whom~~
30 ~~must be an attorney licensed to practice law in this State.~~
31 ~~—3—~~ The Governor shall appoint to the Commission ~~four~~ *five*
32 residents of the State, at least two of whom must be former public
33 officers or employees, and at least ~~one~~ *two* of whom must be ~~an~~
34 ~~attorney~~ *attorneys* licensed to practice law in this State.
35 ~~4—~~ 3. Not more than ~~four~~ *three* members of the Commission
36 may be members of the same political party. Not more than ~~four~~
37 *three* members of the Commission may be residents of the same
38 county.
39 ~~5—~~ 4. None of the members of the Commission may, while
40 the member is serving on the Commission:
41 (a) Hold another public office;
42 (b) Be actively involved in the work of any political party or
43 political campaign; or



1 (c) Communicate directly with a State Legislator or a member of
2 a local legislative body on behalf of someone other than himself or
3 herself or the Commission, for compensation, to influence:

4 (1) The State Legislator with regard to introducing or voting
5 upon any matter or taking other legislative action; or

6 (2) The member of the local legislative body with regard to
7 introducing or voting upon any ordinance or resolution, taking other
8 legislative action or voting upon:

9 (I) The appropriation of public money;

10 (II) The issuance of a license or permit; or

11 (III) Any proposed subdivision of land or special
12 exception or variance from zoning regulations.

13 ~~6-~~ 5. After the initial terms, the terms of the members are 4
14 years. Any vacancy in the membership must be filled by the
15 appropriate appointing authority for the unexpired term. Each
16 member may serve no more than two consecutive full terms.

17 **Sec. 5.** NRS 281A.270 is hereby amended to read as follows:

18 281A.270 1. Each county whose population is 10,000 or
19 more and each city whose population is 15,000 or more and that is
20 located within such a county shall pay an assessment for the costs
21 incurred by the Commission each biennium in carrying out its
22 functions pursuant to this chapter. The total amount of money to be
23 derived from assessments paid pursuant to this subsection for a
24 biennium must be determined by the Legislature in the legislatively
25 approved budget of the Commission for that biennium. The
26 assessments must be apportioned among each such city and county
27 based on the proportion that the total population of the city or the
28 total population of the unincorporated area of the county bears to the
29 total population of all such cities and the unincorporated areas of all
30 such counties in this State.

31 2. On or before July 1 of each odd-numbered year, the
32 Executive Director shall ~~in consultation with the Budget Division
33 of the Office of Finance and the Fiscal Analysis Division of the
34 Legislative Counsel Bureau,~~ determine for the next ensuing
35 biennium the amount of the assessments due for each city and
36 county that is required to pay an assessment pursuant to subsection
37 1. The assessments must be paid to the Commission in semiannual
38 installments that are due on or before August 1 and February 1 of
39 each year of the biennium. The Executive Director shall send out a
40 billing statement to each such city or county which states the
41 amount of the semiannual installment payment due from the city or
42 county.

43 3. Any money that the Commission receives pursuant to
44 subsection 2:



1 (a) Must be deposited in the State Treasury, accounted for
2 separately in the State General Fund and credited to the budget
3 account for the Commission;

4 (b) May only be used to carry out the provisions of this chapter
5 and only to the extent authorized for expenditure by the Legislature;

6 (c) Does not revert to the State General Fund at the end of any
7 fiscal year; and

8 (d) Does not revert to a city or county if:

9 (1) The actual expenditures by the Commission are less than
10 the amount of the assessments approved by the Legislature pursuant
11 to subsection 1 and the city or county has already remitted its
12 semiannual installment to the Commission for the billing period; or

13 (2) The budget of the Commission is modified after the
14 amount of the assessments has been approved by the Legislature
15 pursuant to subsection 1 and the city or county has already remitted
16 its semiannual installment to the Commission for the billing period.

17 4. If any installment payment is not paid on or before the date
18 on which it is due, the Executive Director shall make reasonable
19 efforts to collect the delinquent payment. If the Executive Director
20 is not able to collect the arrearage, the Executive Director shall
21 submit a claim for the amount of the unpaid installment payment to
22 the Department of Taxation. If the Department of Taxation receives
23 such a claim, the Department shall deduct the amount of the claim
24 from money that would otherwise be allocated from the Local
25 Government Tax Distribution Account to the city or county that
26 owes the installment payment and shall transfer that amount to the
27 Commission.

28 5. As used in this section, "population" means the current
29 population estimate for that city or county as determined and
30 published by the Department of Taxation and the demographer
31 employed pursuant to NRS 360.283.

32 **Sec. 6.** NRS 281A.400 is hereby amended to read as follows:

33 281A.400 A code of ethical standards is hereby established to
34 govern the conduct of public officers and employees:

35 1. A public officer or employee shall not seek or accept any
36 gift, service, favor, employment, engagement, emolument or
37 economic opportunity which would tend improperly to influence a
38 reasonable person in the public officer's or employee's position to
39 depart from the faithful and impartial discharge of the public
40 officer's or employee's public duties.

41 2. A public officer or employee shall not use the public
42 officer's or employee's position in government to secure or grant
43 unwarranted privileges, preferences, exemptions or advantages for
44 the public officer or employee, any business entity in which the
45 public officer or employee has a significant pecuniary interest, or



1 any person to whom the public officer or employee has a
2 commitment in a private capacity to the interests of that person. As
3 used in this subsection, “unwarranted” means without justification
4 or adequate reason.

5 3. A public officer or employee shall not participate as an agent
6 of government in the negotiation or execution of a contract between
7 the government and any business entity in which the public officer
8 or employee has a significant pecuniary interest.

9 4. A public officer or employee shall not accept any salary,
10 retainer, augmentation, expense allowance or other compensation
11 from any private source for the performance of the public officer’s
12 or employee’s duties as a public officer or employee.

13 5. If a public officer or employee acquires, through the public
14 officer’s or employee’s public duties or relationships, any
15 information which by law or practice is not at the time available to
16 people generally, the public officer or employee shall not use the
17 information to further a significant pecuniary interest of the public
18 officer or employee or any other person or business entity.

19 6. A public officer or employee shall not suppress any
20 governmental report or other official document because it might
21 tend to affect unfavorably a significant pecuniary interest of the
22 public officer or employee.

23 7. ~~Except for State Legislators who are subject to the~~
24 ~~restrictions set forth in subsection 8, a~~ A public officer or employee
25 shall not use governmental time, property, equipment or other
26 facility to benefit a significant personal or pecuniary interest of the
27 public officer or employee. This subsection does not prohibit:

28 (a) A limited use of governmental property, equipment or other
29 facility for personal purposes if:

30 (1) The public officer or employee who is responsible for
31 and has authority to authorize the use of such property, equipment
32 or other facility has established a policy allowing the use or the use
33 is necessary as a result of emergency circumstances;

34 (2) The use does not interfere with the performance of the
35 public officer’s or employee’s public duties;

36 (3) The cost or value related to the use is nominal; and

37 (4) The use does not create the appearance of impropriety;

38 (b) The use of mailing lists, computer data or other information
39 lawfully obtained from a governmental agency which is available to
40 members of the general public for nongovernmental purposes; or

41 (c) The use of telephones or other means of communication if
42 there is not a special charge for that use.

43 ➤ If a governmental agency incurs a cost as a result of a use that is
44 authorized pursuant to this subsection or would ordinarily charge a
45 member of the general public for the use, the public officer or



1 employee shall promptly reimburse the cost or pay the charge to the
2 governmental agency.

3 8. ~~¶A State Legislator shall not:~~

4 ~~—(a) Use governmental time, property, equipment or other facility~~
5 ~~for a nongovernmental purpose or for the private benefit of the State~~
6 ~~Legislator or any other person. This paragraph does not prohibit:~~

7 ~~—(1) A limited use of state property and resources for personal~~
8 ~~purposes if:~~

9 ~~—(I) The use does not interfere with the performance of the~~
10 ~~State Legislator's public duties;~~

11 ~~—(II) The cost or value related to the use is nominal; and~~

12 ~~—(III) The use does not create the appearance of~~
13 ~~impropriety;~~

14 ~~—(2) The use of mailing lists, computer data or other~~
15 ~~information lawfully obtained from a governmental agency which is~~
16 ~~available to members of the general public for nongovernmental~~
17 ~~purposes; or~~

18 ~~—(3) The use of telephones or other means of communication~~
19 ~~if there is not a special charge for that use.~~

20 ~~—(b) Require or authorize a legislative employee, while on duty,~~
21 ~~to perform personal services or assist in a private activity, except:~~

22 ~~—(1) In unusual and infrequent situations where the~~
23 ~~employee's service is reasonably necessary to permit the State~~
24 ~~Legislator or legislative employee to perform that person's official~~
25 ~~duties; or~~

26 ~~—(2) Where such service has otherwise been established as~~
27 ~~legislative policy.~~

28 ~~—9.†~~ A public officer or employee shall not attempt to benefit a
29 significant personal or pecuniary interest of the public officer or
30 employee through the influence of a subordinate.

31 ~~†10.†~~ 9. A public officer or employee shall not seek other
32 employment or contracts through the use of the public officer's or
33 employee's official position.

34 **Sec. 7.** NRS 281A.410 is hereby amended to read as follows:

35 281A.410 In addition to the requirements of the code of ethical
36 standards and the other provisions of this chapter:

37 1. If a public officer or employee serves in a state agency of the
38 Executive Department or an agency of any county, city or other
39 political subdivision, the public officer or employee:

40 (a) Shall not accept compensation from any private person to
41 represent or counsel the private person on any issue pending before
42 the agency in which that public officer or employee serves, if the
43 agency makes decisions; and

44 (b) If the public officer or employee leaves the service of the
45 agency, shall not, for 1 year after leaving the service of the agency,



1 represent or counsel for compensation a private person upon any
2 issue which was under consideration by the agency during the
3 public officer's or employee's service. As used in this paragraph,
4 "issue" includes a case, proceeding, application, contract or
5 determination, but does not include the proposal or consideration of
6 legislative measures or administrative regulations.

7 2. Except as otherwise provided in subsection 3, ~~†a-State~~
8 ~~Legislator or†~~ a member of a local legislative body, or a public
9 officer or employee whose public service requires less than half of
10 his or her time, may represent or counsel a private person before an
11 agency in which he or she does not serve.

12 3. A member of a local legislative body shall not represent or
13 counsel a private person for compensation before another local
14 agency if the territorial jurisdiction of the other local agency
15 includes any part of the county in which the member serves. The
16 Commission may relieve the member from the strict application of
17 the provisions of this subsection if:

18 (a) The member requests an opinion from the Commission
19 pursuant to subsection 1 of NRS 281A.440; and

20 (b) The Commission determines that such relief is not contrary
21 to:

22 (1) The best interests of the public;

23 (2) The continued ethical integrity of each local agency
24 affected by the matter; and

25 (3) The provisions of this chapter.

26 4. Unless permitted by this section, a public officer or
27 employee shall not represent or counsel a private person for
28 compensation before any state agency of the Executive or
29 Legislative Department.

30 5. Not later than January 15 of each year, if any ~~†State~~
31 ~~Legislator,†~~ member of a local legislative body or other public
32 officer permitted by this section has, within the preceding year,
33 represented or counseled a private person for compensation before a
34 state agency of the Executive Department, he or she shall disclose
35 for each such representation or counseling during the previous
36 calendar year:

37 (a) The name of the client;

38 (b) The nature of the representation; and

39 (c) The name of the state agency.

40 6. The disclosure required by subsection 5 must be made in
41 writing and filed with the Commission on a form prescribed by the
42 Commission. For the purposes of this subsection, the disclosure is
43 timely filed if, on or before the last day for filing, the disclosure is
44 filed in one of the following ways:



1 (a) Delivered in person to the principal office of the
2 Commission in Carson City.

3 (b) Mailed to the Commission by first-class mail, or other class
4 of mail that is at least as expeditious, postage prepaid. Filing by mail
5 is complete upon timely depositing the disclosure with the United
6 States Postal Service.

7 (c) Dispatched to a third-party commercial carrier for delivery to
8 the Commission within 3 calendar days. Filing by third-party
9 commercial carrier is complete upon timely depositing the
10 disclosure with the third-party commercial carrier.

11 (d) Transmitted to the Commission by facsimile machine or
12 other electronic means authorized by the Commission. Filing by
13 facsimile machine or other electronic means is complete upon
14 receipt of the transmission by the Commission.

15 7. The Commission shall retain a disclosure filed pursuant to
16 this section for 6 years after the date on which the disclosure was
17 filed.

18 **Sec. 8.** NRS 281A.420 is hereby amended to read as follows:

19 281A.420 1. Except as otherwise provided in this section, a
20 public officer or employee shall not approve, disapprove, vote,
21 abstain from voting or otherwise act upon a matter:

22 (a) Regarding which the public officer or employee has accepted
23 a gift or loan;

24 (b) In which the public officer or employee has a significant
25 pecuniary interest; or

26 (c) Which would reasonably be affected by the public officer's
27 or employee's commitment in a private capacity to the interests of
28 another person,

29 ↪ without disclosing information concerning the gift or loan,
30 significant pecuniary interest or commitment in a private capacity to
31 the interests of the person that is sufficient to inform the public of
32 the potential effect of the action or abstention upon the person who
33 provided the gift or loan, upon the public officer's or employee's
34 significant pecuniary interest, or upon the person to whom the
35 public officer or employee has a commitment in a private capacity.
36 Such a disclosure must be made at the time the matter is considered.
37 If the public officer or employee is a member of a body which
38 makes decisions, the public officer or employee shall make the
39 disclosure in public to the chair and other members of the body. If
40 the public officer or employee is not a member of such a body and
41 holds an appointive office, the public officer or employee shall
42 make the disclosure to the supervisory head of the public officer's or
43 employee's organization or, if the public officer holds an elective
44 office, to the general public in the area from which the public officer
45 is elected.



1 2. The provisions of subsection 1 do not require a public
2 officer to disclose:

3 (a) Any campaign contributions that the public officer reported
4 in a timely manner pursuant to NRS 294A.120 or 294A.125; or

5 (b) Any contributions to a legal defense fund that the public
6 officer reported in a timely manner pursuant to NRS 294A.286.

7 3. Except as otherwise provided in this section, in addition to
8 the requirements of subsection 1, a public officer shall not vote upon
9 or advocate the passage or failure of, but may otherwise participate
10 in the consideration of, a matter with respect to which the
11 independence of judgment of a reasonable person in the public
12 officer's situation would be materially affected by:

13 (a) The public officer's acceptance of a gift or loan;

14 (b) The public officer's significant pecuniary interest; or

15 (c) The public officer's commitment in a private capacity to the
16 interests of another person.

17 4. In interpreting and applying the provisions of subsection 3:

18 (a) It must be presumed that the independence of judgment of a
19 reasonable person in the public officer's situation would not be
20 materially affected by the public officer's acceptance of a gift or
21 loan, significant pecuniary interest or commitment in a private
22 capacity to the interests of another person where the resulting
23 benefit or detriment accruing to the public officer, or if the public
24 officer has a commitment in a private capacity to the interests of
25 another person, accruing to the other person, is not greater than that
26 accruing to any other member of any general business, profession,
27 occupation or group that is affected by the matter. The presumption
28 set forth in this paragraph does not affect the applicability of the
29 requirements set forth in subsection 1 relating to the disclosure of
30 the acceptance of a gift or loan, significant pecuniary interest or
31 commitment in a private capacity to the interests of another person.

32 (b) The Commission must give appropriate weight and proper
33 deference to the public policy of this State which favors the right of
34 a public officer to perform the duties for which the public officer
35 was elected or appointed and to vote or otherwise act upon a matter,
36 provided the public officer has properly disclosed the public
37 officer's acceptance of a gift or loan, significant pecuniary interest
38 or commitment in a private capacity to the interests of another
39 person in the manner required by subsection 1. Because abstention
40 by a public officer disrupts the normal course of representative
41 government and deprives the public and the public officer's
42 constituents of a voice in governmental affairs, the provisions of this
43 section are intended to require abstention only in clear cases where
44 the independence of judgment of a reasonable person in the public
45 officer's situation would be materially affected by the public



1 officer's acceptance of a gift or loan, significant pecuniary interest
2 or commitment in a private capacity to the interests of another
3 person.

4 5. Except as otherwise provided in NRS 241.0355, if a public
5 officer declares to the body or committee in which the vote is to be
6 taken that the public officer will abstain from voting because of the
7 requirements of this section, the necessary quorum to act upon and
8 the number of votes necessary to act upon the matter, as fixed by
9 any statute, ordinance or rule, is reduced as though the member
10 abstaining were not a member of the body or committee.

11 6. The provisions of this section do not, under any
12 circumstances:

13 (a) Prohibit a member of a local legislative body from
14 requesting or introducing a legislative measure; or

15 (b) Require a member of a local legislative body to take any
16 particular action before or while requesting or introducing a
17 legislative measure.

18 ~~17. The provisions of this section do not, under any
19 circumstances, apply to State Legislators or allow the Commission
20 to exercise jurisdiction or authority over State Legislators. The
21 responsibility of a State Legislator to make disclosures concerning
22 gifts, loans, interests or commitments and the responsibility of a
23 State Legislator to abstain from voting upon or advocating the
24 passage or failure of a matter are governed by the Standing Rules of
25 the Legislative Department of State Government which are adopted,
26 administered and enforced exclusively by the appropriate bodies of
27 the Legislative Department of State Government pursuant to Section
28 6 of Article 4 of the Nevada Constitution.~~

29 ~~8. As used in this section, "public officer" and "public
30 employee" do not include a State Legislator.~~

31 **Sec. 9.** NRS 281A.480 is hereby amended to read as follows:

32 281A.480 1. In addition to any other penalties provided by
33 law and in accordance with the provisions of NRS 281A.475, the
34 Commission may impose on a public officer or employee or former
35 public officer or employee civil penalties:

36 (a) Not to exceed \$5,000 for a first willful violation of this
37 chapter;

38 (b) Not to exceed \$10,000 for a separate act or event that
39 constitutes a second willful violation of this chapter; and

40 (c) Not to exceed \$25,000 for a separate act or event that
41 constitutes a third willful violation of this chapter.

42 2. In addition to any other penalties provided by law, the
43 Commission may, upon its own motion or upon the motion of the
44 person about whom an opinion was requested pursuant to NRS
45 281A.440, impose a civil penalty not to exceed \$5,000 and assess an



1 amount equal to the amount of attorney's fees and costs actually and
2 reasonably incurred by the person about whom an opinion was
3 requested pursuant to NRS 281A.440 against a person who
4 prevents, interferes with or attempts to prevent or interfere with the
5 discovery or investigation of a violation of this chapter.

6 3. If the Commission finds that a violation of a provision of
7 this chapter by a public officer or employee or former public officer
8 or employee has resulted in the realization of a financial benefit by
9 the current or former public officer or employee or another person,
10 the Commission may, in addition to any other penalties provided by
11 law, require the current or former public officer or employee to pay
12 a civil penalty of not more than twice the amount so realized.

13 4. In addition to any other penalties provided by law, if a
14 proceeding results in an opinion that:

15 ~~(a) One or more willful violations of this chapter have been~~
16 ~~committed by a State Legislator removable from office only through~~
17 ~~expulsion by the State Legislator's own House pursuant to Section 6~~
18 ~~of Article 4 of the Nevada Constitution, the Commission shall:~~

19 ~~— (1) If the State Legislator is a member of the Senate, submit~~
20 ~~the opinion to the Majority Leader of the Senate or, if the Majority~~
21 ~~Leader of the Senate is the subject of the opinion or the person who~~
22 ~~requested the opinion, to the President Pro Tempore of the Senate;~~
23 ~~or~~

24 ~~— (2) If the State Legislator is a member of the Assembly,~~
25 ~~submit the opinion to the Speaker of the Assembly or, if the Speaker~~
26 ~~of the Assembly is the subject of the opinion or the person who~~
27 ~~requested the opinion, to the Speaker Pro Tempore of the Assembly.~~

28 ~~(b)~~ One or more willful violations of this chapter have been
29 committed by a state officer removable from office only through
30 impeachment pursuant to Article 7 of the Nevada Constitution, the
31 Commission shall submit the opinion to the Speaker of the
32 Assembly and the Majority Leader of the Senate or, if the Speaker
33 of the Assembly or the Majority Leader of the Senate is the person
34 who requested the opinion, to the Speaker Pro Tempore of the
35 Assembly or the President Pro Tempore of the Senate, as
36 appropriate.

37 ~~(c)~~ (b) One or more willful violations of this chapter have
38 been committed by a public officer other than a public officer
39 described in ~~paragraphs~~ paragraph (a) , ~~and (b).~~ the willful
40 violations shall be deemed to be malfeasance in office for the
41 purposes of NRS 283.440 and the Commission:

42 (1) May file a complaint in the appropriate court for removal
43 of the public officer pursuant to NRS 283.440 when the public
44 officer is found in the opinion to have committed fewer than three
45 willful violations of this chapter.



1 (2) Shall file a complaint in the appropriate court for removal
2 of the public officer pursuant to NRS 283.440 when the public
3 officer is found in the opinion to have committed three or more
4 willful violations of this chapter.

5 ➤ This paragraph grants an exclusive right to the Commission, and
6 no other person may file a complaint against the public officer
7 pursuant to NRS 283.440 based on any violation found in the
8 opinion.

9 5. Notwithstanding any other provision of this chapter, any act
10 or failure to act by a public officer or employee or former public
11 officer or employee relating to this chapter is not a willful violation
12 of this chapter if the public officer or employee establishes by
13 sufficient evidence that:

14 (a) The public officer or employee relied in good faith upon the
15 advice of the legal counsel retained by his or her public body,
16 agency or employer; and

17 (b) The advice of the legal counsel was:

18 (1) Provided to the public officer or employee before the
19 public officer or employee acted or failed to act; and

20 (2) Based on a reasonable legal determination by the legal
21 counsel under the circumstances when the advice was given that the
22 act or failure to act by the public officer or employee would not be
23 contrary to any prior published opinion issued by the Commission
24 which was publicly available on the Internet website of the
25 Commission.

26 6. In addition to any other penalties provided by law, a public
27 employee who commits a willful violation of this chapter is subject
28 to disciplinary proceedings by the employer of the public employee
29 and must be referred for action in accordance to the applicable
30 provisions governing the employment of the public employee.

31 7. The provisions of this chapter do not abrogate or decrease
32 the effect of the provisions of the Nevada Revised Statutes which
33 define crimes or prescribe punishments with respect to the conduct
34 of public officers or employees. If the Commission finds that a
35 public officer or employee has committed a willful violation of this
36 chapter which it believes may also constitute a criminal offense, the
37 Commission shall refer the matter to the Attorney General or the
38 district attorney, as appropriate, for a determination of whether a
39 crime has been committed that warrants prosecution.

40 8. The imposition of a civil penalty pursuant to subsection 1, 2
41 or 3 is a final decision for the purposes of judicial review pursuant
42 to NRS 233B.130.

43 9. A finding by the Commission that a public officer or
44 employee has violated any provision of this chapter must be



1 supported by a preponderance of the evidence unless a greater
2 burden is otherwise prescribed by law.

3 **Sec. 10.** 1. Notwithstanding the provisions of NRS
4 281A.200, the term of each member of the Commission on Ethics
5 who was appointed by the Legislative Commission expires on the
6 effective date of this act.

7 2. As soon as practicable after the effective date of this act, the
8 Governor shall appoint to the Commission on Ethics the member
9 added pursuant to subsection 2 of NRS 281A.200, as amended by
10 section 4 of this act.

11 **Sec. 11.** 1. The amendatory provisions of this act that
12 remove the concurrent jurisdiction of the Commission on Ethics
13 over State Legislators do not apply to any request for an opinion
14 regarding a Legislator's conduct submitted pursuant to NRS
15 281A.440 that is pending before the Commission on Ethics on the
16 effective date of this act.

17 2. The revision of the composition of the Commission on
18 Ethics in NRS 281A.200, as amended by section 4 of this act, does
19 not affect the status of any request for an opinion pursuant to NRS
20 281A.440 that is pending before the Commission on Ethics on the
21 effective date of this act.

22 **Sec. 12.** This act becomes effective upon passage and
23 approval.



SENATE BILL NO. 84—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to ethics in government. (BDR 23-250)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to ethics in government; revising certain procedures of the Commission on Ethics and the remedial authority of the Commission; designating certain persons as public officers for the purposes of the Nevada Ethics in Government Law; revising the code of ethical standards applicable to public officers and employees; providing for the execution and filing by a public officer of a single acknowledgment of statutory ethical standards for all public offices held concurrently by the officer; revising provisions relating to the employment of former public officers and employees; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law permits a public officer or employee, a member of the public, a
2 specialized or local ethics committee, or the Commission on Ethics itself to request
3 or initiate an opinion from the Commission interpreting the ethical standards of the
4 Nevada Ethics in Government Law and applying those standards to a given set of
5 facts. Except for a request made by the affected public officer or employee, the
6 Executive Director of the Commission is required to conduct an investigation and
7 make a recommendation to an investigatory panel, consisting of two members of
8 the Commission, about whether there is just and sufficient cause for the
9 Commission to render an opinion in the matter. In the same section of statute,
10 existing law sets forth rules of confidentiality for the proceedings and records of the
11 Commission, discovery and the conduct of a hearing by the Commission. (NRS
12 281A.440) **Sections 2-14, 21 and 30** of this bill generally reorganize the existing,



13 lengthy section and reenact those provisions in more condensed form, and they also
14 remove or repeal the provisions relating to the investigative panels. **Sections 17, 19,**
15 **28 and 29** of this bill make conforming changes. Pursuant to **section 4**, the
16 Executive Director is required to report the results of his or her investigation and
17 make a recommendation relating to just and sufficient cause directly to the
18 Commission. Other changes to the existing procedure include: (1) authorizing the
19 Executive Director to recommend the disposition of a matter without a hearing, in
20 **section 4**; and (2) revising provisions relating to the disclosure of the identity of the
21 requester of an opinion whose identity is otherwise confidential but who testifies at
22 a hearing, in **section 8**.

23 Existing law establishes the remedial options of the Commission if it finds a
24 violation of the Nevada Ethics in Government Law and also authorizes the
25 Commission to resolve matters before it by stipulation, agreed settlement, consent
26 order or default. (NRS 233B.121, 281A.135, 281A.480) **Sections 5, 12 and 13**
27 expand the remedies available to the Commission to include: (1) a requirement that
28 a public officer or employee complete a period of compliance, receive additional
29 training or issue a public apology; and (2) the issuance of a confidential letter of
30 caution or a public admonition, reprimand or censure. If the Commission believes
31 that a public officer or employee has engaged in conduct that is appropriately
32 addressed through additional training or other corrective action, **section 6** also
33 authorizes the Commission to defer further proceedings in the matter and enter a
34 deferral order, pursuant to which the Commission may dismiss the matter or take
35 other action if the public officer or employee complies with the terms of the order.
36 **Sections 22-24 and 26** of this bill make conforming changes.

37 Existing law generally defines a person as a public officer for the purposes of
38 the Nevada Ethics in Government Law if he or she holds a position that: (1)
39 involves the exercise of a public power, trust or duty; and (2) is established by the
40 Nevada Constitution or any provision of statute, charter or ordinance. (NRS
41 281A.160) Certain additional persons are designated as public officers
42 notwithstanding the fact that their positions are not so established. (NRS 281A.182)
43 **Section 16** of this bill adds to the list of persons so designated any person whose
44 position is not otherwise excluded from the scope of the statutory definition of
45 "public officer," whose compensation is paid with public money and whose duties
46 involve the exercise of a public power, trust or duty.

47 **Section 20** of this bill revises the existing code of ethical standards applicable
48 to the conduct of public officers and employees. (NRS 281A.400) Except for
49 conduct for which a complaint may be filed with the United States Equal
50 Employment Opportunity Commission or the Nevada Equal Rights Commission,
51 **section 20** makes it a violation of the standards for a public officer or employee to
52 use his or her position to coerce, harass, retaliate against or punish any other person
53 or business entity for a purpose inconsistent with the proper performance of the
54 public officer's or employee's public duties. Finally, **section 20** prohibits a public
55 officer or employee from engaging in any other conduct that is contrary to the
56 public policies underlying the Nevada Ethics in Government Law, as those policies
57 are expressed in statute. (NRS 281A.020)

58 Existing law requires each elected and appointed public officer to execute and
59 file with the Commission a written acknowledgment of the officer's understanding
60 of the statutory ethical standards applicable to him or her, and the officer's
61 obligation to become familiar with any amendments to those standards. A public
62 officer is required to execute and file the acknowledgment for each office,
63 including each appointive office, held by the officer. (NRS 281A.500) **Section 25**
64 of this bill provides that a public officer who executes and files the
65 acknowledgment for one office as required by law thereby satisfies the execution
66 and filing requirements for any other office held concurrently by him or her.



67 Under existing law, various public officers and employees are subject to a
68 "cooling-off" period after the termination of their public service or employment,
69 during which they are precluded from soliciting or accepting certain kinds of
70 employment. A similar "cooling-off period" exists for a former public officer's or
71 employee's representation or counseling of a private person on any issue which was
72 under consideration by the agency in which the officer or employee served. The
73 Commission is authorized to grant relief from the application of these provisions in
74 specified circumstances. (NRS 281A.410, 281A.550) **Section 27** of this bill: (1)
75 clarifies that a grant of relief from the application of the cooling-off provisions as
76 they relate to employment does not affect the ban on representation or counseling;
77 and (2) provides that the ban on employment extends to circumstances in which any
78 agreement for personal services exists or is contemplated.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 281A of NRS is hereby amended by
2 adding thereto the provisions set forth as sections 2 to 14, inclusive,
3 of this act.
- 4 **Sec. 2.** *"Deferral order" means an order entered by the*
5 *Commission pursuant to section 6 of this act.*
- 6 **Sec. 3.** *If a person who requests an opinion pursuant to*
7 *subsection 1 or 2 of NRS 281A.440 does not:*
- 8 1. *Submit all necessary information to the Commission; and*
9 2. *Declare by oath or affirmation that the person will testify*
10 *truthfully,*
11 *↳ the Commission may decline to render an opinion.*
- 12 **Sec. 4.** 1. *Except as otherwise provided in this subsection, if*
13 *a request for an opinion is submitted to or initiated by the*
14 *Commission pursuant to subsection 2 of NRS 281A.440, the*
15 *Executive Director shall complete the investigation required by*
16 *NRS 281A.440 and present a written recommendation to the*
17 *Commission within 70 days after the determination by the*
18 *Commission that it has jurisdiction concerning the request or after*
19 *the motion of the Commission initiating the request, as applicable.*
20 *The public officer or employee who is the subject of the request*
21 *may waive this time limit.*
- 22 2. *The recommendation must:*
- 23 (a) *State whether the Executive Director believes that there is*
24 *just and sufficient cause for the Commission to render an opinion*
25 *in the matter;*
- 26 (b) *If the Executive Director believes that a disposition of the*
27 *matter without a hearing is appropriate under the circumstances,*
28 *include any suggested disposition that is consistent with the*
29 *provisions of this chapter; and*



1 (c) Set forth the factual and legal basis for the
2 recommendation.

3 **Sec. 5. 1.** Except as otherwise provided in this subsection, if
4 a request for an opinion is submitted to or initiated by the
5 Commission pursuant to subsection 2 of NRS 281A.440, the
6 Commission shall determine whether there is just and sufficient
7 cause to render an opinion in the matter within 15 days after the
8 Executive Director has provided the recommendation required by
9 section 4 of this act, and shall cause a record of its proceedings to
10 be kept. The public officer or employee who is the subject of the
11 request may waive this time limit. The Commission shall not
12 determine that there is just and sufficient cause to render an
13 opinion unless the Executive Director has provided the public
14 officer or employee an opportunity to respond to the allegations as
15 required by NRS 281A.440.

16 2. If the Commission determines that there is not just and
17 sufficient cause to render an opinion in the matter, it shall dismiss
18 the matter with or without prejudice and with or without issuing a
19 letter of caution to the public officer or employee. A letter of
20 caution is confidential, but the Commission may consider a letter
21 of caution in deciding the appropriate action to be taken on any
22 subsequent request for an opinion involving the public officer or
23 employee, unless the letter is not relevant to the issues presented
24 by the subsequent request.

25 3. If the Commission determines that there is just and
26 sufficient cause to render an opinion in the matter but believes
27 that the conduct at issue is more appropriately addressed through
28 additional training or other corrective action, it may enter a
29 deferral order.

30 4. If the Commission determines that there is just and
31 sufficient cause to render an opinion in the matter, the
32 Commission shall hold a hearing and render its opinion within 60
33 days after the date of the determination unless the public officer or
34 employee waives this time limit or a deferral order is entered by
35 the Commission.

36 **Sec. 6. 1.** If a request for an opinion is submitted to or
37 initiated by the Commission pursuant to subsection 2 of NRS
38 281A.440, the Commission determines that there is just and
39 sufficient cause to render an opinion and the Commission
40 reasonably believes that a public officer or employee has engaged
41 in conduct that is appropriately addressed through additional
42 training or other corrective action, the Commission may defer
43 further proceedings in the matter and enter a deferral order.

44 2. A deferral order is confidential and must:



1 (a) Specify the training or other corrective action to be
2 completed by or imposed upon the public officer or employee;

3 (b) Specify any penalty, consistent with the provisions of this
4 chapter, to be imposed upon the public officer or employee; and

5 (c) Provide that the Commission may vacate the order and
6 proceed with a hearing if the Commission finds that the public
7 officer or employee has failed to comply with any condition of the
8 order.

9 3. The imposition of training or other corrective action and
10 any penalty described in a deferral order is without prejudice to
11 any other disposition of the matter, consistent with this chapter,
12 that may be ordered by the Commission if it vacates the order,
13 proceeds with a hearing and finds that the public officer or
14 employee has violated any provision of this chapter.

15 4. The Executive Director shall monitor the compliance of
16 the public officer or employee who is the subject of a deferral
17 order and may require the public officer or employee to document
18 his or her compliance with the order. The Commission shall give
19 the public officer or employee written notice of any alleged failure
20 to comply with the order and shall allow the public officer or
21 employee not less than 15 days to respond to such a notice.

22 5. If the public officer or employee who is the subject of a
23 deferral order complies in a satisfactory manner with the order,
24 the Commission may dismiss the request for an opinion or take
25 any other action it deems appropriate, consistent with the
26 provisions of this chapter.

27 **Sec. 7.** Each request for an opinion that a public officer or
28 employee submits to the Commission pursuant to subsection 1 of
29 NRS 281A.440, each opinion rendered by the Commission in
30 response to the request and any motion, determination, evidence
31 or record of a hearing relating to the request are confidential
32 unless the public officer or employee who requested the opinion:

33 1. Acts in contravention of the opinion, in which case the
34 Commission may disclose the request for the opinion, the contents
35 of the opinion and any motion, determination, evidence or record
36 of a hearing related to the request;

37 2. Discloses the request for the opinion, the contents of the
38 opinion, or any motion, determination, evidence or record of a
39 hearing related to the request in any manner except to:

40 (a) The public body, agency or employer of the public officer
41 or employee; or

42 (b) A person to whom the Commission authorizes the current
43 or former public officer or employee to make such a disclosure; or



1 3. *Requests the Commission to disclose the request, the*
2 *contents of the opinion, or any motion, determination, evidence or*
3 *record of a hearing related to the request.*

4 **Sec. 8.** *1. Except as otherwise provided in this section and*
5 *section 9 of this act, all information, communications, records,*
6 *documents or other material in the possession of the Commission*
7 *or its staff that is related to a request for an opinion regarding a*
8 *public officer or employee submitted to or initiated by the*
9 *Commission pursuant to subsection 2 of NRS 281A.440 are*
10 *confidential and not public records pursuant to chapter 239 of*
11 *NRS until:*

12 *(a) The Commission determines that there is just and*
13 *sufficient cause to render an opinion in the matter and serves*
14 *written notice of its determination on the public officer or*
15 *employee who is the subject of the request; or*

16 *(b) The public officer or employee who is the subject of the*
17 *request authorizes the Commission in writing to make the*
18 *information, communications, records, documents or other*
19 *material which are related to the request publicly available,*
20 *↪ whichever occurs first.*

21 2. *Except as otherwise provided in subsection 3, if a person*
22 *who submits a request for an opinion pursuant to paragraph (b) of*
23 *subsection 2 of NRS 281A.440 asks that his or her identity as the*
24 *requester be kept confidential, the Commission:*

25 *(a) Shall keep the identity of the requester confidential if he or*
26 *she is a public officer or employee who works for the same public*
27 *body, agency or employer as the public officer or employee who is*
28 *the subject of the request.*

29 *(b) May keep the identity of the requester confidential if he or*
30 *she offers sufficient facts and circumstances showing a reasonable*
31 *likelihood that disclosure of his or her identity will subject the*
32 *requester or a member of his or her household to a bona fide*
33 *threat of physical force or violence.*

34 3. *If the Commission keeps the identity of the requester*
35 *confidential, the Commission shall not render an opinion in the*
36 *matter unless there is sufficient evidence without the testimony of*
37 *the requester to consider the propriety of the conduct of the public*
38 *officer or employee who is the subject of the request. If the*
39 *Commission intends to present the testimony of the requester as*
40 *evidence for consideration in rendering an opinion in the matter*
41 *and the public officer or employee who is the subject of the request*
42 *submits a written discovery request to the Commission pursuant to*
43 *section 9 of this act, the Commission shall disclose the name of the*
44 *requester only as a proposed witness within a reasonable time*
45 *before the hearing on the matter.*



1 **Sec. 9. 1.** *Except as otherwise provided in this section, the*
2 *investigative file related to a request for an opinion regarding a*
3 *public officer or employee is confidential.*

4 2. *At any time after being served with written notice of the*
5 *determination of the Commission regarding the existence of just*
6 *and sufficient cause for the Commission to render an opinion in*
7 *the matter, the public officer or employee who is the subject of the*
8 *request for an opinion may submit a written discovery request to*
9 *the Commission for a list of proposed witnesses and a copy of any*
10 *portion of the investigative file that the Commission intends to*
11 *present for consideration as evidence in rendering an opinion in*
12 *the matter.*

13 3. *Any portion of the investigative file which the Commission*
14 *presents as evidence in rendering an opinion in the matter*
15 *becomes a public record and must be open for inspection pursuant*
16 *to NRS 239.010.*

17 4. *For the purposes of this section, the investigative file*
18 *includes, without limitation, any information provided to or*
19 *obtained by the Commission or its staff through any form of*
20 *communication during the course of an investigation and any*
21 *records, documents or other material created or maintained*
22 *during the course of an investigation which relate to the public*
23 *officer or employee who is the subject of the request for an*
24 *opinion, including, without limitation, a transcript, regardless of*
25 *whether such information, records, documents or other material*
26 *are obtained pursuant to a subpoena.*

27 **Sec. 10. 1.** *Whenever the Commission holds a hearing to*
28 *receive evidence concerning the propriety of the conduct of a*
29 *public officer or employee, the Commission shall:*

30 (a) *Notify the public officer or employee of the date, time and*
31 *place of the hearing;*

32 (b) *Allow the public officer or employee to be represented by*
33 *counsel; and*

34 (c) *Allow the public officer or employee to hear the evidence*
35 *presented to the Commission and to respond and present evidence*
36 *on his or her own behalf.*

37 ↪ *Unless the public officer or employee agrees to a shorter time,*
38 *the hearing must be held not less than 10 days after the notice is*
39 *given.*

40 2. *If a person who is not a party to a hearing before the*
41 *Commission, including, without limitation, a person who has*
42 *requested an opinion pursuant to paragraph (a) or (b) of*
43 *subsection 2 of NRS 281A.440, wishes to ask a question of a*
44 *witness at the hearing, the person must submit the question to the*
45 *Executive Director in writing. The Executive Director may submit*



1 *the question to the Commission if the Executive Director deems*
2 *the question relevant and appropriate. This subsection does not*
3 *require the Commission or the Executive Director to ask any*
4 *question submitted by a person who is not a party to the*
5 *proceeding.*

6 *3. For good cause shown, the Commission may take*
7 *testimony from a person by telephone or video conference.*

8 **Sec. 11.** *Any meeting or hearing held by the Commission to*
9 *receive information or evidence concerning the propriety of the*
10 *conduct of a public officer or employee and the deliberations of*
11 *the Commission on such information or evidence, including,*
12 *without limitation, any proceedings of the Commission conducted*
13 *pursuant to subsection 1 of section 5 of this act, are not subject to*
14 *the provisions of chapter 241 of NRS.*

15 **Sec. 12.** *1. Each opinion of the Commission issued after a*
16 *hearing must include findings of fact and conclusions of law.*

17 *2. If and to the extent that the Commission determines that a*
18 *violation of this chapter:*

19 *(a) Has not been proven, the Commission shall dismiss the*
20 *matter, with or without a letter of caution as described in section 5*
21 *of this act.*

22 *(b) Has been proven, the Commission may take any action*
23 *authorized by this chapter.*

24 **Sec. 13.** *1. Except as otherwise provided in this section, as*
25 *a condition of a deferral order or based on a finding of a violation*
26 *of this chapter following a hearing, the Commission may, in*
27 *addition to any other penalty provided by law:*

28 *(a) Require a public officer or employee to:*

29 *(1) Comply in all respects with the provisions of this*
30 *chapter for a specified period without being the subject of another*
31 *request for an opinion:*

32 *(I) That arises from an alleged violation of this chapter*
33 *which is alleged to have occurred during that period; and*

34 *(II) As to which the Commission determines that there is*
35 *just and sufficient cause to hold a hearing.*

36 *(2) Attend and complete training.*

37 *(3) Follow a remedial course of action.*

38 *(4) Issue a public apology.*

39 *(5) Comply with conditions or limitations on future*
40 *conduct.*

41 *(b) Publicly admonish, reprimand or censure a public officer*
42 *or employee.*

43 *(c) Take any combination of such actions or any other*
44 *reasonable action that the Commission determines will remedy the*
45 *violation or deter similar violations.*



1 **2. The Commission may publicly:**

2 **(a) Admonish a public officer or employee if the Commission**
3 **determines that the public officer or employee has violated any**
4 **provision of this chapter, but the violation is not willful. An**
5 **admonition is a written expression of disapproval of the conduct of**
6 **the public officer or employee.**

7 **(b) Reprimand a public officer or employee if the Commission**
8 **determines that the public officer or employee has willfully**
9 **violated any provision of this chapter. A reprimand is a severe**
10 **written reproof for the conduct of the public officer or employee.**

11 **(c) Censure a public officer or employee if the Commission**
12 **determines that the public officer or employee has willfully**
13 **violated any provision of this chapter and no mitigating factors are**
14 **present. A censure is a formal written condemnation of the**
15 **conduct of the public officer or employee.**

16 **3. Any action taken by the Commission pursuant to this**
17 **section is a final decision for the purposes of judicial review**
18 **pursuant to NRS 233B.130.**

19 **Sec. 14. For the purposes of NRS 41.032, the members of the**
20 **Commission and employees of the Commission shall be deemed to**
21 **be exercising or performing a discretionary function or duty in**
22 **taking any action related to the rendering of an opinion.**

23 **Sec. 15.** NRS 281A.030 is hereby amended to read as follows:
24 281A.030 As used in this chapter, unless the context otherwise
25 requires, the words and terms defined in NRS 281A.035 to
26 281A.170, inclusive, **and section 2 of this act** have the meanings
27 ascribed to them in those sections.

28 **Sec. 16.** NRS 281A.182 is hereby amended to read as follows:
29 281A.182 1. Any person who serves in one of the following
30 positions is designated as a public officer for the purposes of this
31 chapter:

32 **(a) A president of a university, state college or community**
33 **college within the Nevada System of Higher Education.**

34 **(b) A superintendent of a county school district.**

35 **(c) A county manager or a city manager.**

36 **(d) The holder of any other position not excluded by**
37 **subsection 4 of NRS 281A.160 whose compensation is paid with**
38 **public money and whose duties involve the exercise of a public**
39 **power, trust or duty as defined in subsection 2 of NRS 281A.160.**

40 **2. This section applies to such a person regardless of whether**
41 **the person serves in the position:**

42 **(a) By appointment, contract or employment;**

43 **(b) With or without compensation; or**

44 **(c) On a temporary, interim or acting basis.**



1 **Sec. 17.** NRS 281A.240 is hereby amended to read as follows:

2 281A.240 1. In addition to any other duties imposed upon the
3 Executive Director, the Executive Director shall:

4 (a) Maintain complete and accurate records of all transactions
5 and proceedings of the Commission.

6 (b) Receive requests for opinions pursuant to NRS 281A.440.

7 (c) Gather information and conduct investigations regarding
8 requests for opinions received by the Commission and submit
9 recommendations to the ~~investigatory panel appointed pursuant to~~
10 ~~NRS 281A.220~~ **Commission** regarding whether there is just and
11 sufficient cause to render an opinion in response to a particular
12 request.

13 (d) Recommend to the Commission any regulations or
14 legislation that the Executive Director considers desirable or
15 necessary to improve the operation of the Commission and maintain
16 high standards of ethical conduct in government.

17 (e) Upon the request of any public officer or the employer of a
18 public employee, conduct training on the requirements of this
19 chapter, the rules and regulations adopted by the Commission and
20 previous opinions of the Commission. In any such training, the
21 Executive Director shall emphasize that the Executive Director is
22 not a member of the Commission and that only the Commission
23 may issue opinions concerning the application of the statutory
24 ethical standards to any given set of facts and circumstances. The
25 Commission may charge a reasonable fee to cover the costs of
26 training provided by the Executive Director pursuant to this
27 subsection.

28 (f) Perform such other duties, not inconsistent with law, as may
29 be required by the Commission.

30 2. The Executive Director shall, within the limits of legislative
31 appropriation, employ such persons as are necessary to carry out any
32 of the Executive Director's duties relating to:

33 (a) The administration of the affairs of the Commission; and

34 (b) The investigation of matters under the jurisdiction of the
35 Commission.

36 3. If the Executive Director is prohibited from acting on a
37 particular matter or is otherwise unable to act on a particular matter,
38 the Chair of the Commission shall designate a qualified person to
39 perform the duties of the Executive Director with regard to that
40 particular matter.

41 **Sec. 18.** NRS 281A.280 is hereby amended to read as follows:

42 281A.280 1. ~~The~~ **Except as otherwise provided in this**
43 **subsection, the** Commission has jurisdiction to investigate and take
44 appropriate action regarding an alleged violation of this chapter by a



1 public officer or employee or former public officer or employee in
2 any proceeding commenced by:

3 (a) The filing of a request for an opinion with the Commission;
4 or

5 (b) The Commission on its own motion,
6 within 2 years after the alleged violation or reasonable discovery
7 of the alleged violation. *The Commission does not have*
8 *jurisdiction regarding alleged conduct for which a complaint may*
9 *be filed with the United States Equal Employment Opportunity*
10 *Commission or the Nevada Equal Rights Commission.*

11 2. For the purposes of this section, a proceeding is commenced:

12 (a) On the date on which a request for an opinion is filed in the
13 proper form with the Commission in accordance with the
14 regulations of the Commission; or

15 (b) If the proceeding is commenced by the Commission on its
16 own motion, on the date on which the Commission serves the public
17 officer or employee or former public officer or employee with
18 notice of the proceeding in accordance with the regulations of the
19 Commission.

20 **Sec. 19.** NRS 281A.300 is hereby amended to read as follows:

21 281A.300 1. The Chair and Vice Chair of the Commission
22 may administer oaths.

23 2. The Commission, upon majority vote, may issue a subpoena
24 to compel the attendance of a witness and the production of books
25 and papers. Upon the request of the Executive Director or the public
26 officer or employee who is the subject of a request for an opinion,
27 the Chair or, in the Chair's absence, the Vice Chair, may issue a
28 subpoena to compel the attendance of a witness and the production
29 of books and papers. A public officer or employee who requests the
30 issuance of a subpoena pursuant to this subsection must serve the
31 subpoena in the manner provided in the Nevada Rules of Civil
32 Procedure for service of subpoenas in a civil action and must pay
33 the costs of such service.

34 3. Before issuing a subpoena to a public officer or employee
35 who is the subject of a request for an opinion to compel his or her
36 attendance as a witness or his or her production of books or papers,
37 the Executive Director shall submit a written request to the public
38 officer or employee requesting:

39 (a) The appearance of the public officer or employee as a
40 witness; or

41 (b) The production by the public officer or employee of any
42 books and papers relating to the request for an opinion.

43 4. Each written request submitted by the Executive Director
44 pursuant to subsection 3 must specify the time and place for the
45 attendance of the public officer or employee or the production of



1 any books and papers, and designate with certainty the books and
2 papers requested, if any. If the public officer or employee fails or
3 refuses to attend at the time and place specified or produce the
4 books and papers requested by the Executive Director within 5
5 business days after receipt of the request, the Chair may issue the
6 subpoena. Failure of the public officer or employee to comply with
7 the written request of the Executive Director shall be deemed a
8 waiver by the public officer or employee of the time set forth in
9 ~~subsections 4, 5 and 6 of NRS 281A.440.~~ *sections 4 and 5 of this*
10 *act.*

11 5. If any witness refuses to attend, testify or produce any books
12 and papers as required by the subpoena, the Chair of the
13 Commission may report to the district court by petition, setting forth
14 that:

15 (a) Due notice has been given of the time and place of
16 attendance of the witness or the production of the books and papers;

17 (b) The witness has been subpoenaed by the Commission
18 pursuant to this section; and

19 (c) The witness has failed or refused to attend or produce the
20 books and papers required by the subpoena before the Commission,
21 or has refused to answer questions propounded to the witness, and
22 asking for an order of the court compelling the witness to attend and
23 testify or produce the books and papers before the Commission.

24 6. Upon such a petition, the court shall enter an order directing
25 the witness to appear before the court at a time and place to be fixed
26 by the court in its order, the time to be not more than 10 days after
27 the date of the order, and then and there show cause why the witness
28 has not attended, testified or produced the books or papers before
29 the Commission. A certified copy of the order must be served upon
30 the witness.

31 7. If it appears to the court that the subpoena was regularly
32 issued by the Commission, the court shall enter an order that the
33 witness appear before the Commission, at the time and place fixed
34 in the order, and testify or produce the required books and papers.
35 Upon failure to obey the order, the witness must be dealt with as for
36 contempt of court.

37 **Sec. 20.** NRS 281A.400 is hereby amended to read as follows:

38 281A.400 A code of ethical standards is hereby established to
39 govern the conduct of public officers and employees:

40 1. A public officer or employee shall not seek or accept any
41 gift, service, favor, employment, engagement, emolument or
42 economic opportunity *for the public officer or employee or any*
43 *other person* which would tend improperly to influence a reasonable
44 person in the public officer's or employee's position to depart from



1 the faithful and impartial discharge of the public officer's or
2 employee's public duties.

3 2. A public officer or employee shall not use the public
4 officer's or employee's position in government to ~~secure~~ :

5 (a) *Coerce, harass, retaliate against or punish any other*
6 *person or business entity for a purpose which is inconsistent with*
7 *the proper performance of the officer's or employee's public*
8 *duties; or*

9 (b) *Secure* or grant unwarranted privileges, preferences,
10 exemptions or advantages for the public officer or employee ~~any~~
11 ~~or any other person or~~ business entity. ~~in which the public officer~~
12 ~~or employee has a significant pecuniary interest, or any person to~~
13 ~~whom the public officer or employee has a commitment in a private~~
14 ~~capacity to the interests of that person.~~ As used in this ~~subsection,~~
15 *paragraph*, "unwarranted" means without justification or adequate
16 reason.

17 3. A public officer or employee shall not participate as an agent
18 of government in the negotiation or execution of a contract between
19 the government and *the public officer or employee*, any business
20 entity in which the public officer or employee has a significant
21 pecuniary interest ~~or any person to whom the public officer or~~
22 ~~employee has a commitment in a private capacity.~~

23 4. A public officer or employee shall not accept any salary,
24 retainer, augmentation, expense allowance or other compensation
25 from any private source, *for the public officer or employee or any*
26 *person to whom the public officer or employee has a commitment*
27 *in a private capacity*, for the performance of the public officer's or
28 employee's duties as a public officer or employee.

29 5. If a public officer or employee acquires, through the public
30 officer's or employee's public duties or relationships, any
31 information which by law or practice is not at the time available to
32 people generally, the public officer or employee shall not use the
33 information to further a significant pecuniary interest of the public
34 officer or employee or any other person or business entity.

35 6. A public officer or employee shall not suppress any
36 governmental report or other official document because it might
37 tend to affect unfavorably a significant pecuniary interest of the
38 public officer or employee ~~or any person to whom the public~~
39 ~~officer or employee has a commitment in a private capacity.~~

40 7. Except for State Legislators who are subject to the
41 restrictions set forth in subsection 8, a public officer or employee
42 shall not use governmental time, property, equipment or other
43 facility to benefit a significant personal or pecuniary interest of the
44 public officer or employee ~~or any person to whom the public~~



1 *officer or employee has a commitment in a private capacity.* This
2 subsection does not prohibit:

3 (a) A limited use of governmental property, equipment or other
4 facility for personal purposes if:

5 (1) The public officer or employee who is responsible for
6 and has authority to authorize the use of such property, equipment
7 or other facility has established a policy allowing the use or the use
8 is necessary as a result of emergency circumstances;

9 (2) The use does not interfere with the performance of the
10 public officer's or employee's public duties;

11 (3) The cost or value related to the use is nominal; and

12 (4) The use does not create the appearance of impropriety;

13 (b) The use of mailing lists, computer data or other information
14 lawfully obtained from a governmental agency which is available to
15 members of the general public for nongovernmental purposes; or

16 (c) The use of telephones or other means of communication if
17 there is not a special charge for that use.

18 ➤ If a governmental agency incurs a cost as a result of a use that is
19 authorized pursuant to this subsection or would ordinarily charge a
20 member of the general public for the use, the public officer or
21 employee shall promptly reimburse the cost or pay the charge to the
22 governmental agency.

23 8. A State Legislator shall not:

24 (a) Use governmental time, property, equipment or other facility
25 for a nongovernmental purpose or for the private benefit of the State
26 Legislator or any other person. This paragraph does not prohibit:

27 (1) A limited use of state property and resources for personal
28 purposes if:

29 (I) The use does not interfere with the performance of the
30 State Legislator's public duties;

31 (II) The cost or value related to the use is nominal; and

32 (III) The use does not create the appearance of
33 impropriety;

34 (2) The use of mailing lists, computer data or other
35 information lawfully obtained from a governmental agency which is
36 available to members of the general public for nongovernmental
37 purposes; or

38 (3) The use of telephones or other means of communication
39 if there is not a special charge for that use.

40 (b) Require or authorize a legislative employee, while on duty,
41 to perform personal services or assist in a private activity, except:

42 (1) In unusual and infrequent situations where the
43 employee's service is reasonably necessary to permit the State
44 Legislator or legislative employee to perform that person's official
45 duties; or



1 (2) Where such service has otherwise been established as
2 legislative policy.

3 9. A public officer or employee shall not attempt to benefit a
4 significant personal or pecuniary interest of the public officer or
5 employee *or any person to whom the public officer or employee*
6 *has a commitment in a private capacity* through the influence of a
7 subordinate.

8 10. A public officer or employee shall not seek other
9 employment or contracts *for the public officer or employee or any*
10 *person to whom the public officer or employee has a commitment*
11 *in a private capacity* through the use of the public officer's or
12 employee's official position.

13 *11. A public officer or employee shall not engage in any other*
14 *conduct that is contrary to the public policy of this State as*
15 *expressed in NRS 281A.020.*

16 *12. The conduct described in this section does not include*
17 *any conduct for which a complaint may be filed with the United*
18 *States Equal Employment Opportunity Commission or the Nevada*
19 *Equal Rights Commission.*

20 **Sec. 21.** NRS 281A.440 is hereby amended to read as follows:

21 281A.440 1. The Commission shall render an opinion
22 interpreting the statutory ethical standards and apply the standards to
23 a given set of facts and circumstances within 45 days after receiving
24 a request, on a form prescribed by the Commission, from a public
25 officer or employee who is seeking guidance on questions which
26 directly relate to the propriety of the requester's own past, present or
27 future conduct as a public officer or employee, unless the public
28 officer or employee waives the time limit. The public officer or
29 employee may also request the Commission to hold a public hearing
30 regarding the requested opinion. If a requested opinion relates to the
31 propriety of the requester's own present or future conduct, the
32 opinion of the Commission is:

33 (a) Binding upon the requester as to the requester's future
34 conduct; and

35 (b) Final and subject to judicial review pursuant to NRS
36 233B.130, except that a proceeding regarding this review must be
37 held in closed court without admittance of persons other than those
38 necessary to the proceeding, unless this right to confidential
39 proceedings is waived by the requester.

40 2. The Commission may render an opinion interpreting the
41 statutory ethical standards and apply the standards to a given set of
42 facts and circumstances:

43 (a) Upon request from a specialized or local ethics committee.

44 (b) Except as otherwise provided in this subsection, upon
45 request from a person, if the requester submits:



1 (1) The request on a form prescribed by the Commission;
2 and

3 (2) All related evidence deemed necessary by the Executive
4 Director and the ~~{investigatory panel}~~ **Commission** to make a
5 determination of whether there is just and sufficient cause to render
6 an opinion in the matter.

7 (c) Upon the Commission's own motion regarding the propriety
8 of conduct by a public officer or employee. ***Any meeting or hearing***
9 ***held by the Commission relating to such a motion and the***
10 ***deliberations of the Commission on the motion are not subject to***
11 ***the provisions of chapter 241 of NRS.*** The Commission shall not
12 initiate proceedings pursuant to this paragraph based solely upon an
13 anonymous complaint.

14 ➤ The Commission shall not render an opinion interpreting the
15 statutory ethical standards or apply those standards to a given set of
16 facts and circumstances if the request is submitted by a person who
17 is incarcerated in a correctional facility in this State.

18 3. Within 45 days after receiving a request for an opinion
19 pursuant to paragraph (a) or (b) of subsection 2, the Commission
20 shall determine whether it has jurisdiction concerning the request,
21 unless the public officer or employee who is the subject of the
22 request waives this time limit. ***Any meeting or hearing held by the***
23 ***Commission to determine whether it has jurisdiction concerning***
24 ***the request and the deliberations of the Commission relating to***
25 ***that determination are not subject to the provisions of chapter 241***
26 ***of NRS.*** Upon a determination by the Commission that it has
27 jurisdiction concerning a request for an opinion pursuant to
28 paragraph (a) or (b) of subsection 2, or upon the motion of the
29 Commission initiating a request for an opinion pursuant to
30 paragraph (c) of subsection 2, as applicable, the Executive Director
31 shall investigate the facts and circumstances relating to the request
32 to determine whether there is just and sufficient cause for the
33 Commission to render an opinion in the matter. The Executive
34 Director shall notify the public officer or employee who is the
35 subject of the request and provide the public officer or employee an
36 opportunity to submit to the Executive Director a response to the
37 allegations against the public officer or employee within 30 days
38 after the date on which the public officer or employee received the
39 notice of the request. The purpose of the response is to provide the
40 Executive Director with any information relevant to the request
41 which the public officer or employee believes may assist the
42 Executive Director ~~{and the investigatory panel}~~ in conducting
43 the investigation. The public officer or employee is not required in
44 the response or in any proceeding before the ~~{investigatory panel}~~
45 ***Commission conducted pursuant to subsection 1 of section 5 of***



1 *this act* to assert, claim or raise any objection or defense, in law or
2 fact, to the allegations against the public officer or employee and no
3 objection or defense, in law or fact, is waived, abandoned or barred
4 by the failure to assert, claim or raise it in the response or in any
5 proceeding *conducted* before the ~~investigatory panel~~.

6 ~~4. The Executive Director shall complete the investigation and~~
7 ~~present a written recommendation relating to just and sufficient~~
8 ~~cause, including, without limitation, the specific evidence or reasons~~
9 ~~that support the recommendation, to the investigatory panel within~~
10 ~~70 days after the determination by the Commission that it has~~
11 ~~jurisdiction concerning the request or after the motion of the~~
12 ~~Commission initiating the request, as applicable, unless the public~~
13 ~~officer or employee waives this time limit.~~

14 ~~5. Within 15 days after the Executive Director has provided the~~
15 ~~written recommendation in the matter to the investigatory panel~~
16 ~~pursuant to subsection 4, the investigatory panel shall conclude the~~
17 ~~investigation and make a final determination regarding whether~~
18 ~~there is just and sufficient cause for the Commission to render an~~
19 ~~opinion in the matter, unless the public officer or employee waives~~
20 ~~this time limit. The investigatory panel shall not determine that there~~
21 ~~is just and sufficient cause for the Commission to render an opinion~~
22 ~~in the matter unless the Executive Director has provided the public~~
23 ~~officer or employee an opportunity to respond to the allegations~~
24 ~~against the public officer or employee as required by subsection 3.~~
25 ~~The investigatory panel shall cause a record of its proceedings in~~
26 ~~each matter to be kept.~~

27 ~~6. If the investigatory panel determines that there is just and~~
28 ~~sufficient cause for the Commission to render an opinion in the~~
29 ~~matter, the Commission shall hold a hearing and render an opinion~~
30 ~~in the matter within 60 days after the determination of just and~~
31 ~~sufficient cause by the investigatory panel, unless the public officer~~
32 ~~or employee waives this time limit.~~

33 ~~7. Each request for an opinion that a public officer or employee~~
34 ~~submits to the Commission pursuant to subsection 1, each opinion~~
35 ~~rendered by the Commission in response to such a request and any~~
36 ~~motion, determination, evidence or record of a hearing relating to~~
37 ~~such a request are confidential unless the public officer or employee~~
38 ~~who requested the opinion:~~

39 ~~(a) Acts in contravention of the opinion, in which case the~~
40 ~~Commission may disclose the request for the opinion, the contents~~
41 ~~of the opinion and any motion, evidence or record of a hearing~~
42 ~~related thereto;~~

43 ~~(b) Discloses the request for the opinion, the contents of the~~
44 ~~opinion, or any motion, evidence or record of a hearing related~~
45 ~~thereto in any manner except to:~~



1 ~~—— (1) The public body, agency or employer of the public officer~~
2 ~~or employee; or~~
3 ~~—— (2) A person to whom the Commission authorizes the current~~
4 ~~or former public officer or employee to make such a disclosure; or~~
5 ~~—— (c) Requests the Commission to disclose the request for the~~
6 ~~opinion, the contents of the opinion, or any motion, evidence or~~
7 ~~record of a hearing related thereto.~~
8 ~~—— 8. Except as otherwise provided in subsections 9 and 10, all~~
9 ~~information, communications, records, documents or other material~~
10 ~~in the possession of the Commission or its staff that is related to a~~
11 ~~request for an opinion regarding a public officer or employee~~
12 ~~submitted to or initiated by the Commission pursuant to subsection~~
13 ~~2, including, without limitation, the record of the proceedings of the~~
14 ~~investigatory panel made pursuant to subsection 5, are confidential~~
15 ~~and not public records pursuant to chapter 239 of NRS until:~~
16 ~~—— (a) The investigatory panel determines whether there is just and~~
17 ~~sufficient cause to render an opinion in the matter and serves written~~
18 ~~notice of such a determination on the public officer or employee~~
19 ~~who is the subject of the request for an opinion submitted or~~
20 ~~initiated pursuant to subsection 2; or~~
21 ~~—— (b) The public officer or employee who is the subject of a~~
22 ~~request for an opinion submitted or initiated pursuant to subsection~~
23 ~~2 authorizes the Commission in writing to make its information,~~
24 ~~communications, records, documents or other material which are~~
25 ~~related to the request publicly available;~~
26 ~~→ whichever occurs first.~~
27 ~~—— 9. Except as otherwise provided in this subsection, if a person~~
28 ~~who submits a request for an opinion pursuant to paragraph (b) of~~
29 ~~subsection 2 asks for the person's name to be kept confidential, the~~
30 ~~Commission:~~
31 ~~—— (a) Shall keep the person's name confidential if the person is a~~
32 ~~public officer or employee who works for the same public body,~~
33 ~~agency or employer as the public officer or employee who is the~~
34 ~~subject of the request.~~
35 ~~—— (b) May keep the person's name confidential if the person offers~~
36 ~~sufficient facts and circumstances showing a reasonable likelihood~~
37 ~~that disclosure of the person's name will subject the person or a~~
38 ~~member of the person's household to a bona fide threat of physical~~
39 ~~force or violence.~~
40 ~~→ If the Commission keeps the person's name confidential, the~~
41 ~~Commission shall not render an opinion in the matter unless there is~~
42 ~~sufficient evidence without the person's testimony to consider the~~
43 ~~propriety of the conduct of the public officer or employee who is~~
44 ~~the subject of the request. If the Commission intends to present the~~
45 ~~person's testimony for consideration as evidence in rendering an~~



1 ~~opinion in the matter, the Commission shall disclose the person's~~
2 ~~name within a reasonable time before the Commission's hearing on~~
3 ~~the matter.~~

4 ~~—10.— Except as otherwise provided in this subsection, the~~
5 ~~investigative file related to a request for an opinion regarding a~~
6 ~~public officer or employee, as described in subsection 17, is~~
7 ~~confidential. At any time after being served with written notice of~~
8 ~~the determination of the investigatory panel regarding the existence~~
9 ~~of just and sufficient cause for the Commission to render an opinion~~
10 ~~in the matter, the public officer or employee who is the subject of~~
11 ~~the request for an opinion may submit a written discovery request to~~
12 ~~the Commission for a copy of any portion of the investigative file~~
13 ~~that the Commission intends to present for consideration as evidence~~
14 ~~in rendering an opinion in the matter and a list of proposed~~
15 ~~witnesses. Any portion of the investigative file which the~~
16 ~~Commission presents as evidence in rendering an opinion in the~~
17 ~~matter becomes a public record as provided in chapter 239 of NRS.~~

18 ~~—11.— Whenever the Commission holds a hearing pursuant to this~~
19 ~~section, the Commission shall:~~

20 ~~—(a) Notify the person about whom the opinion was requested of~~
21 ~~the place and time of the Commission's hearing on the matter;~~

22 ~~—(b) Allow the person to be represented by counsel; and~~

23 ~~—(c) Allow the person to hear the evidence presented to the~~
24 ~~Commission and to respond and present evidence on the person's~~
25 ~~own behalf.~~

26 ~~→ The Commission's hearing may be held no sooner than 10 days~~
27 ~~after the notice is given unless the person agrees to a shorter time.~~

28 ~~—12.— If a person who is not a party to a hearing before the~~
29 ~~Commission, including, without limitation, a person who has~~
30 ~~requested an opinion pursuant to paragraph (a) or (b) of subsection~~
31 ~~2, wishes to ask a question of a witness at the hearing, the person~~
32 ~~must submit the question to the Executive Director in writing. The~~
33 ~~Executive Director may submit the question to the Commission if~~
34 ~~the Executive Director deems the question relevant and appropriate.~~
35 ~~This subsection does not require the Commission to ask any~~
36 ~~question submitted by a person who is not a party to the proceeding.~~

37 ~~—13.— If a person who requests an opinion pursuant to subsection~~
38 ~~1 or 2 does not:~~

39 ~~—(a) Submit all necessary information to the Commission; and~~

40 ~~—(b) Declare by oath or affirmation that the person will testify~~
41 ~~truthfully;~~

42 ~~→ the Commission may decline to render an opinion.~~

43 ~~—14.— For good cause shown, the Commission may take~~
44 ~~testimony from a person by telephone or video conference.~~



1 ~~—15. For the purposes of NRS 41.032, the members of the~~
2 ~~Commission and its employees shall be deemed to be exercising or~~
3 ~~performing a discretionary function or duty when taking an action~~
4 ~~related to the rendering of an opinion pursuant to this section.~~

5 ~~—16. A meeting or hearing that the Commission or the~~
6 ~~investigatory panel holds to receive information or evidence~~
7 ~~concerning the propriety of the conduct of a public officer or~~
8 ~~employee pursuant to this section and the deliberations of the~~
9 ~~Commission and the investigatory panel on such information or~~
10 ~~evidence are not subject to the provisions of chapter 241 of NRS.~~

11 ~~—17. For the purposes of this section, the investigative file which~~
12 ~~relates to a request for an opinion regarding a public officer or~~
13 ~~employee includes, without limitation, any information provided to~~
14 ~~or obtained by the Commission, its staff or an investigatory panel~~
15 ~~through any form of communication during the course of an~~
16 ~~investigation and any records, documents or other material created~~
17 ~~or maintained during the course of an investigation which relate to~~
18 ~~the public officer or employee who is the subject of the request for~~
19 ~~an opinion, including, without limitation, a transcript, regardless of~~
20 ~~whether such information, records, documents or other material are~~
21 ~~obtained by a subpoena.] *Commission pursuant to subsection 1 of*~~
22 ~~*section 5 of this act.*~~

23 **Sec. 22.** NRS 281A.465 is hereby amended to read as follows:

24 281A.465 In any matter in which the Commission disposes of
25 a request for an opinion by stipulation, agreed settlement, ~~for~~
26 consent order ~~or~~ *or deferral order*, the Commission shall treat
27 comparable situations in a comparable manner and shall ensure that
28 the disposition of the matter bears a reasonable relationship to the
29 severity of the violation or alleged violation.

30 **Sec. 23.** NRS 281A.475 is hereby amended to read as follows:

31 281A.475 1. In determining whether a violation of this
32 chapter is a willful violation and, if so, the ~~amount of any civil~~
33 penalty to be imposed on a public officer or employee or former
34 public officer or employee pursuant to NRS 281A.480 ~~or~~ *section*
35 *13 of this act*, the Commission shall consider, without limitation:

36 (a) The seriousness of the violation, including, without
37 limitation, the nature, circumstances, extent and gravity of the
38 violation;

39 (b) The number and history of previous warnings issued to or
40 violations of the provisions of this chapter by the public officer or
41 employee;

42 (c) The cost to the Commission to conduct the investigation and
43 any hearing relating to the violation;

44 (d) Any mitigating factors, including, without limitation, any
45 self-reporting, prompt correction of the violation, any attempts to



1 rectify the violation before any complaint is filed and any
2 cooperation by the public officer or employee in resolving the
3 complaint;

4 (e) Any restitution or reimbursement paid to parties affected by
5 the violation;

6 (f) The extent of any financial gain resulting from the violation;
7 and

8 (g) Any other matter justice may require.

9 2. The factors set forth in this section are not exclusive or
10 exhaustive, and the Commission may consider other factors in the
11 disposition of the matter if they bear a reasonable relationship to the
12 Commission's determination of the severity of the violation.

13 3. In applying the factors set forth in this section, the
14 Commission shall treat comparable situations in a comparable
15 manner and shall ensure that the disposition of the matter bears a
16 reasonable relationship to the severity of the violation.

17 **Sec. 24.** NRS 281A.480 is hereby amended to read as follows:

18 281A.480 1. In addition to any other penalties provided by
19 law and in accordance with the provisions of NRS 281A.475, the
20 Commission may impose on a public officer or employee or former
21 public officer or employee civil penalties:

22 (a) Not to exceed \$5,000 for a first willful violation of this
23 chapter;

24 (b) Not to exceed \$10,000 for a separate act or event that
25 constitutes a second willful violation of this chapter; and

26 (c) Not to exceed \$25,000 for a separate act or event that
27 constitutes a third willful violation of this chapter.

28 2. In addition to any other penalties provided by law, the
29 Commission may, upon its own motion or upon the motion of the
30 person about whom an opinion was requested pursuant to NRS
31 281A.440, impose a civil penalty not to exceed \$5,000 and assess an
32 amount equal to the amount of attorney's fees and costs actually and
33 reasonably incurred by the person about whom an opinion was
34 requested pursuant to NRS 281A.440 against a person who
35 prevents, interferes with or attempts to prevent or interfere with the
36 discovery or investigation of a violation of this chapter.

37 3. If the Commission finds that a violation of a provision of
38 this chapter by a public officer or employee or former public officer
39 or employee has resulted in the realization of a financial benefit by
40 the current or former public officer or employee or another person,
41 the Commission may, in addition to any other penalties provided by
42 law, require the current or former public officer or employee to pay
43 a civil penalty of not more than twice the amount so realized.

44 4. In addition to any other penalties provided by law, if a
45 proceeding results in an opinion that:



1 (a) One or more willful violations of this chapter have been
2 committed by a State Legislator removable from office only through
3 expulsion by the State Legislator's own House pursuant to Section 6
4 of Article 4 of the Nevada Constitution, the Commission shall:

5 (1) If the State Legislator is a member of the Senate, submit
6 the opinion to the Majority Leader of the Senate or, if the Majority
7 Leader of the Senate is the subject of the opinion or the person who
8 requested the opinion, to the President Pro Tempore of the Senate;
9 or

10 (2) If the State Legislator is a member of the Assembly,
11 submit the opinion to the Speaker of the Assembly or, if the Speaker
12 of the Assembly is the subject of the opinion or the person who
13 requested the opinion, to the Speaker Pro Tempore of the Assembly.

14 (b) One or more willful violations of this chapter have been
15 committed by a state officer removable from office only through
16 impeachment pursuant to Article 7 of the Nevada Constitution, the
17 Commission shall submit the opinion to the Speaker of the
18 Assembly and the Majority Leader of the Senate or, if the Speaker
19 of the Assembly or the Majority Leader of the Senate is the person
20 who requested the opinion, to the Speaker Pro Tempore of the
21 Assembly or the President Pro Tempore of the Senate, as
22 appropriate.

23 (c) One or more willful violations of this chapter have been
24 committed by a public officer other than a public officer described
25 in paragraphs (a) and (b), the willful violations shall be deemed to
26 be malfeasance in office for the purposes of NRS 283.440 and the
27 Commission:

28 (1) May file a complaint in the appropriate court for removal
29 of the public officer pursuant to NRS 283.440 when the public
30 officer is found in the opinion to have committed fewer than three
31 willful violations of this chapter.

32 (2) Shall file a complaint in the appropriate court for removal
33 of the public officer pursuant to NRS 283.440 when the public
34 officer is found in the opinion to have committed three or more
35 willful violations of this chapter.

36 ➤ This paragraph grants an exclusive right to the Commission, and
37 no other person may file a complaint against the public officer
38 pursuant to NRS 283.440 based on any violation found in the
39 opinion.

40 5. Notwithstanding any other provision of this chapter, any act
41 or failure to act by a public officer or employee or former public
42 officer or employee relating to this chapter is not a willful violation
43 of this chapter if the public officer or employee establishes by
44 sufficient evidence that:



1 (a) The public officer or employee relied in good faith upon the
2 advice of the legal counsel retained by his or her public body,
3 agency or employer; and

4 (b) The advice of the legal counsel was:

5 (1) Provided to the public officer or employee before the
6 public officer or employee acted or failed to act; and

7 (2) Based on a reasonable legal determination by the legal
8 counsel under the circumstances when the advice was given that the
9 act or failure to act by the public officer or employee would not be
10 contrary to any prior published opinion issued by the Commission
11 which was publicly available on the Internet website of the
12 Commission.

13 6. In addition to any other penalties provided by law, a public
14 employee who commits a willful violation of this chapter *or fails to*
15 *complete a period of compliance imposed by the Commission*
16 *pursuant to subparagraph (1) of paragraph (a) of subsection 1 of*
17 *section 13 of this act* is subject to disciplinary proceedings by the
18 employer of the public employee and must be referred for action in
19 accordance to the applicable provisions governing the employment
20 of the public employee.

21 7. The provisions of this chapter do not abrogate or decrease
22 the effect of the provisions of the Nevada Revised Statutes which
23 define crimes or prescribe punishments with respect to the conduct
24 of public officers or employees. If the Commission finds that a
25 public officer or employee has committed a willful violation of this
26 chapter which it believes may also constitute a criminal offense, the
27 Commission shall refer the matter to the Attorney General or the
28 district attorney, as appropriate, for a determination of whether a
29 crime has been committed that warrants prosecution.

30 8. The imposition of a civil penalty pursuant to subsection 1, 2
31 or 3 is a final decision for the purposes of judicial review pursuant
32 to NRS 233B.130.

33 9. A finding by the Commission that a public officer or
34 employee has violated any provision of this chapter must be
35 supported by a preponderance of the evidence unless a greater
36 burden is otherwise prescribed by law.

37 **Sec. 25.** NRS 281A.500 is hereby amended to read as follows:

38 281A.500 1. On or before the date on which a public officer
39 swears or affirms the oath of office, the public officer must be
40 informed of the statutory ethical standards and the duty to file an
41 acknowledgment of the statutory ethical standards in accordance
42 with this section by:

43 (a) For an appointed public officer, the appointing authority of
44 the public officer; and

45 (b) For an elected public officer of:



1 (1) The county and other political subdivisions within the
2 county except cities, the county clerk;

3 (2) The city, the city clerk;

4 (3) The Legislative Department of the State Government, the
5 Director of the Legislative Counsel Bureau; and

6 (4) The Executive Department of the State Government, the
7 Director of the Department of Administration, or his or her
8 designee.

9 2. Within 30 days after a public employee begins employment:

10 (a) The Director of the Department of Administration, or his or
11 her designee, shall provide each new public employee of a state
12 agency with the information prepared by the Commission
13 concerning the statutory ethical standards; and

14 (b) The manager of each local agency, or his or her designee,
15 shall provide each new public employee of the local agency with the
16 information prepared by the Commission concerning the statutory
17 ethical standards.

18 3. Each public officer shall acknowledge that the public
19 officer:

20 (a) Has received, read and understands the statutory ethical
21 standards; and

22 (b) Has a responsibility to inform himself or herself of any
23 amendments to the statutory ethical standards as soon as reasonably
24 practicable after each session of the Legislature.

25 4. The acknowledgment must be executed on a form prescribed
26 by the Commission and must be filed with the Commission:

27 (a) If the public officer is elected to office at the general
28 election, on or before January 15 of the year following the public
29 officer's election.

30 (b) If the public officer is elected to office at an election other
31 than the general election or is appointed to office, on or before the
32 30th day following the date on which the public officer swears or
33 affirms the oath of office.

34 5. Except as otherwise provided in this subsection, a public
35 officer shall execute and file the acknowledgment once for each
36 term of office. If the public officer serves at the pleasure of
37 the appointing authority and does not have a definite term of office,
38 the public officer, in addition to executing and filing the
39 acknowledgment after the public officer swears or affirms the oath
40 of office in accordance with subsection 4, shall execute and file the
41 acknowledgment on or before January 15 of each even-numbered
42 year while the public officer holds that office.

43 6. For the purposes of this section, the acknowledgment is
44 timely filed if, on or before the last day for filing, the
45 acknowledgment is filed in one of the following ways:



1 (a) Delivered in person to the principal office of the
2 Commission in Carson City.

3 (b) Mailed to the Commission by first-class mail, or other class
4 of mail that is at least as expeditious, postage prepaid. Filing by mail
5 is complete upon timely depositing the acknowledgment with the
6 United States Postal Service.

7 (c) Dispatched to a third-party commercial carrier for delivery to
8 the Commission within 3 calendar days. Filing by third-party
9 commercial carrier is complete upon timely depositing the
10 acknowledgment with the third-party commercial carrier.

11 (d) Transmitted to the Commission by facsimile machine or
12 other electronic means authorized by the Commission. Filing by
13 facsimile machine or other electronic means is complete upon
14 receipt of the transmission by the Commission.

15 **7. *If a public officer is serving in a public office and executes***
16 ***and files the acknowledgment for that office as required by the***
17 ***applicable provisions of this section, the public officer shall be***
18 ***deemed to have satisfied the requirements of this section for any***
19 ***other office held concurrently by him or her.***

20 **8.** The form for making the acknowledgment must contain:

21 (a) The address of the Internet website of the Commission where
22 a public officer may view the statutory ethical standards and print a
23 copy of the standards; and

24 (b) The telephone number and mailing address of the
25 Commission where a public officer may make a request to obtain a
26 printed copy of the statutory ethical standards from the Commission.

27 ~~18-~~ **9.** Whenever the Commission, or any public officer or
28 employee as part of the public officer's or employee's official
29 duties, provides a public officer with a printed copy of the form for
30 making the acknowledgment, a printed copy of the statutory ethical
31 standards must be included with the form.

32 ~~19-~~ **10.** The Commission shall retain each acknowledgment
33 filed pursuant to this section for 6 years after the date on which the
34 acknowledgment was filed.

35 ~~10-~~ **11.** Willful refusal to execute and file the
36 acknowledgment required by this section shall be deemed to be:

37 (a) A willful violation of this chapter for the purposes of NRS
38 281A.480; and

39 (b) Nonfeasance in office for the purposes of NRS 283.440 and,
40 if the public officer is removable from office pursuant to NRS
41 283.440, the Commission may file a complaint in the appropriate
42 court for removal of the public officer pursuant to that section. This
43 paragraph grants an exclusive right to the Commission, and no other
44 person may file a complaint against the public officer pursuant to
45 NRS 283.440 based on any violation of this section.



1 ~~11~~ 12. As used in this section, “general election” has the
2 meaning ascribed to it in NRS 293.060.

3 **Sec. 26.** NRS 281A.510 is hereby amended to read as follows:

4 281A.510 1. A public officer or public employee shall not
5 accept or receive an honorarium.

6 2. An honorarium paid on behalf of a public officer or public
7 employee to a charitable organization from which the officer or
8 employee does not derive any financial benefit is deemed not to be
9 accepted or received by the officer or employee for the purposes of
10 this section.

11 3. This section does not prohibit:

12 (a) The receipt of payment for work performed outside the
13 normal course of a person’s public office or employment if the
14 performance of that work is consistent with the applicable policies
15 of the person’s public employer regarding supplemental
16 employment.

17 (b) The receipt of an honorarium by the spouse of a public
18 officer or public employee if it is related to the spouse’s profession
19 or occupation.

20 4. As used in this section, “honorarium” means the payment of
21 money or anything of value for an appearance or speech by the
22 public officer or public employee in the officer’s or employee’s
23 capacity as a public officer or public employee. The term does not
24 include the payment of:

25 (a) The actual and necessary costs incurred by the public officer
26 or public employee, the officer’s or employee’s spouse or the
27 officer’s or employee’s aid for transportation and for lodging and
28 meals while the public officer or public employee is away from the
29 officer’s or employee’s residence.

30 (b) Compensation which would otherwise have been earned by
31 the public officer or public employee in the normal course of the
32 officer’s or employee’s public office or employment.

33 (c) A fee for a speech related to the officer’s or employee’s
34 profession or occupation outside of the officer’s or employee’s
35 public office or employment if:

36 (1) Other members of the profession or occupation are
37 ordinarily compensated for such a speech; and

38 (2) The fee paid to the public officer or public employee is
39 approximately the same as the fee that would be paid to a member
40 of the private sector whose qualifications are similar to those of the
41 officer or employee for a comparable speech.

42 (d) A fee for a speech delivered to an organization of
43 legislatures, legislators or other elected officers.

44 5. In addition to any other penalty imposed pursuant to NRS
45 281A.480 ~~H~~ or section 13 of this act, a public officer or public



1 employee who violates the provisions of this section shall forfeit the
2 amount of the honorarium.

3 **Sec. 27.** NRS 281A.550 is hereby amended to read as follows:

4 281A.550 1. A former member of the Public Utilities
5 Commission of Nevada shall not:

6 (a) Be employed by a public utility or parent organization or
7 subsidiary of a public utility; or

8 (b) Appear before the Public Utilities Commission of Nevada to
9 testify on behalf of a public utility or parent organization or
10 subsidiary of a public utility,

11 ↪ for 1 year after the termination of the member's service on the
12 Public Utilities Commission of Nevada.

13 2. A former member of the Nevada Gaming Control Board or
14 the Nevada Gaming Commission shall not:

15 (a) Appear before the Nevada Gaming Control Board or the
16 Nevada Gaming Commission on behalf of a person who holds a
17 license issued pursuant to chapter 463 or 464 of NRS or who is
18 required to register with the Nevada Gaming Commission pursuant
19 to chapter 463 of NRS; or

20 (b) Be employed by such a person,
21 ↪ for 1 year after the termination of the member's service on the
22 Nevada Gaming Control Board or the Nevada Gaming Commission.

23 3. In addition to the prohibitions set forth in subsections 1 and
24 2, and except as otherwise provided in subsections 4 and 6, a former
25 public officer or employee of a board, commission, department,
26 division or other agency of the Executive Department of State
27 Government, except a clerical employee, shall not solicit or accept
28 employment from a business or industry whose activities are
29 governed by regulations adopted by the board, commission,
30 department, division or other agency for 1 year after the termination
31 of the former public officer's or employee's service or period of
32 employment if:

33 (a) The former public officer's or employee's principal duties
34 included the formulation of policy contained in the regulations
35 governing the business or industry;

36 (b) During the immediately preceding year, the former public
37 officer or employee directly performed activities, or controlled or
38 influenced an audit, decision, investigation or other action, which
39 significantly affected the business or industry which might, but for
40 this section, employ the former public officer or employee; or

41 (c) As a result of the former public officer's or employee's
42 governmental service or employment, the former public officer or
43 employee possesses knowledge of the trade secrets of a direct
44 business competitor.



1 4. The provisions of subsection 3 do not apply to a former
2 public officer who was a member of a board, commission or similar
3 body of the State if:

4 (a) The former public officer is engaged in the profession,
5 occupation or business regulated by the board, commission or
6 similar body;

7 (b) The former public officer holds a license issued by the
8 board, commission or similar body; and

9 (c) Holding a license issued by the board, commission or similar
10 body is a requirement for membership on the board, commission or
11 similar body.

12 5. Except as otherwise provided in subsection 6, a former
13 public officer or employee of the State or a political subdivision,
14 except a clerical employee, shall not solicit or accept employment
15 from a person to whom a contract for supplies, materials, equipment
16 or services was awarded by the State or political subdivision, as
17 applicable, for 1 year after the termination of the officer's or
18 employee's service or period of employment, if:

19 (a) The amount of the contract exceeded \$25,000;

20 (b) The contract was awarded within the 12-month period
21 immediately preceding the termination of the officer's or
22 employee's service or period of employment; and

23 (c) The position held by the former public officer or employee at
24 the time the contract was awarded allowed the former public officer
25 or employee to affect or influence the awarding of the contract.

26 6. A current or former public officer or employee may request
27 that the Commission apply the relevant facts in that person's case to
28 the provisions of subsection 3 or 5, as applicable, and determine
29 whether relief from the strict application of those provisions is
30 proper. If the Commission determines that relief from the strict
31 application of the provisions of subsection 3 or 5, as applicable, is
32 not contrary to:

33 (a) The best interests of the public;

34 (b) The continued ethical integrity of the State Government or
35 political subdivision, as applicable; and

36 (c) The provisions of this chapter,

37 ➤ it may issue an opinion to that effect and grant such relief. The
38 opinion of the Commission in such a case is final and subject to
39 judicial review pursuant to NRS 233B.130, except that a proceeding
40 regarding this review must be held in closed court without
41 admittance of persons other than those necessary to the proceeding,
42 unless this right to confidential proceedings is waived by the current
43 or former public officer or employee. *The opinion of the*
44 *Commission does not relieve the current or former public officer*



1 *or employee from the strict application of any provision of*
2 *NRS 281A.410.*

3 7. Each request for an opinion that a current or former public
4 officer or employee submits to the Commission pursuant to
5 subsection 6, each opinion rendered by the Commission in response
6 to such a request and any motion, determination, evidence or record
7 of a hearing relating to such a request are confidential unless the
8 current or former public officer or employee who requested the
9 opinion:

10 (a) Acts in contravention of the opinion, in which case the
11 Commission may disclose the request for the opinion, the contents
12 of the opinion and any motion, *determination*, evidence or record of
13 a hearing related thereto;

14 (b) Discloses the request for the opinion, the contents of the
15 opinion or any motion, *determination*, evidence or record of a
16 hearing related thereto in any manner except to:

17 (1) The public body, agency or employer of the public officer
18 or employee or a prospective employer of the public officer or
19 employee; or

20 (2) Any person to whom the Commission authorizes the
21 current or former public officer or employee to make such a
22 disclosure; or

23 (c) Requests the Commission to disclose the request for the
24 opinion, the contents of the opinion, or any motion, *determination*,
25 evidence or record of a hearing related thereto.

26 8. A meeting or hearing that the Commission ~~for an~~
27 ~~investigatory panel~~ holds to receive information or evidence
28 concerning the propriety of the conduct of a current or former public
29 officer or employee pursuant to this section and the deliberations of
30 the Commission ~~and the investigatory panel~~ on such information
31 or evidence are not subject to the provisions of chapter 241 of NRS.

32 9. *For the purposes of this section:*

33 (a) *A former member of the Public Utilities Commission of*
34 *Nevada, the Nevada Gaming Control Board or the Nevada*
35 *Gaming Commission; or*

36 (b) *Any other former public officer or employee governed by*
37 *this section,*

38 *↳ is employed by or is soliciting or accepting employment from a*
39 *business, industry or other person described in this section if any*
40 *agreement exists or is contemplated pursuant to which the*
41 *personal services of the public officer or employee are provided or*
42 *will be provided to the business, industry or other person.*

43 10. As used in this section, "regulation" has the meaning
44 ascribed to it in NRS 233B.038 and also includes regulations
45 adopted by a board, commission, department, division or other



1 agency of the Executive Department of State Government that is
2 exempted from the requirements of chapter 233B of NRS.

3 **Sec. 28.** NRS 239.010 is hereby amended to read as follows:

4 239.010 1. Except as otherwise provided in this section and
5 NRS 1.4683, 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440,
6 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320,
7 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246,
8 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355,
9 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,
10 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260,
11 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370,
12 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161,
13 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817,
14 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
15 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
16 178.5691, 179.495, 179A.070, 179A.165, 179A.450, 179D.160,
17 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651,
18 209.392, 209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040,
19 213.095, 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350,
20 218E.625, 218F.150, 218G.130, 218G.240, 218G.350, 228.270,
21 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
22 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
23 239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.020,
24 241.030, 241.039, 242.105, 244.264, 244.335, 250.087, 250.130,
25 250.140, 250.150, 268.095, 268.490, 268.910, 271A.105, 281.195,
26 281A.350, ~~281A.440,~~ 281A.550, 284.4068, 286.110, 287.0438,
27 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558,
28 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
29 338.070, 338.1379, 338.16925, 338.1725, 338.1727, 348.420,
30 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
31 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610,
32 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
33 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
34 388.501, 388.503, 388.513, 388.750, 391.035, 392.029, 392.147,
35 392.264, 392.271, 392.850, 394.167, 394.1698, 394.447, 394.460,
36 394.465, 396.3295, 396.405, 396.525, 396.535, 398.403, 408.3885,
37 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
38 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
39 432.205, 432B.175, 432B.280, 432B.290, 432B.407, 432B.430,
40 432B.560, 433.534, 433A.360, 439.840, 439B.420, 440.170,
41 441A.195, 441A.220, 441A.230, 442.330, 442.395, 445A.665,
42 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164, 453.720,
43 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866,
44 459.555, 459.7056, 459.846, 463.120, 463.15993, 463.240,
45 463.3403, 463.3407, 463.790, 467.1005, 480.365, 481.063, 482.170,



1 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800, 484E.070,
2 485.316, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
3 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
4 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315,
5 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
6 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
7 628B.760, 629.047, 629.069, 630.133, 630.30665, 630.336,
8 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283, 633.301,
9 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
10 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
11 640A.220, 640B.730, 640C.400, 640C.745, 640C.760, 640D.190,
12 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524,
13 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082,
14 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135,
15 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
16 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110,
17 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310,
18 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243,
19 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
20 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
21 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115,
22 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190,
23 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615,
24 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230,
25 710.159, 711.600, *and sections 5 to 9, inclusive, of this act,*
26 sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and
27 section 2 of chapter 391, Statutes of Nevada 2013 and unless
28 otherwise declared by law to be confidential, all public books and
29 public records of a governmental entity must be open at all times
30 during office hours to inspection by any person, and may be fully
31 copied or an abstract or memorandum may be prepared from those
32 public books and public records. Any such copies, abstracts or
33 memoranda may be used to supply the general public with copies,
34 abstracts or memoranda of the records or may be used in any other
35 way to the advantage of the governmental entity or of the general
36 public. This section does not supersede or in any manner affect the
37 federal laws governing copyrights or enlarge, diminish or affect in
38 any other manner the rights of a person in any written book or
39 record which is copyrighted pursuant to federal law.

40 2. A governmental entity may not reject a book or record
41 which is copyrighted solely because it is copyrighted.

42 3. A governmental entity that has legal custody or control of a
43 public book or record shall not deny a request made pursuant to
44 subsection 1 to inspect or copy or receive a copy of a public book or
45 record on the basis that the requested public book or record contains



1 information that is confidential if the governmental entity can
2 redact, delete, conceal or separate the confidential information from
3 the information included in the public book or record that is not
4 otherwise confidential.

5 4. A person may request a copy of a public record in any
6 medium in which the public record is readily available. An officer,
7 employee or agent of a governmental entity who has legal custody
8 or control of a public record:

9 (a) Shall not refuse to provide a copy of that public record in a
10 readily available medium because the officer, employee or agent has
11 already prepared or would prefer to provide the copy in a different
12 medium.

13 (b) Except as otherwise provided in NRS 239.030, shall, upon
14 request, prepare the copy of the public record and shall not require
15 the person who has requested the copy to prepare the copy himself
16 or herself.

17 **Sec. 29.** NRS 241.016 is hereby amended to read as follows:

18 241.016 1. The meetings of a public body that are quasi-
19 judicial in nature are subject to the provisions of this chapter.

20 2. The following are exempt from the requirements of this
21 chapter:

22 (a) The Legislature of the State of Nevada.

23 (b) Judicial proceedings, including, without limitation,
24 proceedings before the Commission on Judicial Selection and,
25 except as otherwise provided in NRS 1.4687, the Commission on
26 Judicial Discipline.

27 (c) Meetings of the State Board of Parole Commissioners when
28 acting to grant, deny, continue or revoke the parole of a prisoner or
29 to establish or modify the terms of the parole of a prisoner.

30 3. Any provision of law, including, without limitation, NRS
31 91.270, 219A.210, 239C.140, 281A.350, 281A.440, 281A.550,
32 284.3629, 286.150, 287.0415, 288.220, 289.387, 295.121, 360.247,
33 388.261, 388A.495, 388C.150, 392.147, 392.467, 394.1699,
34 396.3295, 433.534, 435.610, 463.110, 622.320, 622.340, 630.311,
35 630.336, 639.050, 642.518, 642.557, 686B.170, 696B.550, 703.196
36 and 706.1725, *and section 11 of this act* which:

37 (a) Provides that any meeting, hearing or other proceeding is not
38 subject to the provisions of this chapter; or

39 (b) Otherwise authorizes or requires a closed meeting, hearing
40 or proceeding,

41 ➔ prevails over the general provisions of this chapter.

42 4. The exceptions provided to this chapter, and electronic
43 communication, must not be used to circumvent the spirit or letter of
44 this chapter to deliberate or act, outside of an open and public



- 1 meeting, upon a matter over which the public body has supervision,
- 2 control, jurisdiction or advisory powers.
- 3 **Sec. 30.** NRS 281A.108 and 281A.220 are hereby repealed.
- 4 **Sec. 31.** This act becomes effective on July 1, 2017.

TEXT OF REPEALED SECTIONS

281A.108 “Investigatory panel” or “panel” defined.
“Investigatory panel” or “panel” means an investigatory panel appointed by the Commission pursuant to NRS 281A.220.

281A.220 Investigatory panels: Appointment; members; review and final determination of just and sufficient cause; disqualification of members from participation in further proceedings in matter.

1. The Chair shall appoint one or more investigatory panels of two members of the Commission on a rotating basis to review the determinations of just and sufficient cause made by the Executive Director pursuant to NRS 281A.440 and make a final determination regarding whether there is just and sufficient cause for the Commission to render an opinion in a matter.

2. The Chair and Vice Chair of the Commission may not serve together on an investigatory panel.

3. The members of an investigatory panel may not be members of the same political party.

4. If an investigatory panel determines that there is just and sufficient cause for the Commission to render an opinion in a matter, the members of the investigatory panel shall not participate in any further proceedings of the Commission relating to that matter.

