



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

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

**September 18, 2013**

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

The Commission on Ethics held a public meeting on  
Wednesday, September 18, 2013, at 8:30 a.m. at the following locations:

**Nevada Legislative Building  
Room 3143  
401 S. Carson Street  
Carson City, NV 89701**

and via video-conference to:

**Grant Sawyer State Building  
Room 4412  
555 E. Washington Avenue  
Las Vegas, NV 89101**

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

Chairman Paul H. Lamboley, Esq. called the meeting to order at 8:40 a.m. on September 18, 2013.

Present in Carson City, Nevada were Chairman Paul H. Lamboley, Esq., Commissioners Cheryl A. Lau, Esq. and James M. Shaw, Executive Director Caren Cafferata-Jenkins, Esq., Commission Counsel Yvonne Nevarez-Goodson, Esq. and Executive Assistant Valerie Carter. Present in Las Vegas, Nevada were Vice-Chairman Gregory J. Gale, CPA, Commissioner Tim Cory, Esq., Commissioner Keith A. Weaver, Esq. and Senior Investigator Michael E. Lawrence.

Commissioner John C. Carpenter appeared via video teleconference from Great Basin College in Elko, NV.

Commissioner Groover appeared via telephone.

The Pledge of Allegiance was conducted.

2. Open Session for Public Comment.

Requester of RFO No. 13-24C, Michael Silbergleid, offered public comment in support of his Request for Opinion, and urged the Commission to reject the Subjects' Motion for Summary Resolution which appeared as Agenda Item No. 6.

3. Open Session pursuant to section 4 of Assembly Bill No. 65 of the 77<sup>th</sup> Nevada Legislative Session (2013) to take corrective action regarding the public notices and agendas posted for the Commission's July and August 2013 meetings to comply with NRS 241.020(2), as amended by section 7 of Assembly Bill No. 65 of the 77<sup>th</sup> Legislative Session (2013), effective July 1, 2013, to include "the name and contact information of the person designated by the public body from whom a member of the public may request the supporting material for the meeting... and a list of the locations where the supporting material is available to the public."

Executive Director Caren Cafferata-Jenkins, Esq. discussed the section of AB 65 regarding the open meeting law and the posting of agendas. She stated the agenda item was included because the Commission's July and August agendas did not contain the name and contact information of the person to direct requests for the public meeting materials prior to the meeting. She reported that the agenda item allows corrective action to acknowledge the absent information and note that all future agendas will contain the required information. A discussion ensued regarding this agenda item.

Commissioner Lau moved that the Commission take the possible corrective action to address the oversight in the July and August agendas and to implement systems for future agendas to comply with section 7 of AB 65. Commissioner Carpenter seconded the Motion. The motion was put to a vote and carried unanimously.

4. Open Session for consideration and approval of Minutes from the June 19, 2013 and July 17, 2013 Commission meetings.

This agenda item was tabled to the Commission's October 16, 2013 meeting.

5. Open Session pursuant to NRS 281A.440(8) to ratify the amended Stipulation concerning Consolidated Third-Party Requests for Opinion Nos. 12-72C and 12-74C, regarding the conduct of Theodore Fuller and Bea Epstein, Former Trustees, Incline Village General Improvement District Board of Trustees, submitted pursuant to NRS 281A.440(2).

Chairman Lamboley and Commissioner Carpenter were excused from this agenda item as they served on the Panel regarding RFO 12-72C and 12-74C.

Commission Counsel gave a brief summary of the two effective changes to the Stipulated Agreement that came before the Commission on August 21, 2013. She reported the amendments occurred on page 3, paragraph G, and on page 10, paragraph F, section 3.

Commissioner Gale stated that he agreed with said amendments. Commissioner Lau moved to ratify the amended Stipulation regarding RFO 12-72C and 12-74C concerning the conduct of Fuller and Epstein, specifically in section 3 (g) and 5 (f) (3). The Motion was seconded by Commissioner Groover. The Motion was put to a vote and carried unanimously.

A recess was taken at 9:05 a.m. and the meeting reconvened at 9:16 a.m.

6. Open Session pursuant to NRS 281A.440(8) to consider a Motion for Summary Resolution concerning Third-Party Request for Opinion No. 13-24C, regarding the conduct of Carolyn Edwards, Member, Clark County School District Board of Trustees, District F, submitted pursuant to NRS 281A.440(2).

Commissioners Groover and Shaw were excused from participating in this agenda item as they served on the Panel for RFO 13-24C regarding Carolyn Edwards.

Appearing before the Commission in Las Vegas, Nevada were Subject Carolyn Edwards and her counsel, Mark Hutchison, Esq. and Jacob Reynolds, Esq.

Commissioner Cory disclosed that he resides in the area designated as "School Board District F". He stated he had no prior knowledge of the issues under this agenda item and will participate fully.

Mark Hutchison, Esq. presented the Motion for Summary Resolution to the Commission.

Chairman Lamboley called for commissioner questions regarding the Motion. A lengthy discussion ensued regarding the details of the legal arguments in the Motion and the Request for Opinion.

A recess was taken at 10:34 a.m. and the meeting reconvened at 10:50 a.m.

Commission Counsel explained the Motion and what it asks the Commission to rule on. She then reviewed and summarized the contents of the arguments presented in the Motion and the arguments presented by Senator Hutchison.

Deliberations and discussions ensued regarding the Motion. Commissioner Gale stated that additional testimony from witnesses would be useful in determining additional facts regarding this RFO. He stated the RFO should go forward to hearing or a stipulated agreement. Commissioner Cory stated that some of his questions had gone unanswered and there are sufficient questions of fact that warrant going forward to a full hearing. Commission Lau indicated that there were several issues that had not yet been addressed, and certainly believes the Motion for Summary Resolution should be declined. Commissioner Carpenter agreed with the rest of the Commission regarding outstanding questions.

Commissioner Cory moved that the Motion for Summary Resolution be denied. Commissioner Lau seconded the Motion. The motion was put to a vote and carried unanimously.

Jacob Reynolds, counsel for Subject Carolyn Edwards, asked whether the Commission will be providing the Subject with an opposition to their Motion for Summary Judgment. Chairman Lamboley responded that if he is asking what questions the Commission still has, those will be fleshed out in hearing. Chairman Lamboley stated an Order will be prepared and published regarding this ruling by the commission. Commission Counsel stated Mr. Reynolds will also receive a Scheduling Order, which will include deadlines for matters such as witness lists and exhibits, and also Prehearing Statements from both the Subject and the Commission's Associate Counsel, which should outline the anticipated scope of the hearing.

Jacob Reynolds noted for the record the presence of Ken Small in the audience.

7. Closed Session to discuss potential or pending litigation.

This agenda item was held in closed session and was not available to the public.

8. Open Session for consideration of agenda item requested by Commissioner Gale regarding the Commission bringing Requests for Opinion on its own motion.

Vice-Chairman Gale presented this agenda item, stating that it had been an idea on his mind for several years now, that the Commission should initiate investigations on its own motion. He stated that he would like the Commission to become proactive regarding enforcement of the Ethics laws. He would like Commissioners to consider whether this is something the Commission should start doing.

Commissioner Gale gave a hypothetical situation as to when the Commission may stumble upon information that someone has violated an Ethics in Government law, e.g. from a newspaper article. He stated he would like staff attorneys to look at the Regulations and see what the Commission can and cannot do. He questioned whether the Commission would need to amend the NAC or NRS 281A to allow for this process to happen. He reported that could be done in the form of a memorandum to the Commission and then it can be discussed in an open meeting to see if the commission is interested in going forward on these types of issues. A discussion ensued regarding this item.

Chairman Lamboley stated that he does not believe this is an easy decision to make, and there are several other issues related to this type of decision. Commissioner Shaw agreed with Chairman Lamboley. Commissioner Weaver agreed with Commissioner Gale. Commissioner Groover believes it would be a good idea to go after these larger issues that are out there. Chairman Lamboley and Commissioner Shaw shared the belief it is untimely to deal with this issue, as the Commission has scarce resources as it is. Commissioner Lau expressed her concern about the status of current resources and the Commission's case load. Commissioner Cory is concerned with due process and resources, but welcomes feedback from the Executive Director and Commission Counsel; he sees the Commission's primary role as educating and does not see the urgency of confronting this matter at this time. Commissioner Carpenter's concern is that the legislature could consider taking away some of the powers the Commission currently has. He questioned what would happen if the commission initiated an investigation and was wrong.

Commissioner Gale offered to write up a thorough and specific proposal regarding his proactive initiative of the Commission and present it the Commission at a later date, to see if it is something the Commission might want to consider in the future. Chairman Lamboley accepted Commissioner Gale's offer to present a more thorough report at a later date.

9. Open Session for report by Executive Director and Commission Counsel on agency status and operations.

Executive Director reported that she has revisited her approach to subjects who are considering requesting a First Party Opinion. She stated she would like the requesters to better articulate what it is within NRS 281A that relates to them and what exactly they need clarified in regard to their circumstance. She said that often times these requests are vague or in some cases the Commission has already ruled on the same types of issues. She believes this will, and in fact has, lowered the number of first-party requests.

Executive Director Cafferata-Jenkins discussed changing the Commission's Agenda layout by presenting an Agenda with an open session section, and then a separate section for the closed sessions of the meetings, which are in fact exempt from The Open Meeting law. She believes this will make the transition between open and closed session easier and more secure, and out the public on notice that some of the agenda items are not subject to The Open Meeting Law. She reported that staff will be experimenting with this new layout, and she welcomes any feedback from the Commissioners regarding the same.

Executive Director Cafferata-Jenkins reported that every fall of the Biennium following the legislative session, the agency is at a point where we are ready to undertake some consideration of regulations that the Commission might seek to adopt. She stated that by no later than

November the commission should begin formulating ideas and suggestions and have a subcommittee formed to address the same. She indicated that sometime around August of 2014 is when the agency will be asked to deliver its proposal for statutory changes for the next legislative session.

The Executive Director discussed the upcoming Council on Government Ethics Laws' (COGEL) upcoming annual conference, which is being held in Canada. She expressed her hope that she and Commission Counsel may be able to attend if approved by the Commission and the Budget Division. The Commission agreed that the Executive Director should pursue seeking approval to get to the conference.

The Executive Director reported she has several training sessions coming up with the Gaming Control Board, City of Henderson, and DETR, to name a few. She expects to be out of the office a lot over the next few weeks.

The Executive Director reported that she is in the process of updating job descriptions and duties for staff, and expects to have the Personnel Subcommittee reconvene in October to review these changes in preparation for a presentation to the full Commission in November.

Commission Counsel gave a brief report on the status of opinions, stating there are currently seven outstanding opinions which need to be written.

10. Open Session for Commissioner comments on matters including, without limitation, future agenda items, upcoming meeting dates and meeting procedures.

No Commissioner comments.

11. Open Session for Public Comment.

Ken Small offered comments regarding Request for Opinion 13-24C.

Requester of RFO No. 13-24C, Michael Silbergleid, offered public comment complimenting the Commission on how it handled agenda item no. 6. He also briefly discussed his view of the details outlined in his Request for Opinion and how he believes the Commission should ultimately rule.

12. Adjournment.

Commissioner Lau moved to adjourn the meeting at 1:03 p.m. Commissioner Shaw seconded the motion. The motion was put to a vote and carried unanimously.

Minutes prepared by:

/s/ Valerie Carter  
Valerie Carter  
Executive Assistant

Minutes approved: November 20, 2013:

/s/ Paul H. Lamboley, Esq.  
Paul H. Lamboley, Esq.  
Chairman