

Agenda Item 3



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

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

The Commission on Ethics held a public meeting on
Wednesday, October 17, 2018, at 9:30 a.m.
at the following location:

**State Bar of Nevada
9456 Double R Blvd.
Suite B
Reno, NV 89521**

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 and Roll Call.

Chair Cheryl A. Lau, Esq. called the meeting to order in Reno, Nevada at 9:40 a.m. Also present in Reno were Vice-Chair Keith A. Weaver, Esq. and Commissioners Brian Duffrin, Barbara Gruenewald, Esq., Teresa Lowry, Esq., P.K. O'Neill and Kim Wallin, C.P.A. Commissioner Amanda C. Yen, Esq. was excused. Present for Commission staff in Reno were Executive Director Yvonne M. Nevarez-Goodson, Esq., Commission Counsel Tracy L. Chase, Esq., Associate Counsel Judy Prutzman, Esq., Investigator Erron Terry, Senior Legal Researcher Darci Hayden and Executive Assistant Kari Pedroza.

The pledge of allegiance was conducted.

2. Public Comment.

Kris Thompson, Project Manager, Tahoe Reno Industrial Center (TRI) provided public comment regarding Agenda Item 5 on behalf of TRI and its decision maker Don Roger Norman. Mr. Thompson submitted a document to the Commission for inclusion in the meeting Minutes and Chair Lau accepted it into the Minutes (see attached document). Mr. Thompson described the attachment as an email from Sheriff Gerald Antinoro to the Comstock Chronicle obtained in a public records request from Storey County in 2016 stating the Sheriff's negative opinion of the Commission. He expressed his concern about the Sheriff's track record of ethics complaints and his gratitude to the Commission for its time and attention to the matter.

3. Approval of the Minutes of the August 15, 2018 Commission Meeting.

Commissioner Wallin moved to accept the Minutes of the August 15, 2018 Commission Meeting. Commissioner O'Neill seconded the motion. The Motion was put to a vote and carried unanimously.

4. Report and recommendations by Executive Director on agency status and operations and possible direction thereon. Items to be discussed include, without limitation:

- Commission Meeting Schedule
- FY19 Budget
- Upcoming Biennial Budget Status
- Education and Outreach by the Commission
- Case and Opinion Status Update
- Final Annual Report (FY18)
- New Commission Investigator
- Recently Adopted Regulation (R108-18)

Commission Meeting Schedule: Executive Director Nevarez-Goodson requested that Commissioners review their availability for a meeting the week of December 3, 2018 and follow-up with her after the meeting to confirm their availability.

FY19 Budget: Executive Director Nevarez-Goodson informed the Commission that as a result of the case load increase during the current fiscal year the travel budget is being utilized significantly for investigatory purposes. She explained that the funds in the current travel budget were intended primarily for Commission meeting travel and that she would monitor this budget category closely to ensure that the Commission stays on track with funds for Commission meetings.

Upcoming Biennial Budget Status: Executive Director Nevarez-Goodson explained to the Commission the budget submission process. She also informed the Commission about realized cost savings from the current fiscal year and requested enhancements for the upcoming biennial budget under items for special consideration, including funding for an additional position, salary enhancements, additional travel for investigatory and training purposes, creation of a digital outreach training tool, staff cell phones, increased office square footage to accommodate Commission staff, conversion to the State's system for information technical support (EITS) and the replacement of certain Commission staff computers and office equipment.

Education and Outreach by the Commission: Executive Director Nevarez-Goodson provided an updated list for the fiscal year for the Commission's outreach and education to the Commissioners. She stated that with the upcoming Legislative session, education and outreach opportunities would be less than last fiscal year. Executive Director Nevarez-Goodson noted that the Commission recently created its own Twitter account and encouraged the Commissioners to visit it and provide feedback where applicable.

Case and Opinion Status Update: Executive Director Nevarez-Goodson summarized the Case Status Log which identifies all pending cases before the Commission and pointed out the overall increase in cases received during the current fiscal year.

Final Annual Report (FY18): Executive Director Nevarez-Goodson notified the Commission that she finalized the Annual Report and requested that the Commissioners review it and let staff know if there are corrections. She stated that the report would be published on the Commission website.

New Commission Investigator: Executive Director Nevarez-Goodson introduced and welcomed the Commission's new Investigator, Erron Terry and provided some background regarding his previous employment to the Commission.

Update regarding Proposed Regulations: The Executive Director noted that since the Commission's Regulation Adoption Hearing in August regarding Regulation R108-18, the Legislative Commission approved the regulations without changes. She further informed the Commission that the adopted regulations have not yet been codified however they are in effect.

Chair Lau made a motion to accept the Executive Director's report. Vice Chair Weaver seconded the motion. The motion was put to a vote and carried unanimously.

Executive Director Nevarez-Goodson provided an additional update to the Commission on the status of the Bill Draft Request (BDR) concepts and asked for the Commission's approval to add language to its BDR to allow additional time for the investigatory process. The Executive Director noted that the request would require approval by the Governor and seek an additional 6 months or the opportunity for the Commission to grant additional time for the Executive Director to complete an investigation for good cause shown.

Chair Lau amended the motion to accept the Executive Director's report as well as to approve the additional BDR proposal to request additional time for the investigatory process. Vice Chair Weaver seconded the amended motion. The motion was put to a vote and carried unanimously.

5. Pursuant to NRS 281A.745, Adjudicatory Hearing to hear testimony, receive evidence, deliberate and render an opinion concerning Request for Opinion No. 17-21C regarding the conduct of Gerald Antinoro, Sheriff, Storey County, including determination of whether there are violations of the Ethics Law and possible issuance of fines or penalties pursuant to NRS 281A.475 and NRS 281A.480.

- The Commission may receive information or evidence concerning this matter and deliberate in a closed session pursuant to NRS 281A.760.
- The Commission will take action on the item in an open session.

Chair Lau confirmed Commissioner Gruenewald served as a member of the Review Panel and would be precluded from participating in this item.

Chair Lau asked the parties to identify themselves, their clients, and any witnesses present before the Commission.

Appearing on behalf of the Executive Director Nevarez-Goodson was Associate Counsel Judy A. Prutzman, Esq. Associate Counsel Prutzman identified her witnesses as follows:

- Sheriff Antinoro
- Brandy Gavenda
- Dave Ballard
- Rebecca Parsons

Appearing before the Commission in this matter was Subject Gerald Antinoro, Storey County Sheriff and his counsel, Katherine Parks, Esq., of Thorndal, Armstrong, Delk, Balkenbush, and Eisinger. Counsel Parks identified her witnesses as follows:

- Sheriff Antinoro
- Laura Antinoro
- Tony Dosen
- Eric Kern
- Dan Gault

Chair Lau inquired as to the availability of the subpoenaed documents and other evidence and Commission Counsel Tracy Chase informed her that the exhibit book provided to the Commissioners and available to the public at the meeting included the documents. Chair Lau confirmed for the record that she admitted the evidence books into evidence by stipulation of the parties.

The subject and witnesses were sworn in by the court reporter.

Chair Lau outlined the schedule of proceedings, stated the subject could remain present during the hearing and excluded the other witnesses from the hearing room until they were called to testify and informed them they are prohibited from discussing the case with each other.

Associate Counsel Prutzman executed her opening statement including a brief overview of the case for the record. Associate Counsel Prutzman summarized that Request for Opinion (RFO) Case No. 17-21C alleged Sheriff Antinoro violated the Ethics Law when he authorized and arranged for his wife to utilize a meeting room at the Sheriff's office on a Saturday for a lengthy visitation between his stepdaughter and his wife's ex-husband, the child's biological father. She reported that after an investigation, the Review Panel concluded that there was sufficient credible evidence for the Commission to render an opinion regarding the allegations pertaining to NRS 281A.400(2) and (7). She confirmed that the Commission considered Motions for Summary Judgements filed by both parties and that those motions were denied on July 2, 2018 and the order denying the motions indicated that the hearing would assist the Commission in determining facts regarding the existence of a policy permitting the public use of the Sheriff's office for child visitation and similar matters, any training of personnel associated with this policy, if applicable, and the manner in which the visitation was scheduled and conducted. Associate Counsel Prutzman summarized the allegations of ethics violations listed in the complaint and asked that the Commission consider the preponderance of evidence that would be provided and to be mindful of the Legislative policy expressed in NRS 281.020 which states that a public officer like Sheriff Antinoro has public duties that must be separate from his private duties and relationships to preserve the public trust. Associate Counsel Prutzman cited two Commission cases which relate to the Commission's concerns about conflicts and family members, *In Re Murnane* and *In Re Murray*.

Associate Counsel Prutzman informed the Commission that if it was determined that Sheriff Antinoro violated the Ethics Law this would be his third violation and if it was decided that it was a willful violation, it would be his second willful violation and the accompanying penalty the Commission could impose would be up to \$10,000. She further explained the meaning of a willful violation under the Ethics Law.

Associate Counsel Prutzman informed the Commission that she had additional confidential information for them to consider and would request a brief closed session later in the proceedings.

Counsel Parks, legal counsel for Sheriff Antinoro, presented her opening statement to the Commission and in response to the allegations she argued that her client did not grant his wife any preferential treatment and that the Sheriff's office is available to the public after the posted hours of operation, including weekends. She informed the Commission that through testimony provided during the hearing the Commission would discover that the office is indeed accessible during non-posted hours. She further asserted that there would be no evidence that Sheriff Antinoro interfered with the visitation in any way to create or cause an appearance of impropriety or conflict of interest. She stated that to suggest there was an ethical violation would be to find that Mrs. Antinoro is not permitted to take advantage of a service offered to other members of the public solely by virtue of who she is married to. Counsel Parks expressed her

and her client's eagerness to move forward with the hearing process and thanked the Commissioners for their time.

Counsel Prutzman and Parks each presented their evidence and questioned witnesses until approximately 4:15 p.m., with a lunch break taken between 12:15 p.m. and 1:00 p.m.

At the conclusion of the witness testimony, Associate Counsel Prutzman presented closing remarks and asked for a brief closed session to present confidential information to the Commission.

The Commission went into a brief closed session to hear the confidential information and returned to an open, public session.

Counsel Parks then presented closing remarks to the Commission.

Chair Lau closed the evidentiary portion of the proceedings and called the meeting into confidential closed session for Commission deliberations. Executive Director Yvonne Nevarez-Goodson, Associate Counsel Judy Prutzman, Counsel Parks and Subject Antinoro were excused from the meeting along with the public during the closed deliberations.

Chair Lau called the meeting back into open session at 4:55 p.m.

Commissioner Duffrin moved to direct Commission Counsel to draft a final opinion based upon the record and circumstances, including consideration of applicable law with reference to the mitigating factors contained in NRS 281A.475 and preponderance of evidence standards established in NRS 281A.480, finding that Gerald Antinoro's conduct constitutes a single violation of the Ethics Law pertaining to NRS 281A.400, subsection 2, but not NRS 281.400, subsection 7. Commissioner Duffrin's motion also outlined that the violation would be non-willful and no penalty should be imposed. Counsel Chase requested clarification whether Commissioner Duffrin intended for his motion to be a violation of subsection 2 or 7 of NRS 281A.400, and Commissioner Duffrin amended his motion to clarify his intent for a non-willful violation of subsection 7, not subsection 2. There was not a second to the motion and the motion failed.

Vice Chair Weaver moved that the Commission find no violation of the Ethics Law pertaining to NRS 281A.400, subsection 2 or subsection 7. There was not a second to the motion and the motion failed.

Commissioner Lowry moved that the Commission find one willful violation of NRS 281A.400(7), no violation of NRS 281A.400(2) and impose a penalty of \$500. Commissioner Wallin seconded the motion. Commissioner O'Neill stated that he could support the motion for a willful violation, however he felt that the fine was insufficient as the Commission had previously imposed a fine of \$1,000 on the Subject and suggested the penalty be increased to \$2,500. Commissioner Lowry amended her motion to increase the penalty amount from \$500 to \$2,500. Commissioner Wallin seconded the amended motion. The Motion was put to a vote and carried as follows:

Chair Lau:	Aye
Vice-Chair Weaver:	Nay.
Commissioner Duffrin:	Nay.
Commissioner Lowry:	Aye.
Commissioner O'Neill:	Aye.
Commissioner Wallin :	Aye.

6. 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.

There were no comments from the Commissioners.

7. Open Session for Public Comment.

No public comment.

8. Adjournment.

Vice-Chair Weaver moved to adjourn the meeting. Commissioner Duffrin seconded the Motion. The Motion was put to a vote and carried unanimously. The meeting adjourned at 5:00 p.m.

Minutes prepared by:

/s/ Kari Pedroza

Kari Pedroza
Executive Assistant

/s/ Yvonne M. Nevarez-Goodson

Yvonne M. Nevarez-Goodson, Esq.
Executive Director

Minutes approved December 4, 2018:

/s/ Cheryl A. Lau

Cheryl A. Lau, Esq.
Chair

/s/ Keith A. Weaver

Keith A. Weaver, Esq.
Vice-Chair

Gerald Antinoro

From: Gerald Antinoro
Sent: Tuesday, May 10, 2016 12:39 PM
To: 'Comstock Chronicle'
Subject: RE: Gilman Cleared

Las,

Thank you for the opportunity respond. Because of Gilman's other ridiculous allegations that are still a pending matter I will not respond directly to his drivel. I will say that there is nothing ethical about the Ethics Commission. They are a star-chamber commission doing whatever they want regardless of the evidence or facts. They have no oversight, no transparency, and no due process. Perhaps that is why Gilman is so pleased with them.

Gerald Antinoro
Sheriff
Storey County Sheriff's Office
(775) 847-0959

From: Comstock Chronicle [mailto:comstockchronicle@gmail.com]
Sent: Tuesday, May 10, 2016 11:24 AM
To: Gerald Antinoro <gantinoro@storeycounty.org>
Subject: Gilman Cleared

The Comstock Chronicle has received the attached press release from Mr. Gilman's office. This press release pertains to a claim filed against Gilman with the Ethics Commission.

Agenda Item 4



STATE OF NEVADA COMMISSION ON ETHICS

Meeting Dates for 2019 (3rd Wednesday of Each Month)*

January 16th

February 20th

March 20th

April 17th

May 15th

June 19th

July 17th

August 21st

September 18th

October 16th

November 13^{th*} (2nd Wed.)

December 11^{th*} (2nd Wed.)