



**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, April 20, 2016 at 1:00 p.m.  
**PLACE OF MEETING:** This meeting will be held at the following location:

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

and via video-conference to:

**Governor's Office of Economic Development  
555 E. Washington Ave, Suite 5400  
Las Vegas, NV 89101**

**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](mailto: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.
<b>For Possible Action</b>	3. Approval of Minutes of the March 16, 2016 Commission Meeting.

For Possible Action	4. Discussion and consideration of final disposition concerning <b>Third-Party Request for Opinion No. 14-70C regarding Shirley Matson, Former Nye County Assessor</b> , submitted pursuant to NRS 281A.440(2), including determination of willfulness and imposition of possible sanctions under NRS 281A.480.
For Possible Action	5. Discussion and approval of a Proposed Stipulation concerning <b>Third-Party Request for Opinion No. 14-73C regarding Leonard Lance Gilman, Commissioner, Storey County Commission</b> , submitted pursuant to NRS 281A.440(2).
For Possible Action	6. Report by Executive Director on agency status and operations, including: <ul style="list-style-type: none"> <li>• Commissioner Appointments</li> <li>• Education and outreach by the Commission</li> <li>• Proposed legislative and regulatory considerations, procedures and deadlines</li> <li>• Upcoming Commission meetings</li> </ul>
For Possible Action	7. Consideration, discussion and approval of Proposed Budget Enhancement Concepts pertaining to the 2017-2019 Biennial Budget of the Nevada Commission on Ethics to be submitted to the Governor's Office, and direction to the Commission's Executive Director to submit the concepts to the Governor's office.
	8. 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.
	9. 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.
	10. 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, The 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](mailto: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](mailto:ncoe@ethics.nv.gov) or call 775-687-5469.
- ❖ This Agenda and supporting materials are posted and are available not later than the 3<sup>rd</sup> 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](http://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 9<sup>th</sup> 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**

**March 16, 2016**

The Commission on Ethics held a public meeting on  
Wednesday, March 16, 2016, at 9:00 a.m.  
at the following locations:

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

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

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

Chair Cheryl A. Lau, Esq. called the meeting to order in Las Vegas, Nevada at 9:12 a.m. Present in Las Vegas were Commissioners Magdalena Groover, James M. Shaw and Dan H. Stewart. Present for Commission Staff in Las Vegas were Executive Director, Yvonne M. Nevarez-Goodson, Esq., Commission Counsel, Tracy L. Chase, Esq., Associate Counsel, Judy A. Prutzman, Esq. and Executive Assistant Valerie M. Carter.

Present via video teleconference from Elko, Nevada was Commissioner John C. Carpenter. Commissioner Barbara Gruenewald, Esq. appeared via telephone and participated in agenda items 1, 2, 3, 4 and 5.

The pledge of allegiance was conducted.

2. Public Comment.

No public comment.

3. Authorization for the Commission Chair and/or Executive Director, as appropriate, to seek a written opinion from the Nevada Attorney General's office pursuant to NRS 228.150 to obtain clarification on State laws establishing confidentiality in State administrative proceedings for professional licensing matters, which may implicate provisions of NRS Chapter 281A, the Ethics in Government Law, and matters relating thereto.

Commission Counsel, Tracy L. Chase, Esq., explained that the Ethics Law requires public officers who represent individuals in their private capacity before Executive Branch agencies of State Government, to file with the Commission a Notice of Representation indicating the name of

their client(s), the nature of the representation and the state agency. Ms. Chase expressed the concern that certain State agencies have independent confidentiality provisions which require the name of the subject remain confidential. Ms. Chase explained the conflict between the Ethics Law requiring disclosure and the provisions of other agencies and licensing boards requiring confidentiality, and she recommended that the Commission request an Attorney General Opinion to interpret any discrepancies.

Ms. Chase briefly explained her understanding of the process to request an Attorney General Opinion.

Commissioner Stewart moved to authorize the Commission Chair and/or the Executive Director as appropriate, to seek a written Opinion from the Nevada Attorney General's Office pursuant to NRS 228.150 regarding this matter. Commissioner Shaw seconded the Motion. The Motion was put to a vote and carried unanimously.

5. Approval of Minutes of the September 16, 2015, December 16, 2015 and January 20, 2016 Commission Meetings.

This agenda item was called out of order. Commission Counsel Tracy L. Chase, Esq. stated that a quorum of the members who participated in the September 16, 2015 and January 20, 2016 meetings was not present at the time to vote on the related Minutes, but a quorum was present to vote on the December 16, 2015 Meeting Minutes. Approval of the remaining Minutes was tabled until later in the meeting.

Commissioner Shaw abstained from voting on the December 16, 2015 minutes as he was excused from that Meeting.

Commissioner Groover moved to approve the Minutes of the December 16, 2016 Commission Meeting. Commissioner Stewart seconded the Motion. The Motion was put to a vote and carried unanimously.

4. Discussion and consideration of Motion for Summary Judgment ("Motion") and Offer of Proof based upon Panel Determination concerning Third-Party Request for Opinion No. 14-70C regarding Shirley Matson, Former Nye County Assessor, submitted pursuant to NRS 281A.440(2).

Commissioner Carpenter disclosed that he served on the Panel regarding RFO 14-70C and thus would not participate in the matter.

Lisa A. Rasmussen, Esq. appeared on behalf the Subject Shirley Matson. Executive Director, Yvonne M. Nevarez-Goodson, Esq., appeared on behalf of the Commission.

As exempt from the Open Meeting Law pursuant to NRS 281A.440(16), the meeting was called into closed session at 9:26 a.m. to discuss and consider the Motion and Offer of Proof, as such records contained confidential content.

The meeting was called into open session at 10:44 a.m.

Commissioner Gruenewald discussed the extensive procedural history of the Request for Opinion, noting the 18 months that Commission staff had worked on this case, the preliminary review by an Investigatory Panel, and the five continuances granted with no response from the

Subject. Commissioner Gruenewald further identified the factual support of the Motion for Summary Judgment and lack of any statements under oath or other documents by Matson. Based on her comments, Commissioner Gruenewald and moved that the Commission grant the Motion for Summary Judgment in Request for Opinion 14-70C. Commissioner Shaw seconded the Motion.

The Motion was put to a vote and carried as follows:

Commissioner Shaw:	Aye.
Commissioner Groover:	No.
Commissioner Gruenewald:	Aye.
Commissioner Stewart:	Aye.
Commissioner Lau:	Aye.

Commission Counsel Tracy L. Chase, Esq. stated that with the passage of the Motion, the Commission would need to determine whether or not the violations of the Ethics Law are “willful” and whether or not there will be an associated fine.

Commissioner Shaw moved that the Subject appear before the Commission at its next meeting to review any mitigating factors relating to the willfulness of the violations found. Commissioner Stewart seconded the Motion.

The Motion was put to a vote and carried as follows:

Commissioner Shaw:	Aye.
Commissioner Groover:	No.
Commissioner Gruenewald:	Aye.
Commissioner Stewart:	Aye.
Commissioner Lau:	Aye.

A discussion ensued regarding the scheduling of the hearing to determine the willfulness.

Ms. Rasmussen confirmed her availability to appear on Wednesday April 20, 2016. She agreed to submit arguments in writing if Ms. Matson would not be in attendance. Ms. Rasmussen stated she would notify the Commission by April 16, 2016 regarding Ms. Matson’s attendance at the April 20<sup>th</sup> hearing.

A brief recess was taken at 10:55 a.m. The meeting reconvened at 11:05 a.m.

Vice-Chair Keith Weaver joined the meeting in Las Vegas, Nevada.

Commissioner Gruenewald was excused from the remaining agenda items.

5. Approval of Minutes of the September 16, 2015 and December 16, 2015 and January 20, 2016 Commission Meetings.

This agenda item was re-opened and called out of order. Chair Lau stated that a quorum was now present to consider the September 16, 2015 and January 20, 2016 Commission Meeting Minutes.

Commissioner Stewart stated that he was not a member of the Commission at the time of the September 16, 2016 Commission meeting and he would abstain from voting on those minutes.

Commissioner Carpenter stated that he was excused from the January 20, 2016 Commission meeting and he would abstain from voting on those minutes.

Commissioner Shaw moved to approve the Minutes of the September 16, 2015 Commission Meeting. The motion was seconded by Commissioner Groover. The motion was put to a vote and carried unanimously.

Commissioner Shaw moved to approve the Minutes of the January 20, 2016 Commission Meeting. The motion was second by Commissioner Stewart and Commissioner Groover. The motion was put to a vote and carried unanimously.

6. Discussion and consideration of a Proposed Stipulation concerning Third-Party Request for Opinion No. 14-79C regarding Mike Lemich, Commissioner, White Pine County Board of Commissioners, submitted pursuant to NRS 281A.440(2).

Richard Sears, Esq. appeared via telephone on behalf of the Subject Mike Lemich. Associate Counsel Judy A. Prutzman, Esq. appeared on behalf of the Commission.

Commissioner Carpenter disclosed he knew the Lemich family for many years, but he did not believe this relationship would hinder his ability to be unbiased with respect to this matter.

Executive Director Yvonne Nevarez-Goodson, Esq. disclosed that she served as the Commission Counsel at the time this Request for Opinion was received and therefore, upon her appointment by the Commission as Executive Director, the investigation was handled exclusively by Associate Counsel with no involvement from the Executive Director.

Commission Counsel Tracy L. Chase, Esq. gave an overview of the Request for Opinion and the proposed Stipulated Agreement. Ms. Chase stated that the Stipulated Agreement includes one willful violation and imposes a fine of \$500.

Mr. Sears concurred with Commission Counsel's presentation.

Associate Counsel Judy A. Prutzman, Esq. presented the history and summary of the Stipulated Agreement.

Mr. Sears stated he and his client were in agreement with the terms of the Stipulation; however, he commented that Lemich found it offensive that donating land to the County has been construed in the Request for Opinion as Lemich trying to line his own pockets.

Commissioner Carpenter moved to accept the Stipulated Agreement in Request for Opinion 14-79C regarding Mike Lemich. Commissioner Groover seconded the Motion. The motion was put to a vote and carried unanimously.

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

Executive Director Yvonne Nevarez-Goodson, Esq. reported a vacancy on the Commission remains and she has no specific timeline from the Governor's office as to when an

appointment might be made. She reported that Commissioner Shaw will be coming to the end of his second term in June and she will be seeking a subsequent appointment from the Legislative Commission.

Ms. Nevarez-Goodson discussed the redacted Request for opinion Log (Case Log) that was provided to the Commission in their materials. She reported on the current number of pending investigations and pending written opinions. She commended Commission staff for working diligently to get Opinions drafted and published.

Ms. Nevarez-Goodson reported that the Commission's outreach and education has had a small recession during the winter months but expects to present several trainings scheduled during the next couple of weeks.

Ms. Nevarez-Goodson discussed the upcoming Budget Request for FY18-19 as well as any Bill Draft Requests the Commission may propose. She reported that April 15, 2016 is the deadline for the agency to submit a legislative concept summary to the Governor's office for approval. She requested that the Chair form a Legislative subcommittee to work with the Executive Director on the proposed statutory changes.

Ms. Nevarez-Goodson reported that the Budget office has directed all State agencies to prepare a flat Budget Request, as well as back-up Budget Request that reflects a 5% cut that will be used in the event the State's revenues fall short.

Ms. Nevarez-Goodson stated she would request the Commission's continued support for staff salary increases and certain title changes more in-line with the equivalent positions at the Commission on Judicial Discipline as well as other executive branch agencies. Ms. Nevarez-Goodson acknowledged that the same positions within the Commission are not being budgetarily respected and she hopes to bring the issue to the Governor's and Legislature's attention next session, with the approval of the Commission. She said this could be accomplished in two ways, either by seeking an enhancement to the agency budget or by finding appropriate cost savings in the current budget.

Ms. Nevarez-Goodson again requested the Chair form a Subcommittee to vet legislative and budgetary issues for the 2017 Legislative Session. The Chair acknowledged the request and confirmed she would appoint a Subcommittee at this meeting.

Ms. Nevarez-Goodson reported that staff may propose regulatory changes and she is working with Commission Counsel Chase to determine the best approach going forward. She hopes the Legislative Subcommittee can assist with any regulatory changes in addition to the legislative issues. Ms. Nevarez-Goodson discussed her participation in the Nevada Certified Public Manager Program and her Capstone Project which relates to the streamlining and improvement of the Commission's case management and investigatory processes, which might be accomplished, in part, through these regulatory changes. She stated the statutory deadline to submit these regulatory changes is July 1, 2016.

Ms. Nevarez-Goodson discussed some of the digital upgrades staff has put in place in order to reduce staff time and other resources to compile meeting books. She discussed the need to go digital for security reasons and explained that within the next few months each commissioner will have his/her own, state issued email address so that confidential information is not being sent to their personal email addresses. She also discussed the hope of getting Commission-issued tablets for each Commission to use to access their electronic meeting materials and their state issued email. She will continue to update the Commission as these changes come to fruition. Ms. Nevarez-Goodson welcomed feedback from the Commissioner's regarding the digital upgrades.

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

Chair Lau commended the Commission staff for all of their work on preparing the materials, and expressed her appreciation of the staff time to assist the Commissioners, making their jobs easier.

A Lunch recess was taken at 11:47 a.m. The meeting reconvened at 12:46 p.m.

Chair Lau appointed Commissioners Groover, Shaw and Carpenter to the Legislative and Regulatory Subcommittee. Executive Director Yvonne Nevarez-Goodson thanked the Chair for creating the Subcommittee.

9. Open Session for Public Comment.

No public comment.

10. Adjournment.

Commissioner Weaver moved to adjourn the meeting. Commissioners Shaw and Groover seconded the motion. The motion was put to a vote and carried unanimously. The meeting adjourned at 1:45 p.m.

Minutes prepared by:

Minutes approved April 20, 2016:

\_\_\_\_\_  
Valerie Carter, CPM  
Executive Assistant

\_\_\_\_\_  
Cheryl A. Lau, Esq.  
Chair

\_\_\_\_\_  
Yvonne M. Nevarez-Goodson, Esq.  
Executive Director

\_\_\_\_\_  
Keith A. Weaver, Esq.  
Vice-Chair

AGENDA ITEM NO. 4

AGENDA ITEM NO. 4

Yvonne M. Nevarez-Goodson, Esq. (#8474)  
Executive Director  
Nevada Commission on Ethics  
704 West Nye Lane, Suite 204  
Carson City, Nevada 89703  
(775) 687-5469  
Fax: (775) 687-1279  
Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

*Executive Director for Nevada Commission on Ethics*

**STATE OF NEVADA**  
**BEFORE THE COMMISSION ON ETHICS**

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct  
of **Shirley Matson**, former Assessor,  
Nye County, Nevada

Request for Opinion No. 14-70C

Subject. /

**EXECUTIVE DIRECTOR'S BRIEF REGARDING  
DETERMINATION OF WILLFULNESS AND SANCTIONS**

Date of Hearing: April 20, 2016

Time of Hearing: 1:00 p.m.

Yvonne M. Nevarez-Goodson, Esq., Executive Director of the Nevada  
Commission on Ethics ("Commission"), hereby submits this Brief Regarding  
Determination of Willfulness and Sanctions.

DATED this 12<sup>th</sup> day of April, 2016.

YVONNE M. NEVAREZ-GOODSON, ESQ.  
EXECUTIVE DIRECTOR  
NEVADA COMMISSION ON ETHICS

By: /s/ Yvonne M. Nevarez-Goodson  
Yvonne M. Nevarez-Goodson, Esq.  
Executive Director  
Nevada Commission on Ethics



## **POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

#### **A. Background/Procedural History**

Third-Party Request for Opinion ("RFO") No. 14-70C alleged that former Nye County Assessor, Shirley Matson ("Matson") violated various provisions of the Ethics Law. The Commission's Investigatory Panel found just and sufficient cause for the Commission to hold a hearing and render an opinion in this matter based on credible evidence that Matson used her official position as the Assessor to benefit her private campaign for re-election and engage in official activities based on improper personal motivations by: 1) hindering Nye County Assessor's Office employee (and Matson's subordinate) Sheree Stringer's ("Stringer") political campaign, and when that failed, by issuing a Notice of County's Intent to Terminate Stringer's employment and related circumstances, in violation of NRS 281A.020 and 281A.400(1) and (2); 2) retaliating against a subordinate and terminating Nye County Assessor's Office's part-time, casual employee Tammy McGill ("McGill") due to McGill's husband's role with respect to an investigation he was assigned as a volunteer Detective with the Nye County Sheriff's Office and related matters, in violation of NRS 281A.020 and 281A.400(2); and 3) directing staff members to conduct certain reappraisals of property, through improper motive and unusual circumstances relating thereto, in violation of NRS 281A.020 and 281A.400(7) and (9).

After the Commission's issuance of the Panel Determination and a Notice of Hearing and Scheduling Order to consider this matter, Subject Matson became nonresponsive and failed to confirm any intent to appear before the Commission. In fact, the Commission issued four subsequent notices continuing the matter to provide ample opportunity for Subject to appear and provide evidence and/or arguments to the Commission. With no response to any of the notices, the Commission's Executive Director, through the Commission's Associate Counsel, filed an Offer of Proof to hear

1 the matter in *abstentia* pursuant to NAC 281A.270, and, in the alternative, a Motion for  
2 Summary Judgment to resolve the RFO as a matter of law.

3 Matson then retained legal counsel and a subsequent continuance was granted  
4 to provide yet another opportunity to appear and respond to the Offer of Proof and  
5 Motion for Summary Judgment. Again, no response was submitted despite the  
6 Commission's receipt of a letter of representation from Matson's legal counsel and  
7 counsel's confirmation of intent to respond to the various pleadings. Accordingly, the  
8 facts were uncontested.

9 **B. Motion for Summary Judgment Granted March 16, 2016**

10 After its review of the procedural history and the uncontested and supported  
11 material facts, the Commission, on March 16, 2016, heard arguments of counsel and  
12 granted the Motion for Summary Judgment, concluding that Matson violated NRS  
13 281A.020 and NRS 281A.400(1), (2), (7) and (9), as a matter of law.

14 **C. Determination of Willfulness/Sanctions**

15 The Commission set for further hearing, a determination regarding whether  
16 Matson's violations of the Ethics Law are willful and subject to any sanctions under  
17 NRS 281A.480. The Commission requested arguments of the Executive Director and  
18 Subject's counsel regarding the determination of willfulness and sanctions. This Brief  
19 seeks the Commission's determination that Matson's conduct in violation of NRS  
20 281A was willful and should be subject to civil sanctions under NRS 281A.480.

21 The Commission should also take notice of its prior decision involving similar  
22 conduct by Matson in *In re Matson*, Comm'n Opinion No. 11-67C (2014). In that case,  
23 the Commission concluded that Matson committed two willful violations of the Ethics  
24 Law for her ethical misconduct in relation to her official duties in conflict with her  
25 private interests during a recall environment. The Commission found that Matson's  
26 conduct, including retaliation and reprisals toward subordinates during her private  
27 campaign against a recall and misuse of government resources during the recall  
28 constituted two willful violations with sanctions of \$4,000 and \$1,000, respectively.

1 Notably, the Commission granted leniency against moving for Matson's  
2 removal from office, mindful that she was new to public office and to promote  
3 education regarding her ethical responsibilities. Less than one year after the issuance  
4 of that decision, the Commission received the current RFO alleging similar  
5 misconduct. In granting the Motion for Summary Judgment, the Commission has now  
6 determined that conduct violated various provisions of NRS 281A. These violations  
7 are undoubtedly willful given the circumstances and history.

## 8 **II. STANDARDS OF LAW**

9 Having already determined that Matson violated various provisions of NRS  
10 281A, the Commission must also determine whether her conduct in violation of the  
11 Ethics Law was willful and therefore subject to civil (monetary) sanctions. The Ethics  
12 Law specifically defines the standard for willfulness, outlines various mitigating factors  
13 that may be considered for a determination of willfulness and authorizes the  
14 Commission to impose various sanctions for willful violations.

### 15 **A. Standard for Willful Violations**

16 **NRS 281A.170 "Willful violation" defined.** "Willful violation"  
17 means a violation where:

- 18 1. The public officer or employee:
  - 19 (a) **Acted intentionally and knowingly**; or
  - 20 (b) Was in a situation where this chapter imposed a duty to act  
21 and the public officer or employee intentionally and knowingly failed to  
22 act in the manner required by this chapter; and
- 23 2. The Commission determines, after applying the factors set  
24 forth in NRS 281A.475, that the public officer's or employee's act or  
25 failure to act resulted in a sanctionable violation of this chapter.

26 (Emphasis Added).

27 **NRS 281A.105 "Intentionally" defined.** "Intentionally"  
28 means voluntarily or deliberately, rather than accidentally or  
inadvertently. **The term does not require proof of bad faith, ill will,  
evil intent or malice.**

(Emphasis Added).

1           **NRS 281A.115 “Knowingly” defined.** “Knowingly” imports a  
2 knowledge that the facts exist which constitute the act or omission, and  
3 **does not require knowledge of the prohibition against the act or**  
4 **omission.** Knowledge of any particular fact may be inferred from the  
5 knowledge of such other facts as should put an ordinarily prudent person  
6 upon inquiry.

7 (Emphasis Added).

8           **NRS 281A.475 Standards for determining whether violation**  
9 **is willful violation and amount of civil penalty imposed** (*As*  
10 *Amended by Assembly Bill 60, 2015 Legislative Session*)

11           1. In determining whether a violation of this chapter is a willful  
12 violation and, if so, the amount of any civil penalty to be imposed on a  
13 public officer or employee or former public officer or employee pursuant  
14 to NRS 281A.480, the Commission shall consider ~~[-],~~ ***without limitation:***

15           (a) The seriousness of the violation, including, without limitation,  
16 the nature, circumstances, extent and gravity of the violation;

17           (b) The number and history of previous warnings issued to or  
18 violations of the provisions of this chapter by the public officer or  
19 employee;

20           (c) The cost to the Commission to conduct the investigation and  
21 any hearing relating to the violation;

22           (d) Any mitigating factors, including, without limitation, any self-  
23 reporting, prompt correction of the violation, any attempts to rectify the  
24 violation before any complaint is filed and any cooperation by the public  
25 officer or employee in resolving the complaint;

26           (e) Any restitution or reimbursement paid to parties affected by  
27 the violation;

28           (f) The extent of any financial gain resulting from the violation;  
and

          (g) Any other matter justice may require.

          2. ***The factors set forth in this section are not exclusive  
or exhaustive, and the Commission may consider other factors in  
the disposition of the matter if they bear a reasonable relationship  
to the Commission’s determination of the severity of the violation.***

          3. In applying the factors set forth in this section, the Commission  
shall treat comparable situations in a comparable manner and shall  
ensure that the disposition of the matter bears a reasonable relationship  
to the severity of the violation.

///

///

///

1           **B.       Sanctions**

2           **NRS 281A.480   Commission authorized to impose civil penalties;**  
3           **duties of Commission upon finding willful violation; circumstances**  
4           **in which violation not deemed willful; effect of chapter upon**  
5           **criminal law; judicial review; burden of proof. (As Amended by**  
6           **Assembly Bill 60, 2015 Legislative Session)**

7           1. In addition to any other penalties provided by law and in  
8           accordance with the provisions of NRS 281A.475, the Commission may  
9           impose on a public officer or employee or former public officer or  
10          employee civil penalties:

11          (a) Not to exceed \$5,000 for a first willful violation of this chapter;

12          (b) Not to exceed \$10,000 for a separate act or event that  
13          constitutes a second willful violation of this chapter; and

14          (c) Not to exceed \$25,000 for a separate act or event that  
15          constitutes a third willful violation of this chapter.

16          ...

17          4. In addition to any other penalties provided by law, if a  
18          proceeding results in an opinion that:

19          ...

20          (c) One or more willful violations of this chapter have been  
21          committed by a public officer other than a public officer described in  
22          paragraphs (a) and (b), the willful violations shall be deemed to be  
23          malfeasance in office for the purposes of NRS 283.440 and the  
24          Commission:

25          (1) May file a complaint in the appropriate court for removal of  
26          the public officer pursuant to NRS 283.440 when the public officer is  
27          found in the opinion to have committed fewer than three willful violations  
28          of this chapter.

29          (2) Shall file a complaint in the appropriate court for removal of  
30          the public officer pursuant to NRS 283.440 when the public officer is  
31          found in the opinion to have committed three or more willful violations of  
32          this chapter.

33          - This paragraph grants an exclusive right to the Commission, and no  
34          other person may file a complaint against the public officer pursuant to  
35          NRS 283.440 based on any violation found in the opinion.

36          5. Notwithstanding any other provision of this chapter, any act  
37          or failure to act by a public officer or employee or former public officer or  
38          employee relating to this chapter is **not a willful violation of this**  
39          **chapter if** the public officer or employee establishes by sufficient  
40          evidence that:

41          (a) The public officer or employee relied in good faith upon the  
42          advice of the legal counsel retained by his or her public body, agency or  
43          employer; and

(b) The advice of the legal counsel was:  
(1) *Provided to the public officer or employee before the public officer or employee acted or failed to act; and*  
(2) *Based on a reasonable legal determination by the legal counsel under the circumstances when the advice was given that the act or failure to act by the public officer or employee ~~[was]~~ would not be contrary to ~~[a]~~ any prior published opinion issued by the Commission ~~[.]~~ which was publicly available on the Internet website of the Commission.*

...  
8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review pursuant to NRS 233B.130.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

### III. LEGAL ANALYSIS

A. **Matson's conduct in using her official position to retaliate against and terminate subordinate staff Stringer and McGill to establish an advantage in her private political campaign constitutes a course of conduct resulting in a single willful violation of the Ethics Law, implicating NRS 281A.020 and NRS 281A.400(1) and (2).**

#### 1. Stringer and McGill Terminations – Single Violation

The Ethics Law prohibits a superior public officer from using his or her position to discipline and/or terminate a subordinate in order to gain an economic opportunity or unwarranted advantage in a political campaign or retaliate against an employee for personal motivations. The Ethics Law is designed, in part, to prevent any abuse of authority in an election setting, and Matson's Intent to Terminate Stringer to benefit her private campaign for re-election and termination of McGill as retaliation in the surrounding circumstances crossed the ethical line. Although the Commission does not opine on matters strictly involving employment laws and personnel issues within the public sector, Matson's conduct has implicated the very underpinnings of the Ethics Law within the context of employment and personnel issues. (*See In re Matson*, Comm'n Opinion No. 11-67C (2014)) In granting the Motion for Summary Judgment, the Commission has concluded that Matson's conduct in relation to Stringer, her subordinate and opponent during her campaign for re-election, and Matson's

1 termination of another subordinate, McGill, in the surrounding circumstances related  
2 to the campaign and retaliatory motives, violated NRS 281A.020, 281A.400(1) and (2).

3 The Commission granted the Motion for Summary Judgment, effectively  
4 determining that Matson committed as many as 5 violations of the Ethics Law for each  
5 of the statutes implicated by her conduct. However, the Commission has more  
6 consistently determined that multiple violations of the Ethics Law arising out of the  
7 same course of conduct constitutes a single violation, and the Commission weighs the  
8 significance of the conduct in its determination of willfulness and the amount of any  
9 sanction. In this instance, Matson engaged in a series of activities motivated by her  
10 bid for re-election and personal retaliation. These activities, while independently  
11 significant, originated out of the same circumstances and resulted in the same overall  
12 mishandling of employment circumstances to benefit personal interests.

13 Accordingly, the Commission should consider all of the conduct resulting in  
14 employment retaliation against subordinates Springer and McGill as a course of  
15 conduct constituting a single violation of the Ethics Law, implicating all of the  
16 aforementioned statutes, NRS 281A.020 and 281A.400(1) and (2). Matson's conduct  
17 in each and every instance related to this matter was both knowing and intentional,  
18 and laced with evidence of bad faith. Given the nature of the conduct, combined with  
19 Matson's history of ethical violations in similar circumstances, this violation should be  
20 declared willful and subject to a significant sanction.

## 21 **2. Willfulness and Sanctions**

### 22 **a. Willfulness**

23 Under the Ethics Law, a willful violation is based upon conduct that was  
24 intentional and knowing. The legislative history enacting these provisions governing  
25 the definition of a willful violation of NRS 281A requires the Commission to interpret  
26 the meanings of "intentional" and "knowing" consistent with Nevada case law. See  
27 Legislative Minutes of Assembly Committee on Elections, Procedures, Ethics and  
28

1 Constitutional Amendments and Senate Committee on Judiciary regarding Senate Bill  
2 160 of the 2009 Nevada Legislature.

### 3 **1) Intentional**

4 For an act to be intentional, NRS 281A.105 requires only that Matson acted  
5 “voluntarily and deliberately.” See *In re Fine v. Nevada Commission on Judicial*  
6 *Discipline*, 116 Nev. 1001 (2000) (“the relevant inquiry regarding willful misconduct is  
7 an inquiry into the intentional nature of the actor's conduct.”). Matson deliberately and  
8 intentionally engaged in personnel matters which affected her personal interests  
9 related to her campaign and were motivated by retaliation. Her conduct was not  
10 accidental or inadvertent.

11 Although the law does **not** require proof that the intentional behavior was  
12 engaged in bad faith or with malicious motive to be deemed willful, the facts in this  
13 matter clearly demonstrate that Matson’s conduct was intended with malicious and  
14 retaliatory motives, particularly as Matson had already been sanctioned by this  
15 Commission for similar conduct. Matson had a significant negative history with her  
16 subordinate and opponent in the election and created an employment atmosphere  
17 ripe with retaliation and reprisal, all in the course of a contested election. The element  
18 of this malicious behavior provides substantial support for the Commission to impose  
19 a meaningful sanction for this violation.

### 20 **2) Knowing**

21 The Ethics Law also requires that Matson had knowledge of her actions.  
22 Again, Matson initiated and had knowledge that she was making adverse employment  
23 decisions regarding her subordinates during the course and scope of her private  
24 campaign and based upon retaliation and improper motives. NRS 281A.115 defines  
25 “knowingly” as “import[ing] a knowledge that the facts exist which constitute the act or  
26 omission, and does not require knowledge of the prohibition against the act or  
27 omission.” Further, the definition states that “[k]nowledge of any particular fact may be  
28



1 inferred from the knowledge of such other facts as should put an ordinarily prudent  
2 person upon inquiry.”

3 NRS 281A does not require that Matson had actual knowledge that her conduct  
4 violated NRS 281A but it does impose constructive knowledge on a public officer  
5 when other facts are present that should put an ordinarily prudent person upon  
6 inquiry. See *Garcia v. The Sixth Judicial District Court of Nevada*, 117 Nev. 697  
7 (2001) (“constructive knowledge fulfills a statutory requirement that an act be done  
8 ‘knowingly.’ State of mind need not be proved by positive or direct evidence but may  
9 be inferred from conduct and the facts and circumstances disclosed by the evidence.”)  
10 and *State v. Rhodig*, 101 Nev. 608 (1985) (“... the law does not require knowledge  
11 that such an act or omission is unlawful.”).

12 Matson knew of her conflict of interest with regard to Stringer and McGill in  
13 relation to her pending bid for re-election and her private motivations for retaliation.  
14 She had been reminded of the appropriate separation in these endeavors by the  
15 Commission as well as the Human Resources Department of Nye County. Matson  
16 intentionally and knowingly acted in contravention of her conflict of interest.

### 17 **3) No Mitigating Circumstances**

18 NRS 281A.475 requires the Commission to consider whether the existence of  
19 any mitigating factors warrant a conclusion that the violation of NRS 281A was not  
20 willful. However, the Commission may also consider the totality of the circumstances  
21 in its determination of willfulness even where certain mitigating factors may be  
22 present. Of the stated factors in NRS 281A.475, Matson may not have received  
23 financial gain as a result of her actions, but the seriousness and gravity of the conduct  
24 combined with the prior history of ethics violations for similar conduct provides  
25 significant support for the Commission’s finding of willfulness in this matter.  
26 Furthermore, Matson’s non-responsiveness and delay in this matter clearly evidence  
27 that she has not been cooperative, or attempted to correct or rectify her behavior or  
28 reduce costs to the Commission for its investigation and hearing in this matter.

1                                   **b. Sanction**

2           The Commission has found nominal or minimal sanctions for willful conduct  
3 that does not include an element of bad faith or reckless disregard for the Ethics Law.  
4 However, in this case, Matson engaged in conduct which was done in bad faith,  
5 malicious intent and disregard for the Commission's prior advice in these  
6 circumstances. Therefore, the Executive Director requests that the Commission  
7 impose a significant civil penalty for this violation in the amount of \$5,000. The  
8 Commission will note that Ms. Matson has a history of ethics violations for similar  
9 conduct within the last 5 years, for which the Commission likewise imposed a total  
10 sanction of \$5,000.

11           The Commission would have the legal authority to impose a significantly higher  
12 penalty not to exceed \$25,000, as this violation constitutes Matson's third willful  
13 violation of the Ethics Law. Under NRS 281A.480, the Commission may impose a fine  
14 not to exceed \$25,000 for a third willful violation of the Ethics Law. The proposed  
15 sanction of \$5,000 strikes a balance between the seriousness of the conduct at issue  
16 in this matter with Matson's status as a former public officer who is no longer serving  
17 in public office. Accordingly, the public trust is no longer triggered by her role as the  
18 Assessor for Nye County.

19           **B. Matson's conduct in using her official position to wrongfully**  
20 **reappraise property of certain public officials with whom she had**  
21 **personal animus constitutes a course of conduct resulting in a**  
22 **single willful violation of the Ethics Law, implicating NRS 281A.020**  
**and 281A.400(7) and (9).**

23           Matson used her position as the Assessor to wrongfully reappraise Joni  
24 Eastley's primary residence in Tonopah, Nevada, and attempted to do the same with  
25 Human Resources Manager Danelle Shamrell's residence and, as such, used  
26 governmental resources, including staff, for her own personal benefit. This was an  
27 improper use of government time, resources and staff for a personal benefit and  
28 violated the Ethics Law, implicating NRS 281A.020 and 281A.400(7) and (9).

1           Matson used government time and resources through the use of her  
2 subordinate to benefit her personal interest. Matson's personal interest was her  
3 personal animus against both Eastley and Shamrell. Matson, out of revenge and  
4 retaliation for actions that occurred in *Matson, Comm'n Opinion No. 11-67C* (2014),  
5 ordered her subordinate to reappraise the property of Eastley and Shamrell. This was  
6 a misuse of a government employee and resources for a personal vendetta. Matson's  
7 decision to require the reappraisals of the Eastley and Shamrell's property  
8 contravened statutory provisions, and evidence supports that her decision was  
9 motivated by the personal history between the women. Therefore, the evidence  
10 supports a violation of NRS 281A.400(7) and (9), and NRS 281A.020, and summary  
11 judgment was properly granted in this matter.

12           For all of the same reasons and justifications stated above, this conduct should  
13 constitute a second course of conduct resulting in another single willful violation of the  
14 Ethics Law, based on Matson's bad faith and malicious motives to ignore her  
15 responsibilities as an elected official under the Ethics Law. Accordingly, the Executive  
16 Director again recommends a sanction in the amount of \$5,000. Again, no mitigating  
17 factors support a conclusion that this violation should not be deemed willful.

## 18   **V.   CONCLUSION**

19           Matson's conduct all relates back to the tensions as a result of the campaign  
20 and motivated by retaliation for involvement by subordinates and other County  
21 employees in efforts against Matson's role as the Assessor. As the incumbent elected  
22 officer and supervisor of her opponent in the election, Matson had an obligation to  
23 ensure that her official actions during the campaign could not be improperly influenced  
24 by her private interests in the campaign or motivated by retaliation, therefore Matson  
25 wilfully violated NRS 281A.400(1) and (2) and NRS 281A.020 through her actions  
26 against Stringer and McGill.

27           Matson had further conflicts and disagreements with various Nye County  
28 Officials, in particular then-Nye County Commissioner Joni Eastley (and current

1 Assistant County Manager) and Nye County Human Resources Director Danelle  
2 Shamrell ("Officials"). Both Officials had disagreements with Matson regarding various  
3 actions taken by Matson after her initial election as the Assessor, had been involved in  
4 a County reprimand of Matson for alleged racist comments, and had supported a  
5 recall petition against Matson after her initial election to office.

6 With this history as the backdrop, Matson's direction to a subordinate staff  
7 appraiser to reappraise the properties of the Officials is evidence of a personal  
8 vendetta and/or improper motivation. State law permits reappraisals of property under  
9 limited and specific circumstances and Matson's decision to require the reappraisals  
10 of the Officials' property contravened statutory provisions. Therefore, the evidence  
11 supports that Matson's decision was motivated by the personal history between the  
12 women and supports a finding a willful violation of NRS 281A.400(7) and (9), and NRS  
13 281A.020.

14 Based on these events and consistent with the Commission's decision to grant  
15 Summary Judgment, the Executive Director recommends and requests that the  
16 Commission conclude that Matson's actions constituted two separate courses of  
17 conduct resulting in two willful violations of the Ethics Law, implicating all of the  
18 aforementioned statutes. For these two willful violations, the Executive Director urges  
19 the Commission to impose two separate monetary sanctions, \$5,000 each, for a total  
20 sanction of \$10,000 in this matter. Consistent with past practice, the Commission may  
21 authorize the Executive Director and Subject to enter into a payment schedule not to  
22 exceed one year after the Commission's final decision in this matter.

23 DATED this 11<sup>th</sup> day of April, 2016.

24 NEVADA COMMISSION ON ETHICS

25  
26 /s/ Yvonne M. Nevarez-Goodson  
27 Yvonne M. Nevarez-Goodson, Esq.  
28 Executive Director  
Nevada Commission on Ethics

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

Tracy L. Chase, Esq.  
Commission Counsel  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703

Lisa A. Rasmussen, Esq.  
The Law Office of Lisa Rasmussen  
601 South 10th Street,  
Suite 100  
Las Vegas, NV 89101  
*Attorney for Subject*

Tammy McGill  
P.O. Box 625  
Pahrump, NV 89041

DATED: April 11, 2016

Page 14 of 14

**LISA A. RASMUSSEN, ESQ.**  
Nevada Bar No. 007491  
**LAW OFFICE OF LISA RASMUSSEN, P.C.**  
601 South 10<sup>th</sup> Street, Suite #100  
Las Vegas, NV 89101  
Tel. (702) 471-1436  
Fax. (702) 489-6619  
Email: Lisa@LRasmussenLaw.com

Attorneys for Shirley Matson

**STATE OF NEVADA**  
**BEFORE THE COMMISSION ON ETHICS**

IN THE MATTER OF THE THIRD PARTY  
REQUEST FOR OPINION CONCERNING  
THE CONDUCT OF SHIRLEY MATSON,  
FORMER ASSESSOR, NYE COUNTY,  
NEVADA

Case No.: 14-70c

**SHIRLEY MATSON'S BRIEF IN  
MITIGATION OF THE  
COMMISSION'S FINDING**

SUBJECT.

COMES NOW Shirley Matson, by and through the undersigned counsel and hereby submits her brief in mitigation of this Commission's findings for this Commission's further consideration of an appropriate penalty.

**I.**

**Ms. Matson's Requests for Legal Counsel Have Previously Been Denied**

At the prior proceedings against Ms. Matson, she tendered the Ethics Complaint to Nye County seeking counsel's assistance and the request was denied. She was told it "did not qualify."

As the undersigned noted during these proceedings, she had tendered a request and had heard no response. That is still the case. This Commission should be mindful of Nye County's duty to respond to the request for conduct which occurred while Ms. Matson was a public official. The undersigned submits this information nonetheless, because Ms. Matson's circumstances deserve a response, despite her inability to pay for counsel.

See Exhibit 1, prior denial “explanation” or excuse.

## II.

## The Conduct Of Ms. Stringer Was A Violation of Law

Regardless of whether or not the Nye County Sheriff prosecuted Ms. Stringer for her unlawful recording of Ms. Matson, Ms. Stringer's conduct was a crime. NRS §200.650 prohibits the unauthorized surreptitious intrusion of privacy by a listening device. Ms. Stringer placed a spy camera recording device in the Nye County Assessor's office while she was gone for over a month, to observe and listen to Ms. Matson in violation of NRS 200.650. This conduct is a category D felony under the laws of the State of Nevada.

Upon discovering the spy camera and recording device, Ms. Matson contacted human resources and asked permission to terminate Ms. Stringer. She was not told that she could not terminate Ms. Stringer.

There was no personal benefit to Ms. Matson in terminating Ms. Stringer other than removing an employee who committed unauthorized and illegal acts against not only Ms. Maston, but other Nye County employees.

### III.

## Ms. McGill Was A Temporary Worker

Ms. Stringer did not need permission from human resources to terminate Ms. McGill who was an unqualified part time employee. Ms. Stringer

1 terminated her and requested funding to hire a qualified mapping  
2 administrative assistant. This was within her job function. There was no  
3 personal benefit to Ms. Matson from terminating Ms. McGill. Ms. McGill was  
4 hired in February 2014 as a temporary worker on a six month contract. There  
5 was nothing improper about terminating her. See attached, Exhibit 2.

#### 6 7 IV.

#### 8 **Joni Eastley Property Re-Evaluation**

9 Ms. Matson requested the re-evaluation of a host of Nye County  
10 properties, including Ms. Eastley's. This Commission's issue with this was that  
11 it was not done during the regular re-appraisal assessment roll period. Ms.  
12 Eastley's was a public official. Ms. Matson noticed that her property was  
13 substantially under-valued in the assessor rolls. She requested it and several  
14 other parcels be reappraised. This benefits Nye County and Ms. Matson was a  
15 publicly elected official. It is her job to ensure that property taxes are paid in an  
16 appropriate amount. It should be noted that Ms. Eastley's property valuations  
17 have decreased from 2014 to 2016. There was no benefit to Ms. Matson for  
18 requesting that the property be re-evaluated.

19 Ms. Matson was requesting evaluation of several parcels and she was  
20 doing so at the request of the State Board of Taxation and in consultation with  
21 Mr. Kunzi. See Exhibit 3. There was no special selection of Joni Eastley.

#### 22 IV.

#### 23 **Nye County's Ongoing Animous Toward Ms. Stringer**

24 Ms. Matson has been disliked since she first took office. She moved to  
25 Pahrump from California and underestimated the hatred that she would  
26 encounter as an "outsider." She was the most qualified Assessor Nye County  
27 has had in recent years, far more qualified than Sheree Stringer. Ms. Matson  
28 would not "play ball" and grant favors for people who asked for them, including



1 Sheree Stringer and Brian Kunzi. She would not participate in unethical  
2 conduct, unlawful conduct, or the day-to-day corruption that occurs and  
3 continues to occur in Nye County.

4 A unsuccessful recall election was waged against Ms. Matson with Nye  
5 County officials accusing her of being racist because she asked about “E-  
6 verification cards” for construction workers building the Pahrump contract  
7 detention facility. Nye County officials hardly have a reputation as the  
8 guardians of civil rights and anti-discrimination policy, but none-the-less this  
9 was their attempt to get rid of Ms. Matson. The attempt failed, so “ethics  
10 violations” were filed with this Commission to punish Ms. Matson instead.  
11 There, as here, she found herself responding without the assistance of counsel,  
12 to these proceedings.

13 This is all about revenge for a handful of Nye County employees and  
14 officials who like to make sure things are done however they want, with no  
15 outside interference from anyone who might question them. Some of the  
16 Animus toward Ms. Matson is evidenced in the attachments hereto in Exhibit 4.

## 17 V.

### 18 **Ms. Matson is No Longer The Assessor And There is No** 19 **Need to “Further Punish Her”**

20 Ms. Matson was not re-elected in fact she lost the 2014 election to Sheree  
21 Stringer the alleged “victim” herein. There is no need to establish a fine to  
22 “punish Ms. Matson” because she no longer holds office and there is need to  
23 deter her from future official misconduct.

24 After Ms. Matson left office in early January 2015, she had to seek  
25 counseling to overcome what can best be described as a four year campaign of  
26 harassment. She became physically ill from the ongoing drama and was later  
27 diagnosed with physical symptoms resulting from the stress. This was during  
28 the time period of February through September 2015, also when she was “not

1 responding” regularly to this Commission.

2 Ms. Matson’s husband was diagnosed with late stage cancer in  
3 approximately September 2015. The cancer has since traveled to his brain.  
4 She is his only caregiver as his adult daughter lives in Vancouver. They travel  
5 to Las Vegas for chemotherapy treatments. They are trying to sell their house  
6 in Pahrump to pay for the expenses that are not covered by insurance. *See*  
7 Exhibit 5. Furthermore, Ms. Matson’s mother died in late February 2016. As a  
8 result of her husband’s illness and her mother’s death she did not feel that she  
9 was able to appear at the March 2016 hearing in this matter. She also has a  
10 defeatist attitude that no matter what information she presents, this  
11 Commission will find against her. She is tired and overwhelmed at this point  
12 and feels like the only thing she should be focusing on is her dying husband.

13 It would be inappropriate to further penalize Ms. Matson at this time and  
14 it is respectfully requested that this Commission impose no monetary penalty  
15 against Ms. Matson.

16 Sumbitted this 11<sup>th</sup> day of April, 2016.

17 Law Office of Lisa Rasmussen,  
18 /s/ *Lisa A. Rasmussen*

19 \_\_\_\_\_  
20 LISA A. RASMUSSEN, ESQ.  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I sent a copy of the foregoing, MITIGATION BRIEF IN SUPPORT OF SHIRLEY MATSON, to the following persons on this 11<sup>th</sup> day of April, 2016:

Tracy L. Chase, Esq. [Tchase@ethics.nv.gov](mailto:Tchase@ethics.nv.gov)

Yvonne M. Nevarez-Goodson, Esq. [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Darcy Heyden [dheyden@ethics.nv.gov](mailto:dheyden@ethics.nv.gov)

*/s/ Lisa A. Rasmussen*

---

LISA A. RASMUSSEN, ESQ.

# **Exhibit 1**

# **Exhibit 1**

(2) If the officer, employee or immune contractor has an administrative superior, to the administrator of the person's agency and the official attorney; and

(b) The official attorney has determined that the act or omission on which the action is based appears to be within the course and scope of public duty or employment and appears to have been performed or omitted in good faith.

2. If the official attorney determines that it is impracticable, uneconomical or could constitute a conflict of interest for the legal service to be rendered by the official attorney or a deputy of the official attorney, the official attorney must employ special counsel pursuant to NRS 41.03435 or 41.0344, whichever is applicable.

**NRS 41.03415 Determination by official attorney whether or not to tender defense.**

1. The official attorney shall determine as promptly as possible whether or not to tender the defense of the person submitting the request. Until the decision is made, the official attorney shall take appropriate action to defend or otherwise protect the time of the person submitting the request to file a responsive pleading.

2. In any case in which the official attorney determines not to defend, the official attorney shall give written notice to the person who requested the defense either:

(a) Ten days before the date an answer or other responsive pleading must be filed with the court; or

(b) If the defense has been commenced, 20 days before the time an application is made with the court to withdraw as the attorney of record in accordance with NRS 41.0346.

**NRS 41.0349 Indemnification of present or former public officer, employee, immune contractor or State Legislator.** In any civil action brought against any present or former officer, employee, immune contractor, member of a board or commission of the State or a political subdivision or State Legislator, in which a judgment is entered against the person based on any act or omission relating to the person's public duty or employment, the State or political subdivision shall indemnify the person unless:

1. The person failed to submit a timely request for defense;

2. The person failed to cooperate in good faith in the defense of the action;

3. The act or omission of the person was not within the scope of the person's public duty or employment; or

4. The act or omission of the person was wanton or malicious.

One point of emphasis is that a "civil action" refers to lawsuits filed in a court of law for damages or other equitable relief as covered by Title 3 of the Nevada Revised Statutes and covered by the Nevada Rules of Civil Procedure.

Administrative or other disciplinary proceedings against a public officer are not considered a "civil action" in which I get involved as the official attorney for the County. For example, I do not play a role in the defense of any matter referred to the Ethics Commission. I may assist any public official if asked by offering an interpretation on whether doing something might create an ethical violation or whether an official should disclose a potential conflict of interest or abstain from participating in a decision. I am always clear in these situations that my advice is not binding as only the Ethics Commission can provide official opinions on what constitutes a violation. I do try to help avoid a violation from happening if asked, however, I play no role if an elected official or any other public official is accused of committing a violation. I do believe that if asked for an opinion in advance and for you to follow that opinion and then to be subjected to an inquiry that my advice will carry some weight with the Commission and will eliminate any argument you acted willfully in violation of the law. Unfortunately that is the extent of what I can offer to you as a service in these types of matters.

I understand these matters can be complicated. If these references do not clarify my role for you, please let me know.



*Brian T. Kunzi*

**Brian T. Kunzi**  
Nye County District Attorney  
P.O. Box 39  
Pahrump, Nevada 89041  
(775) 751-7080  
[bkunzi@co.nye.nv.us](mailto:bkunzi@co.nye.nv.us)

# **Exhibit 2**

# **Exhibit 2**



## Nye County Human Resources & Risk Management

### EXHIBIT 1

February 18, 2014

Tammy McGill  
PO Box 625  
Pahrump, NV 89041

**Subject: Formal offer of non-regular, temporary w/out benefits employment**

*The terms and conditions of this offer of temporary employment are outlined below. You should rely exclusively on the information contained in this letter. Please read the information below carefully.*

*If you have questions, please contact Nye County Human Resources.*

Ms. McGill,

Nye County is very pleased to formally offer you the non-regular, temporary without benefits position of Office Assistant with the Nye County Assessor's office working in Pahrump, NV at a starting salary of \$12.72/hr. Your start date will be February 19, 2014.

You will report directly to Shirley Matson, Nye County Assessor. Your work hours and days will be determined by needs of the Department. *Hours and work days may change at any time due to department and County needs.*

Upon your start date you will need to provide proof of citizenship per I-9 regulations. Please see attached list of acceptable documents you will need to bring with you. Failure to produce documents could result in your start date being delayed. *If you have any questions regarding this please contact Nye County Human Resources at 751-6301.*

In the event that you are requested and authorized to work in excess ten (10) hours per work day or in excess for forty (40) hours in any work week, you will be compensated at the rate of time and one half (1½) your hourly rate for any overtime.

Your position is for the purpose of temporary casual labor. The duration of this position will not exceed a total of 6 months or 1039 hours whichever occurs first in any fiscal year, with no guarantee in this or any other position. You will be an at-will employee, meaning you have no property right or right to continue employment and may be released from employment at any time with or without cause. Similarly, you are free to resign at any time for any reason or no reason. As a temporary employee you will not accrue annual or sick leave. Additionally you will not be eligible for health, dental or vision benefits but workman's compensation will be paid by Nye County.

Please sign the acknowledgement below and return this letter to me as soon as possible, and welcome aboard!

Sincerely,

Danelle Shamrell, HR Manager

cc: Shirley Matson, Nye County Assessor

*I hereby acknowledge acceptance of your offer of employment with Nye County as described above.*

  
Tammy McGill  
Date

## Shirley Matson

---

**From:** Danelle Shamrell  
**Sent:** Monday, September 08, 2014 11:34 AM  
**To:** Shirley Matson; Pamela Webster  
**Cc:** Frank Carbone; Donna Cox  
**Subject:** RE: Tammy McGill part-time  
**Attachments:** Casual Hire Dismissal.docx

Regarding her part time employment all you need to do is notice her that her services are no long needed. You can do this in an notice much like the one attached. Please forward a copy to HR as soon as this is completed.

*D. Shamrell*

Danelle Shamrell  
Nye County HR Manager

This communication is for use by the intended recipient and contains information that may be privileged, confidential or copyrighted under applicable law. Should the intended recipient of this electronic communication be a member of a public body within the State of Nevada be aware that it is a violation of the Nevada Open Meeting Law to use electronic communications to circumvent the spirit or letter of the Open Meeting Law (NRS Chapter 241) to act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers. If you are not the intended recipient, you are hereby formally notified that any use, copying or distribution of this e-mail, in whole or in part, is strictly prohibited. Please notify the sender by return e-mail and delete this e-mail from your system. Unless explicitly and conspicuously designated as "E-Contract intended," this email does not constitute a contract offer, a contract amendment, or an acceptance of a counteroffer. This email does not constitute consent to the use of sender's contact information for direct marketing purposes or for transfers of data to third parties.

Nye County is an Equal Opportunity Employer & Provider

---

**From:** Shirley Matson  
**Sent:** Monday, September 08, 2014 11:32 AM  
**To:** Danelle Shamrell; Pamela Webster  
**Cc:** Frank Carbone; Donna Cox  
**Subject:** Tammy McGill part-time

I need to terminate her is there a procedure for part-time employees?

Shirley Matson  
Nye County Assessor  
160 N Floyd Dr  
Pahrump, NV 89060  
775-751-7067  
101 Radar Rd  
Tonopah, NV 89049  
775-482-8176

"Nye County is an equal Opportunity Employer and Provider"

This communication is for use by the intended recipient and contains information that may be privileged, confidential or copyrighted under applicable law. Should the intended recipient of this electronic communication be a member of a public body within the State of Nevada be aware that it is a violation of the Nevada Open Meeting Law (NRS Chapter 241) to use electronic communications to circumvent the spirit or letter of the Open Meeting Law to act, outside of an open and public meeting, upon a matter over which the public body has supervision, control, jurisdiction or advisory powers. If you are not the intended recipient, you are hereby formally



# **Exhibit 3**

# **Exhibit 3**

## Exhibit 3

Page 1 - 4

**Redacted**

Contains Attorney/Client Privilege  
and/or

Personal Identifying Information


[Assessor Home](#)
[Personal Property](#)
[Sales Data](#)
[Secured Tax Inquiry](#)
[Recorder Website](#)

### Parcel Detail for Parcel # 008-181-21

#### Location

Property Location [1200 IDAHO CIRCLE](#)Town [TONOPAH](#)District [7.0 - TONOPAH](#)

Subdivision Lot Block

Property Name [PT.TONOPAH #3 MINING CLAIM .92](#)
[Add'l Addresses](#)
[Assessor Maps](#)
[Legal Description](#)

#### Ownership

Assessed Owner Name [EASTLEY,DENNIS & JONI L](#)Mailing Address [P O BOX 1729](#)
[Add'l Owners](#) [TONOPAH, NV 89049-1729](#)
[Ownership History](#)
[Document History](#)
Legal Owner Name [EASTLEY,DENNIS & JONI L](#)Vesting Doc #, Date [812939 02/20/14](#) Book / Page /

Map Document #s

#### Description

Total Acres [.920](#)Square Feet [40,000](#)Ag Acres [.000](#)W/R Acres [.000](#)

##### Improvements

Single-family Detached [1](#) Non-dwelling Units [0](#) Bedrooms / Baths [0 / .00](#)Single-family Attached [0](#) Mobile Home Hookups [0](#) Stories [1.0](#)Multiple-family Units [0](#) Wells [0](#) Garage Square Ft... [713](#)Mobile Homes [0](#) Septic Tanks [0](#) Attached / Detached [D](#)Total Dwelling Units [1](#) Buildings Sq Ft [0](#)Residence Sq Ft [2,419](#)
[Improvement List](#)
Basement Sq Ft [0](#) Basement
[Improvement Sketches](#)
Finished Basement SF [0](#) Bedrooms / Baths [0 / .00](#)

#### Appraisal Classifications

Current Land Use Code [200](#)
[Code Table](#)

Zoning Code(s)

Re-appraisal Group [5](#) Re-appraisal Year [2015](#)Original Construction Year [1958](#) Weighted Year

#### Assessed Valuation

Assessed Values	<a href="#">2016-17</a>	<a href="#">2015-16</a>	<a href="#">2014-15</a>
Land	<a href="#">4,809</a>	<a href="#">4,008</a>	<a href="#">6,412</a>
Improvements	<a href="#">27,188</a>	<a href="#">28,030</a>	<a href="#">27,752</a>
Personal Property	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
Ag Land	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
Exemptions	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
<b>Net Assessed Value</b>	<a href="#">31,997</a>	<a href="#">32,038</a>	<a href="#">34,164</a>

##### Increased (New) Values

Land	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
Improvements	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
Personal Property	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>

#### Taxable Valuation

Taxable Values	<a href="#">2016-17</a>	<a href="#">2015-16</a>	<a href="#">2014-15</a>
Land	<a href="#">13,740</a>	<a href="#">11,451</a>	<a href="#">18,320</a>
Improvements	<a href="#">77,680</a>	<a href="#">80,086</a>	<a href="#">79,291</a>
Personal Property	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
Ag Land	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
Exemptions	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
<b>Net Taxable Value</b>	<a href="#">91,420</a>	<a href="#">91,537</a>	<a href="#">97,611</a>

##### Increased (New) Values

Land	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
Improvements	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>
Personal Property	<a href="#">0</a>	<a href="#">0</a>	<a href="#">0</a>

[Back to Search List](#)

# **Exhibit 4**

# **Exhibit 4**

## Exhibit 4

Pages 1 – 4

**Redacted**

Contains Attorney/Client Privilege  
and/or  
Personal Identifying Information



**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Shirley Matson**, Assessor, Nye County,  
State of Nevada,

Request for Opinion No. **14-70C**

Subject. /

**NOTICE OF HEARING AND SCHEDULING ORDER  
REGARDING BRIEFING**

**Notice of Hearing**

**PLEASE TAKE NOTICE**, that the Nevada Commission on Ethics ("Commission") will consider **Hearing Briefs regarding Willful Violations, including any associated Mitigating Factors and Penalties (See NRS 281A.475 and 281A.480)** and hold a hearing thereon, in the matter of Third Party Request for Opinion No. 14-70C at the following time and location:

**The Hearing Will Take Place:**

**Wednesday, April 20, 2016** at 1:00 p.m., or as soon thereafter as the  
Commission is able to hear the matter, at the following location:

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

and via video-conference to:

**Governor's Office of Economic Development  
555 E. Washington Ave, Suite 5400  
Las Vegas, NV 89101**

The hearing will assist the Commission to determine whether the violations of NRS Chapter 281A, the Ethics in Government Law ("Ethics Law"), set forth in the Motion for Summary Judgment Granted by the Commission on March 16, 2016, should be deemed willful under NRS 281A.475 and whether any penalties and related fines should be imposed by the Commission pursuant to NRS 281A.480.

**Scheduling Order**

The Commission's Executive Director and Associate Counsel and the Subject (hereafter referred to respectively as a "Party" or the "Parties," as applicable) shall comply with the following scheduling order:

## 1. APPEARANCE.

Subject Matson, through her attorney, has confirmed that a Hearing Brief ("Brief") will be submitted and appearance will be made to provide oral argument at the noticed hearing. If for any reason, Subject or her attorney are unable to attend the hearing, Subject's attorney has confirmed, on the record of proceedings held before the Commission on March 16, 2016, that there is no objection to the Commission proceeding to hear the matter without oral argument.

## 2. HEARING BRIEFS

On or before **Monday, April 11, 2016**, the Parties shall submit written Briefs addressing the willfulness of the violations set forth in the Motion for Summary Judgment and associated penalty, if any, in accordance with NRS 281A.475, NRS 281A.480, relevant provisions of Chapter 281A of the Nevada Administrative Code, and precedential opinions of the Commission. Briefs shall be limited to ten (10) pages in length.

The Parties shall submit the Briefs not later than 5:30 p.m. (the Commission's close of business) on **Monday, April 11, 2016**, to the Office of the Commission located at 704 W. Nye Lane, Suite 204, Carson City, Nevada 89703, care of Commission Counsel, Tracy L. Chase, Esq., or electronically to Ms. Chase at [tchase@ethics.nv.gov](mailto:tchase@ethics.nv.gov).

**In addition**, each party shall serve their Brief on the other party by physical delivery or electronic mail not later than 5:30 p.m. on **Monday, April 11, 2016** as follows:

<p>Yvonne M. Nevarez-Goodson, Esq. Executive Director Nevada Commission on Ethics 704 W. Nye Lane, Suite 204 Carson City NV 89703 <a href="mailto:ynevarez@ethics.nv.gov">ynevarez@ethics.nv.gov</a></p> <p>Judy A. Prutzman, Esq. Commission Counsel Nevada Commission on Ethics 704 W. Nye Lane, Suite 204 Carson City NV 89703 <a href="mailto:jprutzman@ethics.nv.gov">jprutzman@ethics.nv.gov</a></p>	<p>Lisa A. Rasmussen, Esq. The Law Office of Lisa Rasmussen 601 South 10th Street, Suite 100 Las Vegas, NV 89101 <a href="mailto:Lisa@LRasmussenLaw.com">Lisa@LRasmussenLaw.com</a></p>
--	---

A certificate of service shall be included verifying service as required herein.

## 3. EXTENSIONS AND CONTINUANCES.

No extensions of the deadlines will be considered unless submitted in writing 5 days prior to the established deadline and provide good cause for such request. Extensions or continuances are not effective until and unless approved by the Chair of the Commission or her designee.

DATED: March 30, 2016

/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 deposited for mailing, via Email, regular U.S. Postal Service and certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **NOTICE OF HEARING AND SCHEDULING ORDER REGARDING BRIEFING** in Request for Opinion **No. 14-70C**, addressed as follows:

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director  
Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Lisa A. Rasmussen, Esq.  
The Law Office of Lisa Rasmussen  
601 South 10th Street,  
Suite 100  
Las Vegas, NV 89101  
*Attorney for Subject*

Email: [Lisa@LRasmussenLaw.com](mailto:Lisa@LRasmussenLaw.com)

Tammy McGill  
P.O. Box 625  
Pahrump, NV 89041

Email: [TM3022@hotmail.com](mailto:TM3022@hotmail.com)

DATED: March 30, 2016



\_\_\_\_\_  
An employee, Nevada Commission on Ethics



## AGENDA ITEM NO. 5

## AGENDA ITEM NO. 5

14-73C

# NEVADA COMMISSION ON ETHICS THIRD-PARTY REQUEST FOR OPINION

NRS 281A.440(2)

RECEIVED

OCT 23 2014

COMMISSION  
ON ETHICS

- 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.)

<b>NAME:</b> (Last, First)	Leonard Lance Gilman	<b>TITLE OF PUBLIC OFFICE:</b> (Position: e.g. city manager)	County Commissioner
<b>PUBLIC ENTITY:</b> (Name of the entity employing this position: e.g. the City of XYZ)	Storey County		
<b>ADDRESS:</b> (Street number and name)	26 South B St.	<b>CITY, STATE, ZIP CODE</b>	Virginia City, NV 89440
<b>TELEPHONE:</b>	<b>Work:</b> 775-847-0968	<b>Other: (Home, cell)</b>	<b>E-MAIL:</b>

- 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.

On 10/21/14, at a public meeting of the County Commissioner, L. Lance Gilman, in his capacity as a county commissioner, requested that the Storey County Sheriff be censured due to a comment he observed on a community web blog alleging he violated the law at his personal place of business, the Mustang Ranch brothel. Mr. Gilman read his statements into the record then left the meeting and immediately dropped off a copy of his statement and his "supporting" documents to the local newspaper to ensure its published. It is no secret that Mr. Gilman is using his time, money, and resources to support the challenger to Sheriff Antinoro, but to use his official position as a commissioner during a public meeting to discredit the Sheriff and effect the outcome of the November general election is inexcusable. His allegation is baseless and the only accurate quote of the Sheriff was that he "enforces the law as evenly as possible to everyone. No exceptions." The rest of his diatribe is simply an effort to smear the Sheriff and negatively affect his chance for re-election. Mr. Gilman's actions are a continuing patten of conduct that was instituted upon his taking office endeavoring to control or influence the Office of the Sheriff.
A copy of Mr. Gilman's prepared statement and his "supporting" documents are attached.

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

Mr. Gilman asked the matter be placed on the next county commission meeting for discussion/action towards his requested censure of the Sheriff. Otherwise, no.
--

- 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 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 checked="" 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 type="checkbox"/>	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest.
<input 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 checked="" 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.

<b>NAME and TITLE:</b> (Person #1)		Storey County Clerk Vanessa Stephens		
<b>ADDRESS:</b>		26 South B St.	<b>CITY, STATE, ZIP</b>	Virginia City, NV 89440
<b>TELEPHONE:</b>		<b>Work:</b> 775-847-0969	<b>Other: (Home, cell)</b>	<b>E-MAIL:</b>
<b>NATURE OF TESTIMONY:</b>		Clerk Stephens can provide audio/video of the commission meeting.		

<b>NAME and TITLE:</b> (Person #2)		Angela Mann		
<b>ADDRESS:</b>		66 North B St.	<b>CITY, STATE, ZIP</b>	Virginia City, NV 89440
<b>TELEPHONE:</b>		<b>Work:</b> 775-847-0765	<b>Other: (Home, cell)</b>	<b>E-MAIL:</b>
<b>NATURE OF TESTIMONY:</b>		Mrs. Mann can attest to the fact that Mr. Gilman immediately delivered to her for publication, his prepared statement and "supporting" documents.		

**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) 7.

**7. REQUESTER'S INFORMATION:**

YOUR NAME:	Gerald Antinoro		
YOUR ADDRESS:	PO Box 88	CITY, STATE, ZIP:	Virginia City, NV 89440
YOUR TELEPHONE:	Day: 775-881-8196	Evening: same	E-MAIL: gantinoro@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.



Signature:

10/22/2014

Date:

Gerald Antinoro

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.

I am addressing the Commission today as a Storey County Resident, A Storey County Business Owner with approximately 10 Businesses Licenses County Wide, and as the Storey County Commissioner representing district 3 including Lockwood, TRI, Painted Rock, and Mark Twain.

I am hereby requesting that an item be entered into the next Storey County Commission meeting agenda for a vote of censure against Sheriff Antinoro, as the Storey County Sheriff, and a County Department Head, for making knowingly false statements which reflect negatively in a significant way on Storey County.

My complaint stems from a Lockwood area Blog Report dated June 2, 2014, entitled "Conversation with our Sheriff's Office and update" The report contains the following quote from an interview with Sheriff Gerald Antinoro. I quote:

"There had been an incident at the Mustang Ranch brothel near Patrick that we also talked about. Two sex workers were working without the necessary medical clearance the law demands. Sheriff Antinoro fined the brothel even though it is owned by a highly placed County official who seems to have expected special

considerations that were not forthcoming. Sheriff Antinoro summed this up by saying, "I enforce the law evenly as possible to everyone. No exceptions." The other candidates have also said as much; favoritism is root cause of past misdeeds in our county."

Several statements in this quote are complete fabrications. The incidents never happened.

1) There was no incident where Sheriff Antinoro or his deputies found a "Sex Worker" working without necessary medical clearance.

2) There was no incident where Sheriff Antinoro fined the brothel. Furthermore the Sheriff has no legal authority to fine a brothel.

3) The third statement implies that I, as a Highly Placed County Official, expected special consideration on complying with medical clearance laws. This is just plain false. I have never even discussed medical clearance records with Sheriff Antinoro.

I request that a neutral investigator, outside the chain of command of the Sheriff, be commissioned to interview Sheriff Antinoro and Deputy Mendoza, who was reportedly present at the time of these

statements, to determine whether these specific statements are true or not true. If they are found to be not true I request a vote be taken to censure the Sheriff for these statements. Censure is called for and proper in this circumstance as his statements specifically refer to me in my capacity as a County Official, and reflect poorly on the County Government as a whole.

That concludes my official statement. Let me just add a personal comment if I might. The senior law enforcement official in the County made this cavalier, false statement about a business that has been a great corporate citizen in paying taxes and has a long track record of giving and charitable contributions in this County.

More importantly, this business employs around 80 people, many of whom have been there many years. A good number of these 80 people have families. These workers depend on this business for their income, so they can pay rent, make their car payment, and buy Christmas presents for their kids. In my personal view, this conduct and attempt to seriously injure this business is inexcusable.

## CASH PROCESSING SERVICES

October 12, 2014

### VIA HAND DELIVERY

Storey County Commission  
P.O. Box 176  
Virginia City NV 89440

Re: False Statements by the Storey County Sheriff

Dear Fellow Commissioners,

The purpose of this letter is to provide in writing a statement I ask be entered into the record at the second Storey County Commission meeting for October 2014, and that the County Commission pass on a Resolution of Censure against Sheriff Gerald Antinoro.

In the Lockwood Area Blog, June 2, 2014 edition, there is an article entitled: "Conversation with our Sheriff's Office and UPDATE." This article reported on an interview with Sheriff Gerald Antinoro and Deputy Mendoza.

The article reports a statement by the Sheriff, in part, as follows:

"There had been an incident at the Mustang Ranch brothel near Patrick that we also talked about. Two sex workers were working without the necessary medical clearance the law demands. Sheriff Antinoro fined the brothel even though it is owned by a highly placed County official who seems to have expected special considerations there were not forthcoming. Sheriff Antinoro summed this up by saying 'I enforce the law [sic] evenly as possible to everyone. No exceptions.'

This statement is a total fabrication and highly inappropriate for the chief law enforcement official in Storey County for the following reasons:

- (1) There was no incident where "two sex workers were working without the necessary medical clearance." Medical clearances are regulated by the Division of Public and Behavioral Health. We have been in full compliance with state and county rules on medical clearances at ALL times.
- (2) The Sheriff has never "fined the brothel" nor does he have any power or authority to do so.
- (3) Neither the brothel nor the brothel owner ever have expressed some desire for "special considerations" from the Sheriff or his deputies.

I am concerned this continues the long-standing pattern of this Sheriff over the past four years to harass the brothel, my employees, and the undersigned. He has apparently singled me

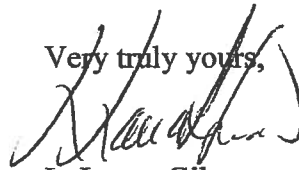


out for "special attention" and "sharking" due to his perception that I impede his desire to be the dominating political influence in the county. He has made a statement in the past couple years that he, and no one else, would "run Storey County."

I am also concerned that he is attempting to swing public sentiment against me or the brothel, using these lies, as a precursor to set up some sort of future action to pull the brothel license.

In any event, I ask for a vote of Censure by the Commissioners regarding this statement at the next County Commissioner meeting.

Thank you for your consideration.

Very truly yours,  
  
L. Lance Gilman

**5 Wild Horse Canyon Drive, Sparks NV 89434**

# Lockwood Area Blog

Public web log (blog) for the area beginning at the canyon mouth in east Sparks and down river to Mustang. This includes Lockwood Community Corporation (LCC), Rainbow Bend, and the many other enclaves of homes in the area, including Mustang. It is intended for but not limited to resident use; with primary focus on how to improve the community standards of living, and meet the many environmental challenges of this unique area.

## Blog Archive

▼ 2014 (3)

▼ June (1)

[Conversation with our Sheriff's Office and UPDATE](#)

► May (1)

► March (1)

► 2013 (8)

► 2012 (7)

► 2011 (4)

► 2010 (37)

► 2009 (21)

► 2008 (3)

## Contributors

[Boz Hobbs](#)

[Administrator4u](#)

MONDAY, JUNE 2, 2014

## Conversation with our Sheriff's Office and UPDATE



*Being a citizen trying to understand the issues in my part of the neighborhood, I asked for and was given an interview by both Sheriff Deputy John-Michael Mendoza and Sheriff Gerald Antinoro during the last week of March. Issues discussed were far ranging and both public and personal. I will cover what I can remember in this blog post. Your Comments are asked for and essential. A June 4th UPDATE is below.*

As over 60% of the Lockwood population is over the age of 65, it seems appropriate to discuss Senior issues first. Most of the population is concerned with incidents of crime in the area, events that may include their families or persons, and the general welfare of "our little hamlet." We are next to two of the most important transportation conduits in the country: Interstate 80 and the BNSF railroad line. As such, we pose a potential target and possible catastrophic location. Keep aware and report suspicious activity.

We are into election season. Three candidates are on the ballot for sheriff of Storey County. Sheriff Gerald "Jerry" Antinoro is up for re-election. The two other candidates, Deputies Tim Guthrie and Shawn Mahan, have had events in the Lockwood area and have shown to be qualified and personable.

One more than the others? You decide. It is both your right and responsibility as a citizen to VOTE! Don't vote and you harm our whole way of life. Regardless, there will be undercurrents and rumors: this is an attempt to clear the air somewhat; to make your vote more informed.

Deputy Mendosa said that he was working on several program projects that target benefit to the seniors here: Of these, the most interesting to me was Life Alert. We have all seen the television ads ("I've fallen and can't get up!"). I have dismissed pursuit for any number of reasons, mostly money. I recently tripped over the oxygen lines I depend on 24/7. It occurred to me that I could have really hurt myself. It may have

*personnel were fired for not following proper procedure. While the Sheriff took full responsibility for the escape, he nonetheless is only one person. He depends on his Deputies following instruction and training to minimize negative events in the community. While a negative incident, this escape incident does show an effort to do his job thoroughly, and enforce penalties where appropriate..*

There had been an incident at the Mustang Ranch brothel near Patrick that we also talked about. Two sex workers were working without the necessary medical clearance the law demands. Sheriff Antinoro fined the brothel even though it is owned by a highly placed County official who seems to have expected special considerations that were not forthcoming. Sheriff Antinoro summed this up by saying, "I enforce the law evenly as possible to everyone. No exceptions." The other candidates have also said as much; favoritism is root cause of past misdeeds in our county,

With regard to personnel issues, the Sheriff agrees that a roadway between Virginia City and Lockwood will be essential in making normal public safety operations run more smoothly. As is, one deputy is often in charge of the entire River District. If there is an arrest (say for drunk driving), he must travel to Virginia City to report and incarcerate the offender. This may leave the community without protection for several hours. A road will cut that time to a manageable factor. While this is but one reason to do that road, chances of getting it built are slim and none. This is due to state highways authority delegating all available monies to Southern Nevada. Let's hope some legislative change will remedy this too obvious need. He did mention a possible access through a development that is proposed; through or near Hidden Valley.

Lockwood has no prisoner lock-up facility. If the Sheriff's Office did have one, state law requires a full-time deputy monitor any prisoner being housed. This requires a deputy be taken off patrol or new full-time employees hired. Rather than hire new employees, with the various costs involved, Sheriff Antinoro has opted to "do more with less." This is reflected in his coming "in under budget" regularly. However, often our county has to pay Washoe County fees to house prisoners at Paar Blvd. On balance this is more cost effective. *NOTE: This has been a long standing practice. It will probably continue until the population base in the county grows enough to support better facilities. Even then, a Sheriff's Substation Jail will probably go into the Reno Tahoe Industrial Park area; especially if a proposed 850-home development in Painted Rock is built.*

Witnessing the return of obnoxious early morning whistle blowing, it seems the railroad remains oblivious to our community's interests. With two serious accidents east of us, they pose a real threat to life and property here. Attempts to quell their behavior have been taken seriously in the past, only to have their bad-neighbor behavior taken up again and again. Communication with federal authority to declare our



**STATE OF NEVADA  
COMMISSION ON ETHICS**

704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703  
(775) 687-5469 • Fax (775) 687-1279  
<http://ethics.nv.gov>

Request for Opinion No. **14-73C**

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Leonard Lance Gilman**, Member, Storey  
County Commission, State of Nevada,

\_\_\_\_\_  
Subject. /

**NOTICE TO SUBJECT OF REQUEST FOR OPINION**

Pursuant to NRS 281A.440(2) and NAC 281A.410

NOTICE IS HEREBY GIVEN that the Nevada Commission on Ethics (Commission) received a Request for Opinion (RFO) alleging that you may have engaged in conduct contrary to certain provisions of Nevada Revised Statutes (NRS) Chapter 281A.010-281A.550, the Nevada Ethics in Government Law. Pursuant to NAC 281A.405, the Commission's Executive Director and Commission Counsel have determined that the RFO was properly filed and the Commission has jurisdiction to consider allegations implicating the following statutes. (See sections checked below)

√	Statute	Essence of Statute:
√	NRS 281A.020(1)	Failing to honor commitment to avoid conflicts; appropriately separating personal and public roles.
	NRS 281A.400(1)	Seeking or accepting any gift, service, favor, employment, or economic opportunity which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of public duties.
√	NRS 281A.400(2)	Using position to secure or grant unwarranted privileges, preferences, exemptions or advantages for self, 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.
	NRS 281A.400(3)	Participating as government agent in negotiating or executing a contract between the government and a business entity in which he has a significant pecuniary interest.
	NRS 281A.400(4)	Accepting a salary, retainer, augmentation, expense allowance or other compensation from any private source for performing public duties.
	NRS 281A.400(5)	Acquiring, through public duties or relationships, information which by law or practice is not at the time available to people generally, and using it to further the pecuniary interests of self or other person or business entity.
	NRS 281A.400(6)	Suppressing governmental report or other document because it might tend to unfavorably affect pecuniary interests.

√	NRS 281A.400(7)	Using government time, property, equipment or other resources for personal or financial interest. (Some exceptions apply.)
	NRS 281A.400(8)	State Legislator using government time, property, equipment or other facility for a nongovernment purpose or for the private benefit of himself or any other person, or having a legislative employee, on duty, perform personal services or assist in a private activity. (Some exceptions apply.)
	NRS 281A.400(9)	Attempting to benefit personal or financial interest by influencing a subordinate.
	NRS 281A.400(10)	Seeking other employment or contracts through official position.
	NRS 281A.410	Failing to file a disclosure of representation and counseling a private person before public agency for compensation.
	NRS 281A.420(1)	Failing to sufficiently disclose a conflict of interest for which disclosure is required.
	NRS 281A.420(3)	Acting on a matter in which abstention was required.
	NRS 281A.430	Engaging in contracts in which the Subject has an interest.
	NRS 281A.500	Failing to timely file an ethical acknowledgment.
	NRS 281A.510	Accepting an improper honorarium.
	NRS 281A.520	Causing a government entity to support or oppose a ballot question or candidate.

A copy of the RFO is attached. You may also find the relevant provisions of NRS and NAC, including newly Adopted Regulations, LCB File No. R048-14 ("R048-14"), and a searchable database of Commission Opinions on the Commission's website at [www.ethics.nv.gov](http://www.ethics.nv.gov).

Pursuant to NAC 281A.405 (as amended by R048-14), you may submit a request in writing to the office of the Commission not later than **10 days** from receipt of this notice for the Commission to review this determination.

Pursuant to NAC 281A.405 (as amended by R048-14), you may submit a request in writing to the office of the Commission not later than **10 days** from receipt of this notice for the Commission to review this determination. If you appeal the determination, the Requester will be provided an opportunity to respond and you will be notified of the date set for the Commission's review and final determination of jurisdiction. With no appeal of jurisdiction, the Commission will accept jurisdiction and initiate its investigation of this matter.

Upon the Commission's acceptance of jurisdiction, pursuant to NRS 281A.440(3), you may submit a written response to these allegations within **30 days** of receipt this notice. A lack of response on your part is not deemed an admission that the allegations are true.

Pursuant to NRS 281A.440(3) through (6), the Commission's process is as follows:

1. Within 70 days after the Commission's acceptance of jurisdiction, the Executive Director investigates the allegations and makes a written recommendation to a two-Commission-member investigatory panel whether just and sufficient cause is present for the full Commission to render an opinion in the matter.

2. Within 15 days after the Executive Director provides a written recommendation, the investigatory panel considers the RFO and related materials and makes a final determination regarding whether just and sufficient cause exists for the Commission to hold a public hearing and render an opinion.
3. If the investigatory panel determines that just and sufficient cause exists, within 60 days after the panel determination (unless the statutory timelines are waived), the Commission will conduct a public evidentiary hearing and render an opinion whether the public officer or employee's conduct violated provisions of the Ethics in Government Law.

You may be entitled to representation by the attorney advising the public department or body you serve. Please notify the Commission if you will be represented by counsel.

Swift resolution of the RFO is beneficial to all concerned; however, you may waive any or all deadlines set forth by statute or regulation in this matter. A waiver of statutory time is enclosed. Should you wish to request an extension of or waive any of the statutory deadlines, please complete the waiver and return it to the Commission's office as soon as possible.

Except as otherwise provided in NRS 281A.440, the Commission will hold its activities in response to this RFO (and even the fact that it received the RFO) confidential until its investigatory panel determines whether just and sufficient cause exists to hold a hearing and render an opinion. However, the Commission has no authority to require the requester to do so. As a result, information may appear in the media. Rest assured that the Commission will not be the source of any public information until the investigatory panel has completed its review and has rendered its determination. You will be provided notice of the Panel Determination.

If you have any questions regarding this notice, please contact me at (775) 687-5469.

Dated this 4th day of November, 2014.

/s/ Yvonne M. Nevarez-Goodson  
Yvonne M. Nevarez-Goodson, Esq.  
Commission Counsel/  
Acting Executive Director

## CERTIFICATE OF MAILING

I certify that I am an employee of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I deposited for mailing, via U.S. Postal Service, certified mail, return receipt requested, through the State of Nevada mailroom, a true and correct copy of the **Notice to Subject** addressed as follows:

Leonard Lance Gilman  
Storey County Commission  
P.O. Box 176  
Virginia City, NV 89440

Cert. Mail # 9171 9690 0935 0037 6370 85

Dated: 11/4/14

  
Employee, Nevada Commission on Ethics



R E C E I V E D

NOV 24 2014  
H.D. @ 1:44 p.m.

COMMISSION  
ON ETHICS

## L. LANCE GILMAN

November 13, 2014

Yvonne M. Nevarez-Goodson  
Commission Counsel/Acting Executive Director  
Nevada Commission on Ethics  
704 W. Nye Street, Suite 204  
Carson City, Nevada 89703

Subject: RFO 14-73C

Dear Ms. Nevarez-Goodson,

The purpose of this letter is to respond to Request for Opinion No. 14-73C. This response provides evidence establishing the charges by Sheriff Antinoro are baseless.

### I.

#### BACKGROUND

During the recent campaign season, it was reported to Mr. Gilman and others that Sheriff Antinoro had made numerous comments to attempt to embarrass, belittle, and discredit Lance Gilman, perhaps because Lance Gilman and affiliated companies, including Tahoe-Reno Industrial Center openly supported Mr. Antinoro's opponent in this year's Storey County Sheriff's election. One of these comments occurred on or about June 2, 2014, as reported in the Lockwood Area Blog (attached to the RFO). The blog author, Tim Kelly, indicated that he was given an interview by Sheriff Antinoro and his deputy. Mr. Kelly's post then included the following:

"There had been an incident at the Mustang Ranch brothel near Patrick that we also talked about. Two sex workers were working without the necessary medical clearance the law demands. Sheriff Antinoro fined the brothel even though it is owned by a highly placed County official who seems to have <sup>1</sup>expected special considerations that were not forthcoming. Sheriff Antinoro

---

<sup>1</sup> It should be noted that Sheriff Antinoro later admitted in the Woodmansee interview that no sex workers were cited for working without medical clearances, but that "his office cited seven people in the Mustang Ranch for working without their work cards." Even this attempted clarification statement by Antinoro is untrue. Three of the workers cited worked for the Wild Horse Saloon, not the brothel, as bartenders and a gate guard and the fourth worked for Lance Gilman Real Estate Services as Mr. Gilman's Director of Security. None were employees of the Mustang Ranch (Cash Processing Services, LLC) and none were working ladies. Their names were David Morris,



summed this up by saying, 'I enforce the law evenly as possible to everyone. No exceptions.' The other candidates said as much; favoritism is the root cause of past misdeeds in our county." (emphasis added.)

Several items are significant in this statement by Antinoro. It impugns Lance Gilman in his capacity of a "high placed County official," as Mr. Gilman is the only County Official with ownership rights in a brothel. It also impugns the County Government as a whole. It is true that Mr. Gilman's is a shareholder in the corporation that owns the Mustang Ranch brothel ("Brothel"), and the Brothel's business would be harmed by Mr. Antinoro's patently false statements that the Brothel had sex workers working without medical clearances. However, said statements are likewise particularly damaging to the County, because safe sex is a critical hallmark of legal prostitution. Calling the health safety of the business into question can quickly affect how many customers visit the business, as well as the general public's perception of the County as a whole.

## II.

### REASONS WHY MR. GILMAN DID NOT VIOLATE ETHICS LAWS

#### **A. Sheriff Antinoro's statement made in the blog was a lie on several counts.**

Lance Gilman did not receive a copy of the blog in question until late September or early October of 2014. He was very disappointed at the comments as reported, as they are false on all counts.

If Antinoro did in fact make the statements, as detailed in the blog, he was disingenuous on several fronts.

Neither Sheriff Antinoro nor his deputies have ever found a sex worker working at the Brothel without the necessary medical clearances. Sheriff Antinoro has never fined the Brothel, nor has the Mustang Ranch ever been fined at any time. Moreover, Sheriff Antinoro does not have the legal authority to levy fines. Mr. Gilman has never at any time asked Sheriff Antinoro for "special considerations," ever. Mr. Gilman will testify to these facts.

Sheriff Antinoro acknowledged the critical statements in the quote were untrue in an interview he gave later to Karen Woodmansee, Editor of the Virginia City News. Ms. Woodmansee reported as follows:

---

Mike Tuller, Kirt Warren, and Russell Hess. None were convicted on the citations. The Sheriff had his deputies issue these citations in a surprise change of procedure with no notice, after the prior two Sheriffs did not require work cards of bar/WHS employees as it is not a licensed brothel entity. No worker of the Mustang Ranch brothel (Cash Processing Services) has ever been cited for working without a work card.

“In an interview, Antinoro denied saying the workers did not have the necessary medical clearances.

‘That’s the invention of the guy who wrote the blog,’ he said.

...

He said the two women involved did have health certificates.

...

He said the part of the blogpost that states he fined the brothel was untrue.

He said he did not mean to imply that Gilman expected special treatment.”

(Virginia City News, October 31, 2014 edition, p. 15.)

So, even Antinoro acknowledges that the statements attributed to him in the blog, if made, were totally untrue.

**B. Sheriff Antinoro’s charging allegation in the RFO includes a false statement of material fact.**

In Antinoro’s RFO, he makes the following allegation:

“His [Gilman’s] allegation is baseless and the only accurate quote of the Sheriff was that he ‘enforces the law as evenly as possible to everyone. No exceptions.’”

By this allegation, Antinoro is denying that he made the offending false statements. This denial by Antinoro, however, is untrue, as there is clear and convincing evidence that he did make the statements as reported.

First, Woodmansee interviewed Tim Kelly and reported that “However, Kelly confirmed that he wrote the post and the information was accurate.”

Second, in order to believe Antinoro that he did not make such statements, one would have to believe that Mr. Kelly made up *wholecloth* the key particulars in this story – e.g. the lack of medical clearances of sex workers, the fining by the Sheriff, and the request for special favors by Commissioner Gilman. Given the detail and the aspects referred to in the quote, it seems highly unlikely that Mr. Kelly would conjure up on his own each of these statements.<sup>2</sup>

---

<sup>2</sup> In a blog post dated November 4, 2013, after the election was over, Mr. Kelly posted an apology to both Mr. Gilman and Mr. Antinoro and said he “may” not have reported accurately what the Sheriff said about medical clearances. That he “may” have been confused between work cards and medical clearances Mr. Kelly’s comment that he may have been confused on this point seems unlikely. Mr. Kelly did not retract the comment about the fines and Gilman requesting special favors as a “highly placed County official.” Nor did Mr. Kelly retract his initial comment to Karen Woodmansee that he accurately reported his conversation with Antinoro in his blog. Kelly only mentioned possible confusion on the one point after Woodmansee published her article and after the election was over, when the damage had already been done to Gilman. Most importantly, it should be noted Mr. Kelly is a supporter of Sheriff Antinoro and is trying to help the Sheriff as best he can by providing cover after the fact for the Sheriff’s false statements. And please see the statement of Karen Woodmansee, attached, which indicates Mr. Kelly strongly confirmed Antinoro’s original statement in an interview with Woodmansee.

Third, Mr. Gilman received corroborating information to support that Sheriff Antinoro has indeed made these exact statements previously on another occasion. Please find attached a statement from Jim Miller, a combat veteran, former Sheriff of Storey County, and a former supporter of Sheriff Antinoro; which reads:

“I attended the Storey County Commissioner’s Meeting held on October 21, 2014. During this meeting, Gerald Antinoro stated that he had never informed anyone that a surprise inspection at the brothel had found two employees without medical clearance and that he had never said he fined Lance Gilman for any violation.

This is a direct contradiction of what he told me over a year ago. On or about September 12, 2013, I went into the Storey County Sheriff’s Office on C Street to pick up my new Firearms Certification Card for a Retired Peace Officer. This card is valid for one year and the expiration date on the current card is 9/12/14, so I picked it up either on September 12, 2013 or shortly thereafter.

Jerry and I went out on back balcony of the Sheriff’s Office to talk. At that time, he told me that during an inspection at the brothel, two female employees were found to be working without proper documentation of their medical clearance and that he (Jerry) had fined Mr. Gilman for that issue.” (emphasis added.)

In stating that Lance Gilman’s claims that he (Antinoro) made the statements in the blogpost are “baseless” and not “accurate”. Mr. Antinoro has shown that his veracity is highly suspect. Further, Mr. Antinoro has shown that his “hands are unclean” in filing an RFO in this matter.

**C. Mr. Gilman made clear in his statement that the sole basis of the censure motion was the smear by Sheriff Antinoro of Mr. Gilman, in his capacity as a Commissioner, as well as the Storey County Commission and local government as a whole.**

Mr. Antinoro’s comments in the Lockwood Blog were about Lance Gilman as a “highly placed County official.” This directly related to Mr. Gilman as a County Commissioner. Therefore, it was appropriate for Mr. Gilman to respond and request a remedy in his capacity as a Commissioner.<sup>3</sup>

Mr. Gilman did not violate NRS 281A.400(2), as he was careful and prudent when he explained in his statement the basis of the requested censure:

“I am hereby requesting that an item be entered into the next Storey County Commission meeting agenda for a vote of censure against Sheriff Antinoro, as the Storey County Sheriff, and a County Department Head, for making knowingly false statements which reflect negatively in a significant way on Storey County.

---

<sup>3</sup> Gilman felt that the senior law enforcement officer making willfully statements regarding Gilman as a Commissioner and Storey County was an abuse of power pursuant to Nev. Rev. Stat. section 281.611(1)(c) and thus subject to censure.

...

Censure is called for and proper in this circumstance as his statements specifically refer to me in my capacity as a County Official, and reflect poorly on the County Government as a whole.” (Statement of Commissioner Gilman, p. 3, attached to the RFO.)

There was no reference to Mr. Gilman’s personal interest as providing any basis for the censure motion. Therefore, Mr. Gilman’s personal interest as a shareholder in the entity that owns the Brothel was **not** the basis of the requested remedy. Furthermore, there is no link in any of these statements as to how Mr. Gilman’s pecuniary or financial interest would be served by a censure of Sheriff Antinoro, should it have been placed on and acted upon at the next meeting’s agenda.

**D. The personal comments added at the end of the statement regarding censure motion were specifically designated as such by Mr. Gilman, and were not the basis of the censure motion.**

Mr. Gilman was prudent in distinguishing and separating remarks he was making as a Commissioner and personal remarks he was making as the business owner. Toward the end of his statement after discussing the basis of the censure motion, Mr. Gilman then stated carefully:

“That concludes my official statement. Let me just add a personal comment if I might.”

This segregation of the personal comments and specific remark that he was now speaking in a personal capacity made clear there was no commingling of interest here, nor any attempt to disguise a request for action regarding his personal interests. He was very clear that he was speaking in his personal capacity to express his grave disappointment, but he did not ask for any action at all in that part of his statement. These personal comments were not the basis of the censure motion. As such, Mr. Gilman appropriately separated his “personal and public roles” so as not to violate NRS 281A.020 (1), and further, the fact that the request was made to serve County interests nullifies any claim of violation of NRS 281.400(7).

**E. Release of the documents to the papers was appropriate.**

False statements attributed to Sheriff Antinoro were published in a resident’s blog for approximately 1/5<sup>th</sup> of the population of Storey County. In many ways, a blog has a more insidious effect upon publication due to the fact that it appears in subscribers’ emails and is likely read more often than a newspaper article.

All documents filed with the County Commission, including the packet attached to the RFO, are public documents. Mr. Gilman’s release of these to any media, including the local papers was perfectly appropriate and, indeed, was the only way he could try to correct the misimpression in the public eye after Mr. Antinoro’s falsehoods were published. There is no ethical violation by delivering these documents to the newspaper.

**F. If for some reason, there is a determination Mr. Gilman “crossed the line” unintentionally, there was no conflict of interest here as the personal interest was aligned with and identical to the interest of the County.**

If the Commission determines that Mr. Gilman somehow committed a technical violation of the state statutes governing avoiding conflicts between public and private roles, it should be kept in mind that there is no conflict of interest here.

Antinoro made willful false statements about Lance Gilman as a Commissioner, and the County, and the Brothel. Therefore, the interests of each of these subjects of the false statements were identical in seeking redress and/or publishing the true facts. There is no divergence of interest between these parties, and the fact that those interests overlap does not preclude an elected official from participating in the process and fulfilling his/her duty in holding office.

**III.**

**REQUEST FOR INVESTIGATION OF SHERIFF ANTINORO**

Mr. Gilman hereby specifically requests a full investigation as to whether Antinoro made these false statements on any occasion to anyone (including Mr. Kelly, Mr. Miller, or anyone else). And if he did, Mr. Gilman requests action be taken against Antinoro.

**IV.**

**SUMMARY**

In sum, Mr. Gilman appropriately designated and separated his public and private roles in his statement. There was no intermingling of roles, nor any disguised attempts to further his personal business.

Antinoro's false statements to the public left Mr. Gilman no option but to seek some sort of remedy and to get the truth to the public and defend himself against Mr. Antinoro's false statements.

Very truly yours,

L. Lance Gilman

### **Witness Information and Summary**

Bum Hess, former Storey County Commissioner. (775.848.1198) – will testify Antinoro threatened him over the phone and stated that he, Antinoro, “will run Storey County” after Bum Hess retired from the County Commission.

Karen Woodmansee, editor of the Virginia City News. – will testify that Blog author Tim Kelly confirmed that the blog is accurate.

Jim Miller, former Sheriff of Storey County (775.847.7129) – will testify Antinoro has made the statement previously identical to the statement in the blogpost.

Lance Gilman, subject of the RFO. (775.412.5999)

NOV 24 2014

COMMISSION  
ON ETHICS

November 12, 2014

Statement to Anthony Frieberg  
Senior Investigator  
Nevada Commission on Ethics

I attended the Storey County Commissioner's Meeting held on October 21, 2014. During this meeting, Gerald Antinoro stated that he had never informed anyone that a surprise inspection at the brothel had found two employees without medical clearance and that he had never said he fined Lance Gilman for any violation.

This is a direct contradiction of what he told me over a year ago. On or about September 12, 2013, I went into the Storey County Sheriff's Office on C Street to pick up my new Firearms Certification Card for a Retired Peace Officer. This card is valid for one year and the expiration date on the current card is 9/12/14, so I picked it up either on September 12, 2013 or shortly thereafter.

Jerry and I went out on back balcony of the Sheriff's Office to talk. At that time, he told me that during an inspection at the brothel, two female employees were found to be working without proper documentation of their medical clearance and that he (Jerry) had fined Mr. Gilman for that issue.

Because of the discrepancy between what he stated during the Commissioner's Meeting and what I knew was stated by Jerry over a year ago about this matter, I talked with the Storey County Manager, Pat Whitten, the next day (Wed) to tell him about the previous conversation of over a year ago. He recommended that I give that information to the District Attorney's office because they were looking into the matter of possible censure. The following day (Thurs), I talked to both DA Bill Maddox and DDA Anne Langer, in separate phone conversations, about the statements Gerald Antinoro had made to me in 2013. I relayed to them that Jerry had specifically told me that he had fined Mr. Gilman for the violations found during a surprise inspection.

James G. Miller



R E C E I V E D

NOV 24 2014

COMMISSION  
ON ETHICS

## Virginia City News

P.O. Box 1174

Virginia City NV 89440

775-345-5803

[virginiacitynews@gmail.com](mailto:virginiacitynews@gmail.com)

[www.virginiacitynews.com](http://www.virginiacitynews.com)

Monday, November 17, 2014

To Whom It May Concern:

As editor of the Virginia City News, I wrote a story which was published on Friday, Oct. 31, 2014.

The story involved statements made to Tim Kelly, the operator of a blog in the Lockwood community of Storey County.

Storey County Commissioner Lance Gilman publicly refuted allegations in the blog based on statements by Sheriff Gerald Antinoro regarding health certificates for workers at the Mustang Ranch, which Mr. Gilman owns.

I needed to hear from Mr. Kelly if the comments made by Antinoro on his blog were accurate. I called him on Tuesday, Oct. 28, 2014.

He assured me the sheriff's statements as posted were accurate. Our exact conversation went as follows:

Woodmansee: Did the sheriff actually say what is on the blog.

Kelly: What's on there is exactly what he said. It's completely accurate.

Woodmansee: Are you sure? Lance Gilman has told me none of his sex workers every worked without their health certificates.

Kelly: Then he's a liar.

That was our conversation. He assured me that the sheriff's statements quoted on the blog were accurate.

Here is the story I wrote about the situation:



## **War Of Words: Commissioner, Sheriff Tangle Over Blog**

By Karen Woodmansee

Virginia City News

10/31/2014

Remarks printed on a Lockwood area blog has led to a dispute between Storey County Commissioner Lance Gilman and Sheriff Gerald Antinoro.

At the Storey County Commission meeting on Tuesday, Oct. 21, Gilman accused the sheriff of making false statements about activities at the Mustang Ranch brothel, which Gilman owns.

Antinoro denied making the statements.

The blog, operated by Tim Kelly of Lockwood, included a passage dated June 2, 2014 regarding a conversation Kelly had with Antinoro.

This is how it was written on the blog:

"There had been an incident at the Mustang Ranch brothel near Patrick that we also talked about. Two sex workers were working without the necessary medical clearance the law demands. Sheriff Antinoro fined the brothel even though it is owned by a highly placed County official who seems to have expected special considerations that were not forthcoming. Sheriff Antinoro summed this up by saying, "I enforce the law evenly as possible to everyone. No exceptions." The other candidates have also said as much; favoritism is root cause of past misdeeds in our county."

Gilman called the sheriff's statements "complete fabrications." He said that there was no incident where a sex worker was working without necessary medical clearance, and there was no incident where the sheriff fined the brothel. Gilman said the sheriff had no legal right to fine a brothel.

Gilman also said that the implication that he expected special consideration was false, and that he had never discussed medical clearances with Antinoro.

He asked the commissioners to have a neutral investigator interview Antinoro, Deputy John-Michael Mendoza, who was said to be present at the meeting, to determine whether the statements were made and if they were true or untrue. If they are found to be not true, Gilman said, he wanted the commission to vote to censure the sheriff.

In an interview, Antinoro denied saying the workers did not have the necessary medical clearances.

"That's the invention of the guy who wrote the blog," he said.

However, Antinoro said that his office cited seven people in the Mustang Ranch for working without their work cards.

He said the two women involved did have health certificates.

Work cards require health checks, but they are not the same thing, Antinoro said. He said a worker in a brothel, whether they are a sex worker or some other staff member, had to have work cards, though only sex workers needed health exams, which must be done before work cards are issued.

Antinoro said five men "went through the process of the courts," and the district attorney declined to prosecute two women.

Antinoro said those incidents occurred in 2012.

He said the part of the blogpost that states he fined the brothel was untrue.

He said he did not imply that Gilman expected special treatment.

"You take that up with Mr. Kelly," he said. "All I wanted to get across is I treat people the same no matter who they are."

However, Kelly confirmed that he wrote the post and the information in the post was accurate.

At the commission meeting Tuesday, Oct. 21, Chairman Marshall McBride requested an opinion on the matter from the District Attorney's Office.

I have no reason to doubt that what Mr. Kelly, who is a supporter of Sheriff Antinoro, told me on Oct. 28 were in fact true, as he didn't attend the previous commission meeting and was not aware of the conflict when I called him. His first comments on the dispute were to me, and in my experience, usually a person's first comments on a subject are the most accurate.

Sincerely,

Karen Woodmansee

Editor, Virginia City News

R E C E I V E D

APR 01 2015

**MAUPIN, COX & LEGOY**

**Attorneys At Law**  
4785 Caughlin Parkway  
Reno, Nevada 89519

—  
P. O. Box 30000  
Reno, Nevada 89520  
[www.mclrenolaw.com](http://www.mclrenolaw.com)

**COMMISSION  
ON ETHICS**  
(775) 827-2000

—  
Facsimile  
(775) 827-2185

Rick R. Hsu, Esq.

E-Mail:  
[rhsu@mclrenolaw.com](mailto:rhsu@mclrenolaw.com)

April 1, 2015

**Via Email only**  
[ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)  
[jilldavis@ethics.nv.gov](mailto:jilldavis@ethics.nv.gov)

Nevada Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703  
Attn: Yvonne M. Nevarez-Goodson  
Jill C. Davis

**Re: *In Re Gilman*, RFO 14-73C**  
**Subject's Supplemental Response**

Dear Ms. Nevarez-Goodson and Ms. Davis:

I have been retained by L. Lance Gilman to respond to the allegations made by Gerald Antinoro in RFO 14-73C, and to represent him in all further matters before the Nevada Commission on Ethics. Since a Panel proceeding has yet to be held, please accept this letter and attachments as Mr. Gilman's Supplemental Response for review by Panel members, and if necessary, the remaining Commissioners.

In the interest of brevity and avoidance of repetition, the most basic facts in this case are summarized as follows. Mr. Gilman is an elected Commissioner for Storey County. He is also a businessman who owns several businesses in Storey County, including the Tahoe Regional Industrial Center and the brothel known as the Mustang Ranch. On June 2, 2014, the *Lockwood Area Blog* published an article entitled, "*Conversations with our Sheriff's Office*," in which Sheriff Gerald Antinoro appears to have informed the author that Mustang Ranch workers lacked necessary medical clearance and that he, the Sheriff, fined the brothel. Such statements attributed to Sheriff Antinoro were patently false.

At a regular meeting of the Board of Commissioners on October 21, 2014, Mr. Gilman made a statement from the dais as a resident, business owner and Commissioner representing business interests, requesting that an agenda item be placed at the next meeting to vote on whether to censure Sheriff Antinoro. Mr. Gilman requested an investigation be conducted on the truth (or lack thereof) of the statements before holding a vote. Significantly, for purposes of this case, Mr. Gilman made this



April 1, 2015

Page 2

statement under Agenda Item No. 14, a *non-action* item entitled "Board Comment." See Agenda (**Attachment 1**) and Minutes (**Attachment 2**). Therefore, he did not ask for action to be taken by a vote at the meeting and he was legally precluded from doing so. Moreover, no investigation ever commenced into the truth of the Sheriff's statements. No item was ever placed on the agenda on censuring the Sheriff. And certainly, no vote was ever taken at a subsequent meeting on this issue which might have vindicated the Mustang Ranch.

Sheriff Antinoro alleges four statutory violations in RFO 14-73C: (1) NRS 281A.020(1); (2) NRS 281A.400(2); (3) NRS 281A.400(7); and (4) NRS 281A.520. I address these statutes in reverse order.

1. Just and Sufficient Cause Does Not Exist to Hold a Hearing on Whether Mr. Gilman Violated NRS 281A.520.

NRS 281A.520(1) states:

1. Except as otherwise provided in subsections 4 and 5, a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure *to support or oppose*:
  - (a) *A ballot question.*
  - (b) *A candidate.* (Emphasis added).

Although the Board meeting was held before the general election, there is no evidence that Mr. Gilman requested or caused Storey County to incur an expense *to support or oppose* a ballot question or a candidate. Therefore, no just and sufficient cause exists on this charge.

2. Just and Sufficient Cause Does Not Exist to Hold a Hearing on Whether Mr. Gilman Violated NRS 281A.400(7).

NRS 281A.400(7) states, in relevant part:

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, a public officer or employee *shall not use governmental time, property, equipment or other facility to benefit a significant personal or pecuniary interest of the public officer or employee.* (Emphasis added).

There is no evidence that Mr. Gilman used governmental time, property or equipment to benefit himself or his businesses. Therefore, no just and sufficient cause exists to hold a hearing on this charge.

April 1, 2015

Page 3

3. Just and Sufficient Cause Does Not Exist to Hold a Hearing on Whether Mr. Gilman Violated NRS 281A.400(2).

NRS 281A.400(2) states:

2. A public officer or employee shall not use the public officer's or employee's position in government to *secure or grant unwarranted privileges, preferences, exemptions or advantages* for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. As used in this subsection, "unwarranted" means without justification or adequate reason. (Emphasis added).

In In re Goodman, Opinion 04-05 (**Attachment 3**), the Commission found that Mayor Goodman violated subsection 2 by using his position while at the U.S. Conference of Mayors to encourage attendees of a party to consider products offered by his son's business. In particular, the Commission found that Mayor Goodman's actions presented his son's business opportunities that would not have otherwise existed had he not been mayor. Opinion 04-05 at 11. Nevertheless, the Nevada Supreme Court upheld the lower court's reversal of this decision. In light of the absence of any finding that Mayor Goodman's son or his son's business "*derived any concrete benefit*," the High Court held that Mayor Goodman did not "secure or grant" any unwarranted privileges in violation of subsection 2. See Nevada Comm'n on Ethics v. Goodman, Order of Affirmance, Case No. 47165 at 7 (**Attachment 4**).

Likewise in this case, Mr. Gilman did not "secure or grant" any privileges, preferences, exemptions or advantages for himself or his business, the Mustang Ranch. His request to agendaize an item on whether to censure Sheriff Antinoro was never granted, and no government investigation ever commenced into the truth of the Sheriff's statements. There is no evidence of any benefit, concrete or otherwise, being derived to Mr. Gilman's business as a result of his mere request to hold a future agenda item to discuss the subject.

During my eight (8) years of service on this Commission, there was a debate over whether a subject can be found in violation of subsection 2 for a mere *attempt* to secure or grant unwarranted privileges. This debate was discussed in In Re Boggs-McDonald, Opinion 04-77 at 6 (**Attachment 5**). Rather than holding that a mere attempt would or would not suffice, the Commission in Boggs-McDonald properly looked to the statutory language to determine the elements needed to find a violation of subsection 2: (1) A public officer or public employee; (2) secured or granted; (3) an unwarranted benefit; (4) to himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a private commitment; (5) by using; (6) his position in government. Id. In examining the necessary elements based on the statutory framework, just and sufficient cause does not exist for the Commission to the second element of "secured or granted" and

April 1, 2015

Page 4

the third element of “an unwarranted benefit.”

4. Just and Sufficient Cause Does Not Exist to Hold a Hearing on Whether Mr. Gilman Violated NRS 281A.020(1).

NRS 281A.020(1) states:

1. It is hereby *declared to be the public policy of this State* that:
  - (a) A public office is a public trust and shall be held for the sole benefit of the people.
  - (b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

The title of this statute is “Legislative Findings and Declarations,” and the statute is not part of the *Code of Ethical Standards* identified in NRS 281A.400 to 281A.430. The Legislative Findings and Declarations are simply factors that can be used to determine legislative intent. See Nevada Power Co. v. Haggerty, 115 Nev. 353, 366-67, 989 P.2d 870, 878 (1999) (factors which can be considered in determining legislative intent include the title of the statute, separate subsections of the statute, and the policy to be effectuated). Courts have consistently held that the preamble of a statute merely serves as a guide to legislative intent, but is not a substantive part of the statute and lacks operative force in itself. See Price Development Co., L.P. v. Orem County, 995 P.2d 1237 (Utah 2000); Puget Soundkeeper Alliance v. State Dep’t of Ecology, 9 P.2d 892 (Wash.Ct.App. 2000); Poe v. Hawaii Labor Relations Bd., 40 P.2d 930 (Ha. 2002); Cronin v. Sheldon, 991 P.2d 231 (Ariz. 1999); Anderson v. Peden, 587 P.2d 59 (Or. 1978).

In In Re Gammick, Opinion No. 10-71C (**Attachment 6**), the Commission charged Washoe County District Attorney Richard Gammick with violating NRS 281A.020(1). Gammick moved to dismiss all charges alleging independent violations of this statute because it is merely aspirational and precatory language. The Commission voted 4-2 to dismiss this charge. 10-71C at 6. Despite the two dissenting votes, the Commission’s dismissal was proper *as a matter of law*. Based on the tenets of statutory construction that a preamble or legislative declaration is merely a guide to legislative intent, it is improper as a matter of law to hold a subject independently in violation of the legislative findings and declarations set forth in NRS 281A.020.

The fact that other subjects may have stipulated or been found to have violated NRS 281A.020 in recent years is not persuasive. It appears that District Attorney Gammick was the only subject to challenge the legality of holding a subject in violation of this statute, and the Commission properly dismissed the charge. Moreover, in my eight years of service from 2000 to 2008, the Commission never even considered whether a subject could independently be in violation of the legislative findings and declarations. The reason was rather simple – that the legislative findings and declarations are

April 1, 2015

Page 5

simply an aid to interpretation and lack operative force as a separate ethical standard in the "Code of Ethical Standards" set forth in NRS 281A.400 to 281A.430. Therefore, no just and sufficient cause exists for the Commission to hold a hearing on whether Mr. Gilman independently violated NRS 281A.020(1).

Sincerely yours,



Rick R. Hsu

Email Attachments

RRH

c: Client (via email)

ATTACHMENT 1

ATTACHMENT 1

ATTACHMENT 1





# STOREY COUNTY BOARD OF COUNTY COMMISSIONERS MEETING

TUESDAY, OCTOBER 21<sup>ST</sup>, 2014 10:00 A.M.

DISTRICT COURTROOM  
26 SOUTH B STREET, VIRGINIA CITY, NEVADA

## AGENDA

MARSHALL MCBRIDE  
CHAIRMAN

BILL MADDUX  
DISTRICT ATTORNEY

LANCE GILMAN  
VICE-CHAIRMAN

BILL SJOVANGEN  
COMMISSIONER

VANESSA STEPHENS  
CLERK-TREASURER

---

All items include discussion and possible action to approve, modify, deny, or continue unless marked otherwise.

1. CALL TO ORDER AT 10:00 A.M.
2. PLEDGE OF ALLEGIANCE
3. DISCUSSION/POSSIBLE ACTION: Approval of Agenda for October 21, 2014

## CONSENT AGENDA

(All matters listed under the consent agenda are considered routine, and may be acted upon by the Board of County Commissioners with one action, and without an extensive hearing. Any member of the Board or any citizen may request that an item be taken from the consent agenda, discussed, and acted upon separately during this meeting. The Commission Chair reserves the right to limit the time allotted for each individual to speak.)

4. For possible action approval of Payroll Checks date 9/15/14 for \$441,777.31, 9/21/14 for \$302,568.33 and 10/10/14 for \$421,681.12.
5. For possible action approval of September 2014 Treasurer Report
6. For possible action approval of Assessor's Recommended Correction to the Tax Roll for Exemptions
7. For possible action approval of resolution 14-413, a resolution to direct the County Assessor to prepare a list of all the taxpayers on the secured roll in the County pursuant to NRS 361.300 (3)

8. For possible action approval of rescheduling the November Board of County Commission Meetings to November 12, 2014 at 12:00pm. The meetings of November 4 and 18 will be canceled.
9. For possible action approval and signature by the Chairman of the USDA Loan Resolution Form, OMB No. 0575-0015-RD1942-47 (Rev. 12-97). This is required to close the USDA loan in order to release funding three structural fire engines, new ambulance chassis and ambulance chassis change over which was heard and approved on September 2, 2014.
10. For possible action approval of Business License First Readings -
  - a. PERFORMANCE CONTRACTING, INC. - Contractor / 16400 College Blvd ~ Lenexa, KS (specialty contracting)
  - b. MNW CONSTRUCTION - Contractor / 1123 Northfield Drive ~ Carson City (contractor)
  - c. STORM5, LLC - Contractor / 299 South Arlington, Reno (contractor)
  - d. BRAND ENERGY & INFRASTRUCTURE - Contractor / 1325 Cobb Int'l ~ Henderson (scaffolding)
  - e. KC CUSTOM CONCEPTS - Contractor / 5084 Washoe Circle ~ Stagecoach (mfg housing contractor)
  - f. SIERRA ELECTRONICS - Contractor / 690 East Glendale Avenue ~ Sparks (wireless contractor)

**END OF CONSENT AGENDA**

11. **DISCUSSION ONLY (No Action):** Presentation of potential application for Community Development Block Grant Funding for 2015
12. **DISCUSSION ONLY (No Action - No Public Comment):** Committee/Staff Reports
13. **DISCUSSION ONLY (No Action - No Public Comment):** Quarterly financial updates for fiscal year 2014/2015

**14. BOARD COMMENT (No Action - No Public Comment)**

**RECESS TO CONVENE AS THE STOREY COUNTY FIRE PROTECTION DISTRICT BOARD**

15. **DISCUSSION/POSSIBLE ACTION:** Approval of resolution 14-414 establishing and implementing a program to charge mitigation rates for the deployment of emergency and non-emergency services by the Storey County Fire Protection District for services provided and/or rendered.
16. **DISCUSSION/POSSIBLE ACTION:** Approve Storey County Fire Protection District to contract with revenue Recovery for insurance billing services associated with specialized responses, rescue and mitigation services.

**ADJOURN TO RECONVENE AS THE STOREY COUNTY BOARD OF COUNTY COMMISSIONER**

17. **DISCUSSION/POSSIBLE ACTION:** Second reading of business/liquor license for Bonanza



**18. DISCUSSION/POSSIBLE ACTION:** Second reading of business/liquor license for Delta

**19. DISCUSSION/POSSIBLE ACTION:** Approval of accounts payable checks dated 10/03/2014 for \$274,679.28

#### **COMMUNITY DEVELOPMENT AND PLANNING**

**20. DISCUSSION/POSSIBLE ACTION:** Special Use Permit Amendment 2009-034-A-1-2014. By Fulcrum Sierra Biofuels, LLC and a property at 3600 Peru Drive in the Tahoe-Reno Industrial Center, Storey County, Nevada (APN: 005-071-29). The Applicant requests an amendment to existing Special Use Permit 2009-034 to construct and operate a biofuels facility to include current design and technologies utilized in a waste-to-fuels facility. Further, the Applicant requests an amendment to reflect the recent acquisition of an additional 2.59 acres of real property.

#### **21. FOR POSSIBLE ACTION, LICENSING BOARD SECOND READINGS:**

- a. PEPS EQUIPMENT - Contractor / 1953 N Warren Road ~ San Jacinto, CA (equipment rental)
- b. ZULILY, INC. - General / 3200 USA Parkway (ecommerce) TRI
- c. T & T ELECTRIC, INC. - Contractor / PO Box 7377 ~ Reno (electrical contractor)
- d. ARH ARCHAEOLOGY - Home Business / PO Box 784 ~ Virginia City (archaeological consultant)
- e. HARRIS INDUSTRIAL GASES - General / 236 East Sydney (welding equip supply) TRI
- f. LEE'S PEST CONTROL - Contractor / 21 Van Fleet Drive ~ Yerington (pest control)
- g. AMERICAN EQUIPMENT, INC. - Contractor / 1315 Greg Street #114 ~ Sparks (crane manufacturer)
- h. PROFICIENT HEATING & AIR - Contractor / 385 Freeport Blvd. #9 ~ Sparks (hvac contractor)
- i. SUNTEC CONCRETE, INC. - Contractor / 2221 West Shangri La Road ~ Phoenix, AZ (concrete cont.)
- j. WOODSTOVE DISTRIBUTORS - Contractor / 881 Tahoe Blvd ~ Incline Village (fireplace sales/install)
- k. WWC LICENSE, LLC - General / One Verizon Way ~ Basking Ridge, NJ (internet provider)
- l. ARDAGH METAL PACKAGING USA, INC. - General / 900 Waltham Way (can mfg) TRI

#### **22. PUBLIC COMMENT (No Action)**

#### **23. CORRESPONDENCE**

- a. Denied agenda item request from Bunchie Tyler and Dennis Bowen regarding Deputy and Manager break-in at two residents in Lockwood

#### **24. ADJOURNMENT**

#### **NOTICE:**

- Anyone interested may request personal notice of the meetings.
- Agenda items must be received in writing by 12:00 noon on the Monday of the week preceding the regular meeting. For information call (775) 847-0969.
- Items may not necessarily be heard in the order that they appear.

- Public Comment will be allowed at the end of each meeting (this comment should be limited to matters not on the agenda). Public Comment will also be allowed during each item upon which action will be taken on the agenda (this comment should be limited to the item on the agenda). Time limits on Public Comment will be at the discretion of the Chairman of the Board. Please limit your comments to three minutes.
- Storey County recognizes the needs and civil rights of all persons regardless of race, color, religion, gender, disability, family status, or nation origin.

**Notice to persons with disabilities:** Members of the public who are disabled and require special assistance or accommodations at the meeting are requested to notify the Commissioners' Office in writing at PO Box 176, Virginia City, Nevada 89440.

In accordance with Federal law and U.S. Department of agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, religion, age, disability (Not all prohibited bases apply to all programs.) To file a complaint of discrimination write to USDA, Director, Office of civil rights, 1400 Independence avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or 202-6382 (TDD). USDA is an equal opportunity provider, employer, and lender. The TTY, VCO voice carry over) or HCO hearing carry over) number is 800-326-6868; voice only 800-326-6868. Check the customer Guide section of your telephone book under Services for Individuals with a Hearing or Speech Disability.

#### **CERTIFICATION OF POSTING**

I, Vanessa Stephens, Clerk to the Board of Commissioners, do hereby certify that I posted, or caused to be posted, a copy of this agenda at the following locations on or before October 14, 2014; Virginia City Post Office, Storey County Courthouse, Virginia City Fire Department, Virginia City Highlands Fire Department and Lockwood Fire Department.

By Vanessa Stephens  
Vanessa Stephens, Clerk-Treasurer

**ATTACHMENT 2**

**ATTACHMENT 2**

**ATTACHMENT 2**



# STOREY COUNTY BOARD OF COUNTY COMMISSIONERS MEETING

TUESDAY, OCTOBER 21<sup>st</sup>, 2014 10:00 A.M.

DISTRICT COURTROOM

## MINUTES

MARSHALL MCBRIDE  
CHAIRMAN

BILL MADDOX  
DISTRICT ATTORNEY

LANCE GILMAN  
VICE-CHAIRMAN

BILL SJOVANGEN  
COMMISSIONER

VANESSA STEPHENS  
CLERK-TREASURER

**Roll Call:** Chairman Marshall McBride, Vice Chairman Lance Gilman, Commissioner Bill Sjovangen, District Attorney Bill Maddox, County Manager Pat Whitten, Community Services Director Cherie Nevin, Special Counsel Bob Morris, Deputy District Attorney Anne Langer, Administrative Officer/Senior Planner Austin Osborne, Comptroller Hugh Gallagher, Clerk & Treasurer Vanessa Stephens, Sheriff Gerald Antinoro, Tourism Director Deny Dotson, Public Works Director Mike Nevin, Comptroller Hugh Gallagher, Judge Eileen Herrington, Recorder Jen Chapman, Fire Chief Gary Hames, Communications Director Dave Ballard, Community Chest Director Shaun Griffin, Government Affairs Director Greg "Bum" Hess, and Planner Dessie Redmond.

**1. CALL TO ORDER AT 10:00 A.M.**

The meeting was called to order by the Chair at 10:00AM

**2. PLEDGE OF ALLEGIANCE**

The Chair led those present in the Pledge of Allegiance

Chair McBride asked for a moment of silence in recognition of Carson City Assemblyman Pete Livermore who passed away.

**3. DISCUSSION/POSSIBLE ACTION: Approval of Agenda for October 21, 2014**

**Mark Joseph Phillips, Storey County resident:** Expressed concern about re-scheduling of County Commission meetings for the month of November.

District Attorney Maddox said that a meeting will be held on November 12<sup>th</sup>. Required notice has been given.

**Motion:** Approve Agenda for October 21, 2014. **Action:** Approve **Moved by:** Commissioner Sjovangen **Seconded by:** Vice Chair Gilman **Vote:** Motion carried by unanimous vote (summary: Yes=3)



## CONSENT AGENDA

4. For possible action approval of Payroll Checks dated 9/15/14 for \$441,777.31, 9/21/14 for \$302,568.33 and 10/10/14 for \$421,681.12. Accounts Payable date 9/19/14 for \$1,508,565.41 and \$9,765.33.
5. For possible action approval of September 2014 Treasurer Report
6. For possible action approval of Assessor's Recommended Correction to the Tax Roll for Exemptions
7. For possible action approval of Resolution 14-413, a resolution to direct the County Assessor to prepare a list of all the taxpayers on the secured roll in the County pursuant to NRS 361.300(30)
8. For possible action approval of rescheduling the November Board of County Commission Meetings to November 12, 2014 at 12:00pm. The meeting of November 4 and 18 will be cancelled.
9. For possible action approval and signature by the Chairman of the USDA Loan Resolution Form, OMB No. 0575-0015-RD1942-47 (Rev. 12-97). This is required to close the USDA loan in order to release funding three structural fire engines, new ambulance chassis and ambulance chassis change over which was heard and approved on September 2, 2014.
10. For possible action approval of Business License First Readings –
  - a. PERFORMANCE CONTRACTING, INC. – Contractor / 16400 College Blvd – Lenexa, KS (specialty contracting)
  - b. MNW CONSTRUCTION – Contractor / 1123 Northfield Drive – Carson City (contractor)
  - c. STORMS, LLC – Contractor / 299 South Arlington, Reno (contractor)
  - d. BRAND ENERGY & INFRASTRUCTURE – Contractor / 1325 Cobb Int'l – Henderson (scaffolding)
  - e. KC CUSTOM CONCEPTS – Contractor / 5084 Washoe Circle – Stagecoach (mfg. housing contractor)
  - f. SIERRA ELECTRONICS – Contractor / 690 East Glendale Avenue – Sparks (wireless contractor)

## END OF CONSENT AGENDA

**Motion:** Approve Consent Agenda. **Action:** Approve **Moved by:** Commissioner Sjovangen  
**Seconded by:** Vice Chair Gilman **Vote:** Motion carried by unanimous vote (summary: Yes=3)

Chair McBride took the following item out of order:

### **COMMUNITY DEVELOPMENT AND PLANNING**

**20. DISCUSSION/POSSIBLE ACTION:** Special Use Permit Amendment 2009-034-A-1-2014. By Fulcrum Sierra Biofuels LLC and a property at 3600 Peru Drive in the Tahoe-Reno Industrial Center, Storey County, Nevada (APN: 005-71-29). The Applicant requests an amendment to existing Special Use Permit 2009-034 to construct and operate a biofuels facility to include current design and

technologies utilized in a waste-to-fuels facility. Further, the Applicant requests an amendment to reflect the recent acquisition of an additional 2.59 acres of real property.

Dessie Redmond said applicant Fulcrum Sierra Biofuels LLC has requested an amendment to existing Special Use Permit 2009-034.

Commissioner Sjovangen stated the proposed motion and called for discussion.

Ms. Redmond read the findings and fact:

The following Findings are evident with regard to the requested SUP amendment when the recommended Conditions of Approval in Section 7 - Recommended Conditions of Approval are applied:

- The proposed SUP amendment complies with all Federal, Nevada State and Storey County regulations; and
- The proposed SUP amendment will not be incompatible with or detrimental to the existing abutting uses and surrounding area; and
- The Conditions of Approval of the SUP amendment do not conflict with the minimum requirements in the 1999 Official Zoning Ordinance of Storey County (as applicable to the TRI Center pursuant to the Development Agreement), Section 17.12.018 Uses Permitted Subject to a Special Use Permit, Section 17.37 I-2 Heavy Industrial Zone, Section 17.62 Special Uses or Section 17.60 Variances, and
- The proposed SUP amendment will further the diversification of the local economy and is in substantial compliance with and supports the goals, objectives and recommendations of the Master Plan; and
- The proposed SUP amendment will not cause any uses that will negatively impact existing or Planned public services or facilities and will not adversely impact the public health, safety and welfare of the surrounding area; and
- The proposed SUP amendment will not create any non-conforming conditions, except whereas allowed by the Conditions of Approval for this SUP amendment.

Jeanne Benedetti, Vice President of Fulcrum Sierra Biofuels, said that development rights to this project were bought seven years ago. Fulcrum was recently awarded a substantial USDA loan guarantee. In addition, the Department of Defense/Air Force has awarded Fulcrum a \$70 million dollar grant for phase two of the project to begin detailed engineering for the bio-refinery and a separate feed stock processing facility. Waste Management has partnered with Fulcrum in the feed stock processing facility to transport MSW to the bio-refinery. The grant has given Fulcrum the technology that now allows conversion to jet fuel. This facility will convert approximately 70 tons of garbage per day in to jet fuel. The feed stock processing facility should be running at this time next year, the bio-refinery six to nine months later. Ms. Benedetti described the process of storing and using the feed stock.

Vice Chair Gilman thanked Fulcrum Sierra Biofuels for choosing Storey County and bringing this leading-edge technology to Northern Nevada.

Vice Chair Gilman disclosed he is a principal in Tahoe Reno Industrial Center, however will not recuse from vote on this item as these transactions have been completed in the past and Fulcrum Sierra Biofuels owns the property. Vice Chair Gilman is, therefore, qualified to vote on this item.



**Motion:** Approve Special Use Permit Amendment 2009-034-A-1-2014. By Fulcrum Sierra Biofuels LLC and a property at 3600 Peru Drive in the Tahoe-Reno Industrial Center, Storey County, Nevada (APN: 005-71-29). The Applicant requests an amendment to existing Special Use Permit 2009-034 to construct and operate a biofuels facility to include current design and technologies utilized in a waste-to-fuels facility. Further, the Applicant requests an amendment to reflect the recent acquisition of an additional 2.59 acres of real property. **Action:** Approve **Moved By:** Commissioner Sjovangen **Seconded by:** Vice Chair Gilman **Vote:** Motion carried by unanimous vote **Summary:** Yes=3).

**11. DISCUSSION ONLY (No Action):** Presentation of potential application for Community Development Block Grant Funding for 2015

Cheri Nevin, Community Services Director, presented the potential applications for Community Development Block Grant funding. Additional input is being sought on these ideas.

1. Public Facilities Project for a Type 1 Ambulance Chassis Changeover for the Lockwood Fire Department. Estimated cost: \$115,000-\$120,000. Project is eligible based on low to moderate income in the Lockwood Community. Most of the calls in the Lockwood community are for medical emergencies and ambulance service is very important;
2. Planning Set Aside Project - update to the Storey County Master Plan. Planner, Dessie Redmond, said staff is an integral part of updating the plan. Staff is reaching out to a professional firm to assist in updating certain elements of the Master Plan.
3. An economic development project for Tahoe-Reno Industrial Center. Farr West Engineering representative, Brent Farr, reviewed a project to develop a fully function Geographical Information System (GIS) program which would provide a record of all water, sewer and storm facilities throughout TRI. Development of a comprehensive utility master plan would be included in the project. The GID would be recipient of the grant. This project would fall under job creation.
4. Public Facilities Project for the Canyon GID for a lab building. Mitch Andrenini, Manager Canyon GID, explained this would be a lab, storage, and break area building. When the water and sewer plant was built, there was no building for storage or anything else. There would be cost savings as sewer and water lab work would not need to be contracted out as is done now. This is second submission of a project that was not accepted last year.

Cherie Nevin explained only two applications of the four received can be submitted. More details and recommendations will be presented to the Board in December.

**12. DISCUSSION ONLY (No Action - No Public Comment):** Committee/Staff Reports

**Mark Twain Community Center Ron Engelbrecht:**

- A successful pancake breakfast and silent auction was held on Saturday.
- There is a flu shot clinic this afternoon.
- On November 8<sup>th</sup>, twenty-seven Navy corpsman will be at the Mark Twain Center to assist with maintenance projects.

**Public Works Director Mike Nevin:**

- Currently there are three major projects:
  1. New waste-water treatment facility serving Virginia City and Gold Hill. Anticipated completion date is February 15<sup>th</sup>;

2. Re-roofing of courthouse;
  3. The award of bid to A &K Earthmovers for the 5 mile & Divide Reservoirs project. Work should begin on the site this week. Depending on weather, work should be completed by the end of December.
- Water tanks servicing Virginia City, Silver City and Gold Hill have been cleaned. Quality of raw water has significantly improved.
  - D Street waterline extension between Union and Sutton has been completed.
  - Street signs at TRI have been changed from Portofino Avenue to Electric Avenue.
  - A workshop will be held next week with NDOT regarding potential funding for maintenance improvements, including the highway exit in Lockwood, the curb and gutter issues on C Street in Virginia City, along with possible sidewalk improvements.

**Planner Dessie Redmond:**

- Attended APA conference. There were discussions on medical marijuana, public outreach, and planning law. Ms. Redmond is now a member of the APA Board and will be representing rural communities.
- The Planning Department will be conducting public outreach regarding water usage in Virginia City Highlands and Mark Twain.
- Ms. Redmond is working with District Attorney Maddox on the Utility Corridor Ordinance.
- Work is continuing on the Master Plan.
- A Virginia City Highlands home-occupation issue is being reviewed and will be on a future agenda.
- Staff has been working with the District Attorney on a nuisance issue in Mark Twain.

**Community Services Director Cherie Nevin:**

- Community Health Fair was held Saturday, October 18. There were 26 vendors.
- Flu Clinic today in Mark Twain.
- The Community Health nurses are now on-board at the Health Center. An Open House is planned for November 12<sup>th</sup>.
- New stairs at St. Mary's are coming along nicely.
- Minor modifications have been made to the building at the Lockwood Community Center, including a small shed and barbeque.
- Navy volunteers will be at Mark Twain Community Center on November 8<sup>th</sup>.

**Tourism Director Deny Dotson:**

- Mr. Dotson asked everyone to "dress up" Friday, October 31<sup>st</sup> for the 150<sup>th</sup> celebration – a "step back in time to 1864". Some of the events that day include a dedication of the mural at the Bucket of Blood parking lot, a craft fair, the US Navy Band, the stagecoach from Wells Fargo Bank will be at the Delta parking lot, train rides all day, and a parade at 5:30 PM. More entries are needed for the parade. There will be a Masquerade Ball that evening.
- An application has been submitted to NCOT for a grant which would help bring small meetings, groups, weddings, and other events to Virginia City. Patrick Gilmore met with event and meeting planners from across the United States, with four or five committing to events next year.
- VCCT approved a landing page for town-wide, free WI FI for visitors.

- 3 weeks of hard advertising has been done for the October 31<sup>st</sup> - 150<sup>th</sup> Celebration events in Virginia City. This will be the last official event of over 400, 150<sup>th</sup> certified events held over the last year. The only other event that day will be a parade in Las Vegas.

Vice Chair Gilman congratulated Mr. Dotson for the hard work and efforts.

**Community Chest Director Shaun Griffin:**

- Everyone is invited to the Library fund-raiser being held on November 1<sup>st</sup> at Piper's Opera House. Shiloh and McAvoy Layne will be performing. Funds raised will keep the library healthy, vital and functioning.
- Approximately 400 people to date have been served by the library and the two out-lying branches. A request has been made to Carson Tahoe for five new computers. Three for Lockwood and two for the Community Center.
- An Open House will be held for the Library and the new Community Outreach Nurse and Nurse Practitioner on November 12<sup>th</sup>, 5 to 7 PM. Both nurses will be working one day a week.
- Soon there will be a drop box at the Highlands.

Chair McBride thanked Mr. Griffin and expressed appreciation for all the work that has been done.

**Government Affairs Director Greg "Bum" Hess:**

- After the election, all bill draft requests will be submitted to the Legislature.
- Met with Marilyn Kirkpatrick regarding the up-coming Legislative session.
- Hopefully a Town Hall meeting, to include many of the current and newly-elected officials, will be held in Virginia City prior to the start of the session. The Governor may attend however there is not a commitment.
- Mr. Hess attended the CFOA function in Winnemucca. There was a lot of discussion about Tesla, with no negative comments. Congratulations to the County.
- Mr. Hess will be meeting with Commissioners to get bill draft requests from the County to the County's assemblyman and senators, as well as to Marilyn Kirkpatrick.

**River District-Lockwood Gunther Prosser:**

- The Hillside PTO held a chili get-together raising approximately \$1,000 for the children to go to the pumpkin patch.
- A Birthday party for resident Grandma Carol was held at the Senior Center.
- Mr. Prosser is happy to see the progress in Lockwood and other outlying areas.

**Deputy District Attorney Anne Langer:**

- This is Domestic Violence Awareness Month. Purple ribbons can be seen around town. Focus this year will be at the high school. Along with the Sheriff's Office and Community Chest, a presentation will be given discussing dating and potential violence. There is a pilot program to look for intervention or prevention of domestic violence before it rises to the level of an arrest. This includes educational programs and awareness.

**Clerk & Treasurer Vanessa Stephens:**

- Early voting is underway with over 200 people voting so far.

- A tax sale was held last Friday. Thank you to the District Attorney's for putting on the auction. There were five parcels for auction, two of those properties sold. One of the properties brought in excess proceeds of \$18,000. The other property approximately \$179,000.

**Comptroller Hugh Gallagher:**

- On October 9<sup>th</sup>, Mr. Gallagher and Commissioner Sjovangen met with V & T Rail Commission regarding the amount V & T Rail Commission owes back to Storey County. Representatives from the Department of Taxation also attended. The interlocal agreement was also discussed. In contention under the current contract, are operational expenses and track maintenance performed by the V & T Rail Commission using funds given by Virginia City on the extending of the sales tax. Mr. Gallagher would like to conduct an audit of all financial statements from 2010 to present, and determine what may be owed Storey County. At that point in time, decide whether to proceed with a new interlocal contract.
- Mr. Gallagher received communication from Wells Fargo Bank requesting a time to meet with residents and businesses of Virginia City to discuss banking opportunities for the community. This would be a great opportunity for the residents and business of Storey County.

**County Manager Pat Whitten:**

- Staff has been added in fire protection and life safety. Fritz Klinger has been hired and is now a fully certified, dual-plans inspector. Mr. Klinger is making a substantial difference in making sure fire protection is fully explained and supported in a business fashion.
- A building inspector was recently hired.
- Mr. Whitten urges everyone to vote. Early voting is taking place at this time.
- Mr. Whitten extended an invitation to attend an event this Thursday at the Peppermill to be held for Bonnie Webber. Ms. Webber is running for Reno City Council. Ms. Webber has been highly instrumental in proving that regional partners are important.

**13. DISCUSSION ONLY (No Action - No Public Comment): Quarterly financial updates for fiscal year 2014/2105**

Comptroller Hugh Gallagher reviewed the quarterly financial reports for the fiscal year 2014/2105, with no significant deviations from the budget that were not able to be explained by each Department.

Vice Chair Gilman expressed thanks for the undertaking of a "line item budget". This is where proper fiscal management starts. Vice Chair Gilman also thanked Mr. Gallagher who has made a tremendous change in County financial management.

The Chair called for a 10 minute recess at 12:15 PM. The Chair called the meeting back to order at 12:25 PM.

Chair McBride took the following item out of order:

**19. DISCUSSION/POSSIBLE ACTION: Approval of accounts payable checks dated 10/3/2013 for \$274, 679.28**

**Motion:** Approve accounts payable checks dated 10/03/2014 for \$274,679.28 **Action:** Approve  
**Moved by:** Commissioner Sjovangen **Seconded by:** Vice Chair Gilman **Vote:** Motion carried by  
unanimous approval (summary: Yes=3) Chair McBride abstains from vote on the one check payable  
to the Bucket of Blood.

#### **14. BOARD COMMENT (No Action - No Public Comment)**

Commissioner Sjovangen said there has been discussion about presenting a tour for the legislators as has been done in the past. This presents a good opportunity to get know the legislators from other counties.

Vice Chair Gilman stated there have been a lot of calls from Clark County wanting to know how Storey County is accomplishing all of the economic development that has been done.

Vice Chair Gilman read from the following statement:

I am addressing the Commission today as a Storey County resident, a Storey County business owner with approximately 10 businesses licenses County wide, and as the Storey County Commissioner representing district 3 including Lockwood, TRI, Painted Rock, and Mark Twain.

I am hereby requesting that an item be entered into the next Storey County Commission meeting agenda for a vote of censure against Sheriff Antinoro, as the Storey County Sheriff, and a County Department Head, for making knowingly false statements which reflect negatively in a significant way on Storey County.

My complaint stems from a Lockwood area Blog Report dated June 2, 2014, entitled "Conversation with our Sheriff's Office and update". The report contains the following quote from an interview with Sheriff Gerald Antinoro. I quote: "There has been an incident at the Mustang Ranch brothel near Patrick. Two sex workers were working without the necessary medical clearance that the law demands. Sheriff Antinoro fined the brothel even though it is owned by a highly placed County official who seems to have expected special considerations that were not forthcoming. Sheriff Antinoro summed this up by saying, 'I enforce the law evenly as possible to everyone. No exceptions.' The other candidates have also said as much; favoritism is a root cause of past deeds of leadership in Storey County."

Several statements in this quote are complete fabrications. The incidents never happened.

1. There was no incident where Sheriff Antinoro or his deputies found a "Sex Worker" working without necessary medical clearance.
2. There was no incident where Sheriff Antinoro fined the brothel. Furthermore, the Sheriff has no legal authority to fine a brothel.
3. The third statement implies that I, as a Highly Placed County Official, expected special consideration on complying with medical clearance laws. This is just plain false. I have never even discussed medical clearance records with Sheriff Antinoro.

I request that a neutral investigator, outside the chain of command of the Sheriff, be commissioned to interview Sheriff Antinoro and Deputy Mendoza, who was reportedly present at the time of these statements, to determine whether these specific statements are true or not true. If they are found to



be not true I request a vote be taken to censure the Sheriff for these statements. Censure is called for and proper in this circumstance as his statements specifically refer to me in my capacity as a County Official, and reflect poorly on the County Government as a whole.

That concludes my official statement. Let me just add a personal comment if I might. The senior law enforcement official in the County made this cavalier, false statement about a business that has been a great corporate citizen in paying taxes and has a long track record of giving and charitable contributions to this County.

More importantly, this business employs around 80 people, many of whom have been there many years. A good number of these 80 people have families. These workers depend on this business for their income, so they can pay rent, make their car payment, and buy Christmas presents for their kids. In my personal view, this conduct and attempt to serious injure this business is inexcusable.

Chair McBride asked District Attorney Maddox to investigate policies and procedures regarding censure.

Chair McBride recently received a letter from Assemblyman Ira Hansen expressly a major concern regarding the BLM and U.S. Forest Service encroaching upon Counties. Assemblyman Hansen is looking for support from the County.

Sheriff Antinoro stated a response has previously been sent to Assemblyman Hansen.

Chair McBride attended an EDAWN awards event,at the Atlantis Hotel last week. One of the award winners was EP Minerals, a Storey County company. TRI principals, Roger Norman and son, and Lance Gilman were also in attendance. The President's award was given to Tahoe Reno Industrial Center for its accomplishments and putting Reno on the map.

Chair McBride excused Vice Chair Gilman from the rest of the meeting due to prior commitments.

#### **RECESS TO CONVENE AS THE STOREY COUNTY FIRE PROTECTION DISTRICT BOARD**

**15. DISCUSSION/POSSIBLE ACTION:** Approval of resolution 14-414 establishing and implementing a program to charge mitigation rates for the deployment of emergency and non-emergency services by the Storey County Fire Protection District to contract for services provided and/or rendered.

Fire Chief Gary Hames said the proposed contract is not a charge for services to local taxpayers for the ordinary accident or for a structure fire through no fault of the owner. Specifically this charge is for those individuals or companies that create an incident.

Chief Hames cited a recent incident involving hazardous materials. Costs for handling this incident will substantial. These are costs that local taxpayers should not have to pay. This resolution will provide the ability to charge responsible parties for these types of services.

Chief Hames reviewed different scenarios where there are hard costs associated with incidents that should not have to be borne by taxpayers. Most other Fire Protection Districts in the State have adopted this type of resolution.

Nicole Barde, Storey County resident: Asked if the citizens are going to understand the resolution and what would be the correct information to provide to citizens.

Chief Hames said if a local resident has an issue, that person can call Chief Hames directly.

**Motion:** Approve Resolution #14-414 establishing and implementing a program to charge mitigation rates for the deployment of emergency and non-emergency services by the Storey County Fire Protection District to contract for services provided and/or rendered. **Action:** Approve **Moved by:** Commissioner Sjovangen **Seconded by:** Chair McBride **Vote:** Motion carried by unanimous vote (summary: Yes=2)

**16. DISCUSSION/POSSIBLE ACTION:** Approve Storey County Fire Protection District to contract with Revenue Recovery for insurance billing services associated with specialized responses, rescue and mitigation services.

Chief Gary Hames explained this item will approve the contract with Revenue Recovery for insurance billing services as related to Resolution #14-144. This is the company utilized by all of the other Fire Districts. This company gives the Fire Protection District the ability to sort and choose the appropriate invoices for billing - only billing what is sent to Revenue Recovery.

There is a separate contract currently in place with a local company to process collection of unpaid billings.

**Motion:** Approve Storey County Fire Protection District to contract with Revenue Recovery for insurance billing services associated with specialized responses, rescue and mitigation services **Action:** Approve **Moved by:** Commissioner Sjovangen **Seconded by:** Chair McBride **Vote:** Motion carried by unanimous vote (summary: Yes=2)

**ADJOURN TO RECONVENE AS THE STOREY COUNTY BOARD OF COUNTY COMMISSIONERS**

**17. DISCUSSION/POSSIBLE ACTION:** Second reading of business/liquor license for Bonanza

Sheriff Gerald Antinoro said the background investigation of license holder, Bruce Dewing, has been completed. Approval of the license is recommended.

Chair McBride asked if the license was only for Bruce Dewing, the manager of the property, and not the owner. Sheriff Antinoro clarified the owner has leased the property to Mr. Dewing and will have no interest in the day-to-day operations of the property.

**Motion:** Approve the second reading of business/liquor license for Bonanza **Action:** Approve **Moved by:** Commissioner Sjovangen **Seconded by:** Chair McBride **Vote:** Motion carried by unanimous vote (summary: Yes=2)

**18. DISCUSSION/POSSIBLE ACTION:** Second reading of business/liquor license for Delta

Sheriff Antinoro said this item is the same situation, same owner - Bruce Dewing- as Item 17. Approval of the license is recommended.

**Motion:** Approve the second reading of business/liquor license for Delta **Action:** Approve **Moved by:** Commissioner Sjovangen **Seconded by:** Chair McBride **Vote:** Motion carried by unanimous vote (summary: Yes=2)

**21. POSSIBLE ACTION, LICENSING BOARD SECOND READINGS:**

- a. PEPS EQUIPMENT - Contractor / 1953 N. Warren Road - San Jacinto, CA (equipment rental)
- b. ZULILY, INC. - General / 3200 USA Parkway (ecommerce) TRI
- c. T & T ELECTRIC, INC. - Contractor / P. O. Box 7377 - Reno (electrical contractor)
- d. ARH ARCHAEOLOGY - Home Business / P. O. Box 784 - Virginia City (archaeological consultant)
- e. HARRIS INDUSTRIAL GASES - General / 236 East Sydney (welding equip supply) TRI
- f. LEE'S PEST CONTROL - Contractor / 21 Van Fleet Drive - Yerington (pest control)
- g. AMERICAN EQUIPMENT, INC. - Contractor / 1315 Greg Street #114 - Sparks (crane manufacturer)
- h. PROFICIENT HEATING & AIR - Contractor / 385 Freeport Blvd. #9 - Sparks (hvac contractor)
- i. SUNTEC CONCRETE, INC. - Contractor / 2221 West Shangri La Road - Phoenix, AZ (concrete cont.)
- j. WOODSTOVE DISTRIBUTORS - Contractor / 881 Tahoe Blvd - Incline Village (fireplace sales, install)
- k. WWC LICENSE, LLC - General / One Verizon Way - Basking Ridge, NJ (internet provider)
- l. ARDAGH PACKAGING USA, INC. - General / 900 Waltham Way (can mfg) TRI

County Manager, Pat Whitten, on behalf of Community Development, requested that item e. -Harris Industrial Gases, and item l. - Ardagh Packaging USA, Inc., be continued.

**Motion:** To continue items e. and l. **Action:** Approve to continue items e. and l. **Moved by:** Commissioner Sjovangen **Seconded by:** Chair McBride **Vote:** Motion carried by unanimous vote (Summary: yes=2)

County Manger, Pat Whitten, on behalf of Community Development, requested that items a., b., c., d., f., g., h., i., j., and k., be approved.

**Motion:** Approve items a., b., c., d., f., g., h., i., j., and k. **Action:** Approve **Moved By:** Commission Sjovangen **Seconded by:** Chair McBride **Vote:** Motion carried by unanimous vote (Summary: yes = 2)

**22. PUBLIC COMMENT (No Action)**



Gerald Antinoro speaking as a resident and as Storey County Sheriff responded to Mr. Gilman's earlier comment. Mr. Antinoro said he enforces the law evenly as possible to everyone, no exceptions. This is the quote from Mr. Antinoro on the Lockwood Blog. The context put in by the author is up to him.

Sheriff Antinoro finds it shameful that one of the County Commissioners would use this position to further his own agenda. It is known that he is not supportive of Mr. Antinoro, which is his right. Mr. Antinoro said it is kind of old being accused of things by the Commission – bring proof or hire an investigator.

#### **23. CORRESPONDENCE**

a. Denied agenda item request from Bunchie Tyler and Dennis Bowen regarding Deputy and Manager Break-in at two residences in Lockwood.

#### **24. ADJOURNMENT**

The Chair adjourned the meeting at 1:06 PM

Respectfully submitted:

By: \_\_\_\_\_  
Vanessa Stephens, Clerk- Treasurer

ATTACHMENT 3

ATTACHMENT 3

ATTACHMENT 3



STATE OF NEVADA  
COMMISSION ON ETHICS

BEFORE THE NEVADA COMMISSION ON ETHICS

IN THE MATTER OF THE REQUEST FOR OPINION  
CONCERNING THE CONDUCT OF  
OSCAR B. GOODMAN, Mayor, City of Las Vegas.

---

Opinion No. 04-05

This matter came before a quorum<sup>1</sup> of the Nevada Commission on Ethics (hereinafter the "Commission") for hearing on May 12, 2004, pursuant to a Request for Opinion filed with the Commission on February 13, 2004, pursuant to NRS 281.511(2)(b), and a determination on April 2, 2004, by a Commission panel finding just and sufficient cause for the Commission to hold a hearing on the matter and render an opinion on whether Mayor Goodman's alleged conduct violated the provisions of NRS 281.481(1), NRS 281.481(2), NRS 281.481(7), NRS 281.481(10), and/or NRS 281.553. Mayor Goodman filed with the Commission a written waiver of the statutory time requirements with regard to this matter.

The following issues are before the Commission in this matter:

A. IPOLITIX COCKTAIL PARTY AND CD

1. NRS 281.481(2): Did Mayor Oscar B. Goodman violate the statute by using his position as Mayor of Las Vegas to secure or grant "unwarranted"<sup>2</sup> privileges, preferences, exemptions or advantages for himself, any business entity in which

---

<sup>1</sup> The quorum consisted of Chairman Hsu, Vice Chair Jenkins, and Commissioners Hutchison and Kosinski. Commissioners Flangas and Keele served as the panel in this matter. Pursuant to NRS 281.462(4), panel members are prohibited from participating in any further proceedings of the Commission relating to the matter.

<sup>2</sup> "Unwarranted" means "without justification or adequate reason." NRS 281.481(2)(b). The Commission has opined that "the term 'unwarranted' will always mean, among other things, 'not allowed by law.'" *In the Matter of the Request for Opinion concerning the conduct of Mark Aston, Clark County Treasurer*, NCOE Opinion No. 97-40, page 3.

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<sup>3</sup> by his involvement in the iPolitix cocktail party at the annual National Conference of Mayors in Washington, D.C. on January 22, 2004, sponsored by iPolitix, a limited liability company in which his son, Ross Goodman, is a member?

2. NRS 281.481(7):

- a. Did Mayor Oscar B. Goodman violate the statute by using governmental time, property, equipment or other facility prohibited by the statute<sup>4</sup> to benefit his personal or financial interest, including, but not necessarily limited to, video tapes owned by the City of Las Vegas to principals of iPolitix, a limited liability company in which his son, Ross Goodman, is a member, for production of a commercial CD which was distributed at the cocktail party at the annual National Conference of Mayors in Washington, D.C. on January 22, 2004, for the benefit of his son, Ross Goodman?
- b. Did Mayor Oscar B. Goodman violate the statute by
  - (1) failing to promptly reimburse the City of Las Vegas for costs incurred by the City of Las Vegas for his use of governmental time, property, equipment or other facility authorized by the statute; and/or
  - (2) failing to promptly pay a charge the City of Las Vegas ordinarily would charge a member of the general publicwhen he participated in facilitating the cocktail party hosted by iPolitix and his son, Ross Goodman, at the annual National Conference of Mayors in Washington, D.C., on January 22, 2004 and/or when he provided video tapes

---

<sup>3</sup> Pursuant to NRS 281.481(2)(a), "commitment in a private capacity to the interests of that person" means a commitment to a person:

- (a) Who is a member of his household;
- (b) Who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity;
- (c) Who employs him or a member of his household;
- (d) With whom he has a substantial and continuing business relationship; or
- (e) Any other commitment or relationship that is substantially similar to a commitment or relationship described in NRS 281.501(8).

<sup>4</sup> NRS 281.481(7) *does not prohibit*:

- (a) A limited use of governmental property, equipment or other facility for personal purposes *if*:
    - (1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;
    - (2) The use does not interfere with the performance of his public duties;
    - (3) The cost or value related to the use is nominal; *and*
    - (4) The use does not create the appearance of impropriety;
  - (b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or
  - (c) The use of telephones or other means of communication if there is not a special charge for that use.
- If a governmental agency incurs a cost as a result of a use that is authorized pursuant to the above or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

owned by the City of Las Vegas to principals of iPolitix, a limited liability company in which his son, Ross Goodman, is a member, for production of a commercial CD which was distributed to potential iPolitix clients at the cocktail party?

B. BOMBAY SAPPHIRE GIN ENDORSEMENT

1. NRS 281.481(1): Does Mayor Oscar B. Goodman's contract to endorse Bombay Sapphire Gin in exchange for \$100,000, payable \$50,000 to the City of Las Vegas and \$50,000 to The Meadows School, constitute a "gift, service, favor, employment, engagement, emolument or economic opportunity" that Mayor Oscar B. Goodman sought or accepted "which would tend improperly to influence a reasonable person in [Mayor Goodman's] position to depart from the faithful and impartial discharge of his public duties" in violation of the statute?
2. NRS 281.481(2): Did Mayor Oscar B. Goodman violate the statute by using his position as Mayor of Las Vegas to secure or grant "unwarranted"<sup>5</sup> 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<sup>6</sup> by contracting to endorse Bombay Sapphire Gin, a commercial product, in exchange for a "fee" of \$100,000, which was paid as follows: \$50,000 to the City of Las Vegas and \$50,000 to The Meadows School, a private educational institution founded by Mayor Goodman's wife, Carolyn Goodman, who serves as President of the non-profit corporation?
3. NRS 281.481(7):
  - a. Did Mayor Oscar B. Goodman violate the statute by using governmental time, property, equipment or other facility prohibited by the statute<sup>7</sup> to benefit his personal or financial interest by using city staff to endorse and promote Bombay Sapphire gin pursuant to a private contractual agreement between Mayor Goodman and Bombay?
  - b. Did Mayor Oscar B. Goodman violate the statute by
    - (1) failing to promptly reimburse the City of Las Vegas for costs incurred by the City of Las Vegas for his use of governmental time, property, equipment or other facility authorized by the statute; and/or
    - (2) failing to promptly pay a charge the City of Las Vegas ordinarily would charge a member of the general publicin connection with his use of city staff to endorse and promote Bombay Sapphire gin pursuant to a private contractual agreement between Mayor Goodman and Bombay?

---

<sup>5</sup> See, fn 2, *supra*.

<sup>6</sup> See, fn 3, *supra*.

<sup>7</sup> See, fn 4, *supra*.

4. NRS 281.481(10): Did Mayor Oscar B. Goodman violate the statute by seeking other employment or contracts through the use of his official position as Mayor of Las Vegas when he contracted to endorse Bombay Sapphire Gin?
5. NRS 281.553: Did Mayor Oscar B. Goodman violate the “honorarium” statute by accepting or receiving<sup>8</sup> the payment of money or anything of value<sup>9</sup> for his appearance or speech in his capacity as Mayor of Las Vegas in connection with his endorsement of Bombay Sapphire Gin?

C. JANE MAGAZINE CONTEST

1. NRS 281.481(7):
  - a. Did Mayor Oscar B. Goodman violate the statute by using governmental time, property, equipment or other facility prohibited by the statute<sup>10</sup> to benefit his personal or financial interest in connection with his participation and appearance related to the contest advertisement in the March 2004 *Jane Magazine* and on the *Jane Magazine* website?
  - b. Did Mayor Oscar B. Goodman violate the statute by
    - (1) failing to promptly reimburse the City of Las Vegas for costs incurred by the City of Las Vegas for his use of governmental time, property, equipment or other facility authorized by the statute; and/or
    - (2) failing to promptly pay a charge the City of Las Vegas ordinarily would charge a member of the general publicin connection with his participation and appearance related to the contest advertisement in the March 2004 *Jane Magazine* and on the *Jane Magazine* website?

---

<sup>8</sup> Pursuant to NRS 281.553(2), an honorarium paid on behalf of a public officer to a charitable organization from which the public officer does not derive any financial benefit is deemed not to be accepted or received by the public officer for purposes of NRS 281.553.

<sup>9</sup> Pursuant to NRS 281.553(4), “honorarium” does not include the payment of:

- (a) The actual and necessary costs incurred by the public officer, his spouse or his aid for transportation and for lodging and meals while the public officer is away from his residence.
- (b) Compensation which would otherwise have been earned by the public officer in the normal course of his public office.
- (c) A fee for a speech related to the public officer’s profession or occupation outside of his public office if:
  - (1) Other members of the profession or occupation are ordinarily compensated for such a speech; and
  - (2) The fee paid to the public officer or public employee is approximately the same as the fee that would be paid to a member of the private sector whose qualifications are similar to those of the public officer for a comparable speech.
- (d) A fee for a speech delivered to an organization of Legislatures, Legislators or other elected officers.

<sup>10</sup> See, fn 4, *supra*.

2. NRS 281.553: Did Mayor Oscar B. Goodman violate the “honorarium” statute by accepting or receiving<sup>11</sup> the payment of money or anything of value<sup>12</sup> for his appearance or speech in his capacity as Mayor of Las Vegas in connection with his appearance in the March 2004 *Jane Magazine* contest advertisement?

D. USE OF CADILLAC

NRS 281.481(1): Did the luxury vehicle<sup>13</sup> provided free of charge by Cashman Cadillac for Mayor Oscar B. Goodman’s use constitute a “gift, service, favor...emolument” that Mayor Oscar B. Goodman sought or accepted “which would tend improperly to influence a reasonable person in [Mayor Goodman’s] position to depart from the faithful and impartial discharge of his public duties” in violation of the statute?

Notice of the hearing was properly posted and served. Mayor Goodman was present and provided sworn testimony. In addition, the following individuals appeared as witness and provided sworn testimony: Ross Goodman, Mayor Goodman’s son; Scott Kapp, President, iMedia; Mark Vincent, Director, Finance and Business Services, City of Las Vegas; Elaine Sanchez, former Senior Public Information Officer, City of Las Vegas; Larry Ruvo, Senior Managing Director, Southern Nevada Wine & Spirits; Doug Selby, City Manager, City of Las Vegas; Carolyn Goodman, Mayor Goodman’s wife; and Stephanie Boixo, Management Analyst II, City of Las Vegas, and Chief of Staff to Mayor Goodman; David Riggleman, Communications Director, City of Las Vegas; Brad Jerbic, Las Vegas City Attorney; Sergeant Scott Barney, Deputy Marshal, City of Las Vegas.

The Commission, after hearing testimony and considering the evidence presented herein, makes the following Findings of Fact and Conclusions of Law.

---

<sup>11</sup> See, fn 8, *supra*.

<sup>12</sup> See, fn 9, *supra*.

<sup>13</sup> A 2003 Cadillac Seville STS was provided by Cashman Cadillac on or about November 7, 2002, with an understanding that the Mayor would be provided a newer Cadillac every 6,000 miles or 6 months. See, Exhibit D-2 in Exhibit Book 5.

## **FINDINGS OF FACT**

1. In his public capacity, Oscar B. Goodman is the elected Mayor of the City of Las Vegas.

### **iPOLITIX COCKTAIL PARTY AND CD**

2. Mayor Goodman is the father of Ross Goodman.

3. Ross Goodman has a financial interest in the form of stock options in iMedia, which, at times relevant to this matter, owned a Las Vegas based subsidiary, iPolitix.

4. iPolitix, in which Ross Goodman had a financial and business interest during the times relevant to this matter, provides digital media information, such as video press kits, for political candidates.

5. In January 2004, the U.S. Conference of Mayors held a conference in Washington D.C. ("the Mayors' Conference").

6. The City of Las Vegas paid for Mayor Goodman to attend the Mayors' Conference.

7. The Mayors' Conference was seeking and soliciting cutting edge technology to present at the conference, which information Mayor Goodman brought to the attention of his son, Ross Goodman.

8. In seeking an opportunity to present iPolitix at the Mayors' conference, Ross Goodman contacted Mignon Moore, the Mayors' Conference coordinator.

9. Ms. Moore suggested that iPolitix sponsor an event at the conference.

10. Based on Ms. Moore's suggestion, Ross Goodman asked Mayor Goodman if iPolitix could sponsor a cocktail party at the Mayors' Conference that Mayor Goodman was going to host.



11. Mayor Goodman agreed to permit iPolitix to sponsor his cocktail party, which was scheduled for January 22, 2004.

12. Officials of the Mayors' Conference gave iPolitix permission to sponsor Mayor Goodman's cocktail party.

13. Ross Goodman and iPolitix made all of the arrangements for the cocktail party, including creating invitations that included Mayor Goodman's name as the party's host. iPolitix funded the cocktail party.

14. Prior to the cocktail party, Mayor Goodman was provided with invitations to the party. He handed out approximately four or five of the invitations to conference attendees, explaining that innovative products offered by iPolitix would be demonstrated at the cocktail party and that his son, Ross Goodman, was involved in the company.

15. During the cocktail party, iPolitix displayed a demonstration of the product being distributed to the cocktail party attendees.

16. iPolitix's compact disc demonstration included video clips of Mayor Goodman that Mayor Goodman had previously provided to iPolitix by lending iPolitix several City of Las Vegas owned video tapes for purposes of creating a video press kit,<sup>14</sup> which was unrelated to the cocktail party.

17. The City of Las Vegas did not pay for or reimburse iPolitix for the compact discs that were demonstrated and distributed at the cocktail party.

18. When Mayor Goodman arrived at the cocktail party hosted by iPolitix, he welcomed the attendees, and stated that he wanted everybody to take a look at the iPolitix product as they were at the cocktail party.

---

<sup>14</sup> Mayor Goodman paid for the iPolitix video press kit.

19. In that context, Mayor Goodman described the iPolitix products as great and innovative products, and stated that he loved his son.

BOMBAY SAPPHIRE GIN ENDORSEMENT

20. In the fall of 2002, Larry Ruvo, the Senior Managing Director for Southern Wine and Spirits, asked Mayor Goodman to publicly endorse Bombay Sapphire gin, which was sold and distributed by Southern Wine and Spirits.

21. Mayor Goodman refused the endorsement unless Southern Wine and Spirits paid \$100,000.00 to charity.

22. Mr. Ruvo insisted that the \$100,000.00 fee be paid to the Meadows School, in which Mr. Ruvo is actively involved and to which he regularly contributes money for scholarships, and of which Carolyn Goodman, Mayor Goodman's wife, is the president and a founding member.

23. Mayor Goodman requested that the \$100,000.00 be paid for the benefit of the City's efforts to fight homelessness.

24. Mr. Ruvo and Mayor Goodman agreed that \$50,000.00 would be paid to the City for the benefit of its efforts to fight homelessness, and the other \$50,000.00 would be contributed to the Meadows School.

25. In furtherance of Mayor Goodman's endorsement of Bombay Sapphire gin, Southern Wine and Spirits organized an event they called "the World's Biggest Happy Hour," which was hosted by and featured Mayor Goodman drinking Bombay Sapphire gin.

26. Based on the city nexus and the benefit to the City, the City of Las Vegas prepared a news release for the Bombay Sapphire gin event hosted by Mayor Goodman.

27. The City of Las Vegas incurred expenses totaling approximately \$850.00 in materials and employee overtime to produce the news release and the video regarding Southern Wine and Spirits' contribution to the City of Las Vegas.

28. In November 2002, the City of Las Vegas received a check for \$50,000.00 for Mayor Goodman's public endorsement of Bombay Sapphire gin and his participation in the World's Biggest Happy Hour event.

29. The \$50,000 contribution to the City of Las Vegas was accounted for in the City's special revenue fund to help the homeless, and specifically to the chronic public inebriant fund.

30. The \$50,000 was used to help WestCare, a crisis intervention, or triage, center that assists chronic public inebriants.

31. Mayor Goodman received no part of the \$50,000 paid to the City of Las Vegas.

32. The other \$50,000 was paid to the Ruvo Scholarship Endowment Fund, which is used for the benefit of qualifying students at the Meadows School.

33. Neither Mr. Ruvo, nor anyone associated with Southern Wine and Spirits, appears before the Las Vegas City Council and the Mayor on matters related to the distributorship's business.

#### JANE MAGAZINE CONTEST

34. Mayor Goodman appeared in the March 2004 issue of Jane Magazine in connection with a contest related to the City of Las Vegas.

35. The City of Las Vegas received a \$2,000 donation from Jane Magazine for Mayor Goodman's appearance related to the contest in Jane Magazine's March 2004 issue.

36. The \$2,000 donation was put into the chronic public inebriant fund that had been established for the money received for Mayor Goodman's endorsement of Bombay Sapphire gin.

37. Other than the City's Communications Division acting as a liaison in coordinating the Jane Magazine event for which the City received a \$2,000.00 donation, there was no cost to the City of Las Vegas related to the Jane Magazine event.

#### USE OF CADILLAC

38. In late 2002, Cashman Cadillac donated to the City of Las Vegas, through the City Manager, a 2003 Cadillac STC for use by City of Las Vegas officials.

39. Cashman Cadillac is located outside of the Las Vegas city limits.

40. Neither Mr. Cashman, nor anyone associated with his automobile dealership, appears before the Las Vegas City Council and the Mayor on matters related to the dealership's business.

41. The Cadillac was primarily for the Mayor's use in the performance of his official duties.

42. The vehicle was returned to the dealership within a few months, and no other vehicles were provided for the City's use.

#### CONCLUSIONS OF LAW

1. Mayor Goodman is a public officer as defined in NRS 281.4365.

2. The Commission has jurisdiction to render an opinion in this matter pursuant to NRS 281.465 and NRS 281.511, Subsection 2(c).

**WHEREFORE**, based upon a preponderance of the evidence in this matter, the Commission renders the following Opinion:

## OPINION

### A. iPOLITIX COCKTAIL PARTY AND CD

#### 1. NRS 281.481(2)

NRS 281.481(2) prohibits a public officer from using his position in government to secure or grant unwarranted<sup>15</sup> 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<sup>16</sup>.

By a preponderance of the evidence, Mayor Goodman used his position as Mayor to secure or grant unwarranted privileges or advantages for his son, Ross Goodman, a person to whose interests he has a commitment in a private capacity, by lending his name to the invitation for the iPolitix sponsored cocktail party at the National Conference of Mayors in Washington, D.C., on January 22, 2004, and by advancing the iPolitix products for the benefit of his son's company. Indeed, as the Mayor of Las Vegas, Mayor Goodman provided his son the opportunity to know that there was an interest at the Mayors' Conference in products such as those distributed by iPolitix. But for the fact that he is a mayor, Mayor Goodman would not have known about the Mayors' Conference, attendees at which would be a target customer base for iPolitix. By permitting iPolitix to sponsor the cocktail party Mayor Goodman hosted during the Mayors' Conference, Mayor Goodman provided his son and his son's business partners with a foot in the door to make contacts and obtain business that would not otherwise have been available had Ross Goodman not been Mayor Goodman's son. Moreover, encouraging his invitees and attendees to review iPolitix's products and material, which he identified as

---

<sup>15</sup> See, fn 2, supra.

<sup>16</sup> See, fn 3, supra.

associated with his son, Mayor Goodman created an appearance of impropriety and unwarranted privilege to his son's company.

iPolitix and Ross Goodman's involvement with iPolitix had no nexus to the City of Las Vegas. Mayor Goodman, by using his name and title of Mayor of Las Vegas on the invitation to the cocktail party sponsored by iPolitix, rather than a description of iPolitix's services or products that were going to be promoted at that party, improperly used his public position to secure or grant an advantage for his son, Ross Goodman, and his son's company, iPolitix. Mayor Goodman's justification for his action was his professed love for his son. However, a public officer's love for a member of his family does not justify or provide an adequate reason for the public officer's use of his public position to secure or grant an advantage to that family member. The advantage Mayor Goodman secured or granted to Ross Goodman and iPolitix was, therefore, "unwarranted."

Therefore, based upon a preponderance of the evidence, the Commission renders a unanimous opinion that Mayor Goodman's conduct related to the iPolitix cocktail party violates the provisions of NRS 281.481(2).

Having found a violation, the Commission deliberated but failed to reach a decision on whether Mayor Goodman's violation of the provisions of NRS 281.481(2) was willful as defined in NRS 281.4375. As a consequence, there is no basis on which to impose a civil penalty under the provisions of NRS 281.551.

2. NRS 281.481(7)

NRS 281.481(7) prohibits a public officer or employee from using "governmental time, property, equipment or other facility to benefit his personal or financial interest."<sup>17</sup>

---

<sup>17</sup> See, fn 4, *supra*.

There is insufficient evidence that Mayor Goodman temporarily loaned City of Las Vegas owned videotapes to iPolitix for his personal or financial purposes, or that he did so for any reason other than to provide video information and clips for his media press kit.

Therefore, based upon a preponderance of the evidence, the Commission renders a unanimous opinion that Mayor Goodman's conduct related to the City of Las Vegas owned videotapes loaned to iPolitix does not violate the provisions of NRS 281.481(7).

B. BOMBAY SAPPHIRE GIN ENDORSEMENT

1. NRS 281.481(1)

NRS 281.481(1) prohibits a public officer or public employee from 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."

There is no evidence that Mayor Goodman sought any donation from Southern Wine and Spirits for his endorsement of Bombay Sapphire gin. Further, there is no evidence that Mayor Goodman's acquiescence to Larry Ruvo's offer to donate \$50,000 each to the City of Las Vegas and The Meadows School in exchange for Mayor Goodman's endorsement of Bombay Sapphire gin would tend to improperly influence a reasonable person in the Mayor's position to depart from the faithful and impartial discharge of his public duties.

Further, because there is no evidence that Mr. Ruvo, or anyone associated with Southern Wine and Spirits, would be required to come before the Las Vegas City Council and the Mayor on matters related to the distributorship's business, there is no basis on which to conclude that a reasonable person in Mayor Goodman's position would be improperly influenced to depart from

the faithful and impartial discharge of his public duties based upon Mr. Ruvo's donations to the City of Las Vegas and The Meadows School scholarship fund.

The Commission, therefore, renders a unanimous opinion that Mayor Goodman's conduct related to Southern Wine and Spirits' donation of \$50,000 each to the City of Las Vegas and The Meadows School in exchange for the Mayor's endorsement of Bombay Sapphire gin does not violate the provisions of NRS 281.481(1).

2. NRS 281.481(2)

NRS 281.481(2) prohibits a public officer from using his position in government to secure or grant unwarranted<sup>18</sup> 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.<sup>19</sup>

There is no evidence that Mayor Goodman has any business dealings with Southern Wine and Spirits or with Bombay Sapphire gin, that he received any compensation for his endorsement, that he personally or financially benefited in any way, or that he benefited in any way other than receiving media coverage for the City of Las Vegas and its Mayor. Moreover, there is no evidence that Mayor Goodman was involved in any way with suggesting that the Meadows School, with which his wife is involved, should be a recipient of the funds for his Bombay Sapphire gin endorsement.

The Commission, therefore, renders a unanimous opinion that Mayor Goodman's conduct related to Southern Wine and Spirits' donation of \$50,000 each to the City of Las Vegas and The Meadows School in exchange for the Mayor's endorsement of Bombay Sapphire gin does not violate the provisions of NRS 281.481(2).

---

<sup>18</sup> See, fn 2, supra.

<sup>19</sup> See, fn 3, supra.



3. NRS 281.481(7)

NRS 281.481(7) prohibits a public officer or employee from using “governmental time, property, equipment or other facility to benefit his personal or financial interest.”<sup>20</sup>

There is no evidence that Mayor Goodman used City of Las Vegas time, property, equipment or other facilities to benefit his own personal or financial interests when City of Las Vegas officials decided to video tape and distribute news releases of the event in which Mayor Goodman endorsed Bombay Sapphire gin. Rather, the City of Las Vegas greatly benefited from the attention Mayor Goodman brought to the City with the Bombay Sapphire gin endorsement. Further, the City’s decision to video tape and distribute news releases of the event was a permissible use of government assets.

The Commission, therefore, renders a unanimous opinion that Mayor Goodman’s conduct related to videotapes and news releases produced by the City of Las Vegas of Mayor’s endorsement of Bombay Sapphire gin does not violate the provisions of NRS 281.481(7).

4. NRS 281.481 (10)

NRS 281.481(10) prohibits a public officer or employee from seeking other employment or contracts through the use of his official position.

There is no evidence that Mayor Goodman sought a contract or employment to endorse Bombay Sapphire gin. Although Mayor Goodman’s endorsement of Bombay Sapphire gin was a contract, it was not a contract sought by Mayor Goodman or for the Mayor’s personal benefit. Rather, Mayor Goodman’s endorsement was sought by Southern Wine and Spirits, and any benefit therefrom accrued to the City of Las Vegas.

---

<sup>20</sup> See, fn 4, *supra*.

The Commission, therefore, renders a unanimous opinion that Mayor Goodman's conduct related to his endorsement of Bombay Sapphire gin does not violate the provisions of NRS 281.481(10).

5. NRS 281.553

NRS 281.553 prohibits a public officer from accepting or receiving an "honorarium," which is defined as the payment of money or anything of value for an appearance or speech by the public officer in his capacity as a public officer. An honorarium paid on behalf of a public officer to a charitable organization from which the officer or employee does not derive any financial benefit is deemed not to be accepted or received by the officer for the purposes of NRS 281.553.

There is no evidence that Mayor Goodman personally received or accepted an honorarium for an appearance or speech made by him in his capacity as Mayor of Las Vegas in connection with his endorsement of Bombay Sapphire gin. Rather, in exchange for Mayor Goodman's endorsement, Southern Wine and Spirits made monetary contributions directly to the City of Las Vegas and The Meadows School. Further, the money received by the City of Las Vegas and The Meadows School was charitable in nature and, therefore, negates any potential violation of the honorarium prohibition.

The Commission, therefore, renders a unanimous opinion that Mayor Goodman's conduct related to his endorsement of Bombay Sapphire gin in exchange for Southern Wine and Spirits' donations to the City of Las Vegas and The Meadows School does not violate the honorarium provisions of NRS 281.553.

C. JANE MAGAZINE CONTEST

NRS 281.481(7) prohibits a public officer or employee from using “governmental time, property, equipment or other facility to benefit his personal or financial interest.”<sup>21</sup>

NRS 281.553 prohibits a public officer or public employee from accepting or receiving an honorarium, i.e., “the payment of money or anything of value for an appearance or speech by the public officer or public employee in his capacity as a public officer or public employee.”<sup>22</sup>

There is no evidence in this matter that Mayor Goodman used any “governmental time, property, equipment or other facility to benefit his personal or financial interest” or that he accepted or received an “honorarium” with regard to his appearance as the Mayor of Las Vegas in the March 2004 issue of Jane Magazine as alleged in this matter. Rather, the evidence is clear that (a) any money paid by Jane Magazine for Mayor Goodman’s appearance was paid directly to the City of Las Vegas for the City’s use and Mayor Goodman received no financial benefit therefrom; and (b) all arrangements for Mayor Goodman’s appearance in Jane Magazine were made through the public affairs office of the City of Las Vegas.

The Commission, therefore, renders a unanimous opinion that Mayor Goodman’s conduct related to the Jane Magazine appearance does not violate the provisions of either NRS 281.481(7) or NRS 281.553.

D. USE OF CADILLAC

NRS 281.481(1) prohibits a public officer or public employee from seeking or accepting any “gift, service, favor, employment, engagement, emolument or economic opportunity which

---

<sup>21</sup> See, fn 4, *supra*.

<sup>22</sup> NRS 281.553 excludes from the definition of “honorarium” (a) travel and per diem expenses reimbursed to the public officer; (b) compensation which would otherwise have been earned by the public officer or public employee in the normal course of his public office or employment; (c) under specific conditions, a fee for a speech related to the public officer’s or employee’s profession or occupation outside of his public office or employment; and (d) a fee for a speech delivered to an organization of Legislatures, Legislators or other elected officers.

would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties.”

The Cadillac was offered to the City of Las Vegas, through the Las Vegas City Manager, by Cashman Cadillac for use by City of Las Vegas officials and Mayor Goodman in furtherance of his official duties. The City of Las Vegas accepted the Cadillac for the use of the City’s Mayor and other City officials. There is no evidence in this matter to suggest that the Cadillac was a gift to Mayor Goodman personally, nor is there evidence that Mayor Goodman used the Cadillac for personal business. Further, because Cashman Cadillac is located outside of the Las Vegas city limits and there is no evidence that Mr. Cashman, or anyone associated with his automobile dealership, would be required to come before the Las Vegas City Council and the Mayor on matters related to the dealership’s business, there is no basis on which to conclude that a reasonable person in Mayor Goodman’s position would be improperly influenced to depart from the faithful and impartial discharge of his public duties based upon acceptance by City of Las Vegas officials of a Cadillac offered by Cashman Cadillac for the Mayor’s use in his capacity as Mayor of the City of Las Vegas.

The Commission, therefore, renders a unanimous opinion that Mayor Goodman’s conduct related to his use of the Cadillac provided to the City of Las Vegas by Cashman Cadillac does not violate the provisions of NRS 281.481(1).

Further, the Commission finds no evidence in this matter that Mayor Goodman’s use of the Cadillac provided to the City of Las Vegas by Cashman Cadillac amounted to an “unwarranted advantage” for his personal benefit. Therefore, the Commission renders a majority

opinion that Mayor Goodman's conduct related to his use of the Cadillac provided to the City of Las Vegas by Cashman Cadillac does not violate the provisions of NRS 281.481(2).<sup>23</sup>

### **SUMMARY**

A. **iPOLITIX COCKTAIL PARTY AND CD**

1. NRS 281.481(2): Violation; no finding that the violation was "willful"
2. NRS 281.481(7): No violation

B. **BOMBAY SAPPHIRE GIN ENDORSEMENT**

1. NRS 281.481(1): No violation
2. NRS 281.481(2): No violation
3. NRS 281.481(7): No violation
4. NRS 281.481(10): No violation
5. NRS 281.553: No violation

C. **JANE MAGAZINE CONTEST**

1. NRS 281.481(7): No violation
2. NRS 281.553: No violation

D. **USE OF CADILLAC**

1. NRS 281.481(1): No violation

**NOTE: THE FOREGOING OPINION APPLIES ONLY TO THE SPECIFIC FACTS AND CIRCUMSTANCES DEFINED HEREIN. FACTS AND CIRCUMSTANCES THAT DIFFER FROM THOSE IN THIS OPINION MAY RESULT IN AN OPINION CONTRARY TO THIS OPINION. NO INFERENCES REGARDING THE PROVISIONS OF NEVADA REVISED STATUTES QUOTED AND DISCUSSED IN THIS OPINION MAY BE DRAWN TO APPLY GENERALLY TO ANY OTHER FACTS AND CIRCUMSTANCES.**

DATED: December \_\_28\_\_, 2004.

NEVADA COMMISSION ON ETHICS

By: \_\_\_\_\_/s/\_\_\_\_\_  
RICK HSU, Chairman

<sup>23</sup> NRS 281.481(2) prohibits a public officer or employee from 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."

**ATTACHMENT 4**

**ATTACHMENT 4**

**ATTACHMENT 4**



IN THE SUPREME COURT OF THE STATE OF NEVADA

THE NEVADA STATE COMMISSION  
ON ETHICS, AN AGENCY OF THE  
STATE OF NEVADA,  
Appellant,  
vs.  
OSCAR B. GOODMAN,  
Respondent.

No. 47165

**FILED**

SEP 11 2007

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY J. Alvarado  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court order granting judicial review of an ethics commission decision. Eighth Judicial District Court, Clark County; Mark R. Denton, Judge.

Following an administrative hearing, appellant Nevada Commission on Ethics determined that respondent Las Vegas Mayor Oscar Goodman violated NRS 281.481(2)<sup>1</sup> by hosting a cocktail party sponsored by his son's company, iPolitix, at a national mayors' conference. Goodman then filed a petition for judicial review with the district court, arguing that the administrative record did not support the Commission's findings. The district court agreed and this appeal followed.

---

<sup>1</sup>NRS 281.481(2) provides:

A public officer or employee shall not use 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.

On appeal, the Commission contends that the district court failed to provide sufficient deference to its findings and that the record supports its determination that Goodman violated NRS 281.481(2). The parties are familiar with the facts, and we do not recount them except as pertinent to our disposition. For the following reasons, we affirm.

Standard of review

When a decision of an administrative body is challenged, our function is identical to that of the district court—we review the evidence presented to the administrative body and ascertain whether that body acted arbitrarily or capriciously, thus abusing its discretion.<sup>2</sup> Accordingly, we may set aside an agency's final decision if substantial rights of the petitioner have been prejudiced because the decision was, *inter alia*, affected by error of law or clearly erroneous in view of the reliable, probative and substantial evidence.<sup>3</sup> In performing our review, we are limited to the record below, and may not substitute our judgment for that of the agency as to the weight of evidence on questions of fact.<sup>4</sup>

With respect to NRS 281.481, we have recognized that although we “may conduct a *de novo* review of the Commission's construction . . . the district court was obligated to give deference to the construction afforded by the Commission.”<sup>5</sup> This is because “[a]n agency

---

<sup>2</sup>Gandy v. State ex rel. Div. Investigation, 96 Nev. 281, 282, 607 P.2d 581, 582 (1980).

<sup>3</sup>NRS 233B.135(3)(e).

<sup>4</sup>Schepcoff v. SIIS, 109 Nev. 322, 325, 849 P.2d 271, 273 (1993).

<sup>5</sup>State, Comm'n on Ethics v. JMA/Lucchesi, 110 Nev. 1, 6, 866 P.2d 297, 300 (1994).



charged with the duty of administering an act is impliedly clothed with power to construe it as a necessary precedent to administrative action.”<sup>6</sup> In addition, “[a]lthough the district court may decide pure legal questions without deference to an agency determination, an agency's conclusions of law which are closely related to the agency's view of the facts are entitled to deference and should not be disturbed if they are supported by substantial evidence.”<sup>7</sup> “Substantial evidence is evidence which a reasonable mind might accept as adequate to support a conclusion.”<sup>8</sup>

Substantial evidence does not support the Commission's determination that Mayor Goodman violated NRS 281.481(2)

NRS 281.481(2) prohibits a “public officer” from 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.” Several elements of this statute are not in question and require no further discussion here: (1) Oscar Goodman, as mayor of Las Vegas, is a public officer,<sup>9</sup> and (2) Mayor Goodman has a commitment in a private capacity to the interests of his son.<sup>10</sup> However, because the parties dispute the

---

<sup>6</sup>Clark Co. Sch. Dist. v. Local Gov't, 90 Nev. 442, 446, 530 P.2d 114, 117 (1974).

<sup>7</sup>SIIS v. Khweiss, 108 Nev. 123, 126, 825 P.2d 218, 220 (1992).

<sup>8</sup>Schepcoff, 109 Nev. at 325, 849 P.2d at 273.

<sup>9</sup>NRS 281.4365(1).

<sup>10</sup>NRS 281.501(8) defines “commitment in a private capacity” under NRS 281.481(2). Pursuant to NRS 281.501(8)(b), a commitment in a  
*continued on next page . . .*

remaining elements of NRS 281.481(2), we will discuss them in detail below.

Mayor Goodman did not “use his position in government”

Although this court has never addressed the meaning of the term “use” in NRS 281.481(2), Webster’s dictionary defines it as “the act or practice of employing something.”<sup>11</sup> In granting Goodman’s petition, the district court applied a similar definition—it defined the verb “to use” as “[t]o put into service or apply for a purpose; employ.”

On appeal, the Commission argues that Goodman “used” his position in government by bringing his son’s attention to the national mayors’ conference. In addition, the Commission contends that Goodman used his position to garner favor for iPolitix by (1) agreeing to host the cocktail party in question, (2) handing out four or five invitations (which included his name and title), and (3) suggesting that attendees pick up an iPolitix informational folder before leaving the party. We disagree. After examining the record, we conclude that the evidence does not sustain a finding that Mayor Goodman “used” his position in government.

Initially, we note that the Commission simply ignores significant evidence in the record. For example, the Commission does not address the fact that the mayors’ conference was actively soliciting new campaign-related technology for presentation at the conference. In

---

*... continued*

private capacity means a commitment to a person “[w]ho is related . . . by blood[.]” Because Mayor Goodman’s son is his blood relative, this element is not in dispute.

<sup>11</sup>Webster’s Ninth New Collegiate Dictionary 1299 (1985).

addition, Goodman's son went through all of the proper procedures to have the conference place an iPolitix event on the conference agenda. There is no evidence that Mayor Goodman aided iPolitix in any way besides telling his son that the conference was seeking technology presentations. Moreover, the record demonstrates that when a scheduling conflict forced the conference organizers to cancel iPolitix's original event, a conference representative, not Goodman, suggested that iPolitix sponsor a cocktail party. In fact, the conference had pre-scheduled Goodman to host a cocktail party at the conference even before he knew about iPolitix's need for a host. Thus, Goodman was not actively involved in the decision to have him host; rather, he merely agreed to host iPolitix's party since he was already going to host one anyway.

Moreover, we conclude that Mayor Goodman did not "use" his position to foster goodwill for iPolitix products before or during the cocktail party. Before the party, iPolitix circulated invitations, which included Mayor Goodman's name. Mayor Goodman personally distributed four or five of the invitations. At the party, Mayor Goodman spoke briefly and encouraged attendees to take a folder providing information on iPolitix's products. In addition, Mayor Goodman mentioned that he loved his son. This type of minimal conduct is not of the same significance that the Commission has generally found to violate NRS 281.481.<sup>12</sup> In

---

<sup>12</sup>See Commission on Ethics Opinion (COE) No. 00-11 (public official violated NRS 281.481(2) by using government agency's credit card for numerous personal expenses and failing to reimburse the agency in a timely manner); COE No. 98-11 (public official violated NRS 281.481(2) by using her position to hire an employment candidate so that another employment position would become available for her husband); COE No.

*continued on next page . . .*

addition, other states have generally found ethical violations by public officials where the official bribes or threatens parties, or where the official expends public funds.<sup>13</sup> This case does not involve such serious conduct.

After reviewing the record, we conclude that substantial evidence does not support the Commission's determination that Mayor Goodman "used" his position as mayor as that term has been interpreted by the Commission. Accordingly, the district court properly found that Mayor Goodman did not violate NRS 281.481(2).

Mayor Goodman did not "secure or grant unwarranted privileges, preferences, exemptions, or advantages" for his son

Separately, the Commission contends that Mayor Goodman secured or granted unwarranted privileges, preferences, exemptions, or

---

*... continued*

94-05 (city councilman violated NRS 281.481(2) by soliciting the participation of companies and individuals who had business or other matters before the council or were likely to have matters considered by the council in a for-profit business venture benefiting only himself). Cf. COE No. 99-08 (public official permitted to race vehicles that are sponsored by local businesses as long as he does not solicit sponsors from industries that he regulates in his official capacity).

<sup>13</sup>See, e.g., N.Y. St. Asphalt Pavement Ass'n v. White, 525 N.Y.S.2d 561, 564 (Sup. Ct. 1988) (finding that a city commissioner secured unwarranted privileges by using his position to compel a company to pay \$150,000 to a non-profit organization); Groener v. Oregon Government Ethics Com'n, 651 P.2d 736, 739-40, 743-44 (Ore. Ct. App. 1982) (concluding that a state senator used his office to obtain unwarranted benefits when he received money in return for his diversion of business from a state agency to a private company).



advantages for his son.<sup>14</sup> As the record makes clear, however, this is not a case in which a public official “pulled strings” in favor of himself or a relative. Rather, Mayor Goodman became aware that the mayors’ conference was soliciting new technology companies to serve as presenters. He relayed this information to his son, who then went through all of the proper procedures to place an iPolitix event on the agenda. After event coordinators cancelled iPolitix’s event and the company decided to hold a cocktail party instead, Mayor Goodman agreed to host the party. Under the circumstances of this case, Mayor Goodman’s conduct does not rise to the level of being “unwarranted.” In fact, the record wholly supports the district court’s conclusion that “the solicitation by [the conference] of ‘cutting edge technology to present at the conference’ (Finding No. 7) was sufficient justification for [Mayor Goodman] to inform his son about the Conference.” Moreover, as noted by the district court, the Commission made “no finding that, beyond providing the desired information, [Mayor Goodman’s] son or iPolitix derived any concrete benefit . . . or expected to do so.” Thus, we conclude that Goodman did not “secure or grant” a benefit in favor of iPolitix or his son. Although the Commission found that “Mayor Goodman created an appearance of impropriety and unwarranted privilege” by encouraging attendees to review iPolitix’s products and material, the district court correctly noted that “the appearance of impropriety . . . is not sufficient to constitute an infraction

---

<sup>14</sup>NRS 281.481(2)(b) defines unwarranted as “without justification or adequate reason.” Although the parties do not specifically raise the issue, we note that there are serious questions regarding the constitutionality of this term, particularly its ambiguity.


of [NRS 281.481(2)].” We therefore conclude that Mayor Goodman’s conduct did not constitute a violation of that statute.

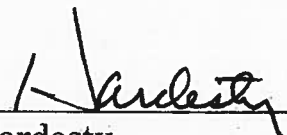
Conclusion

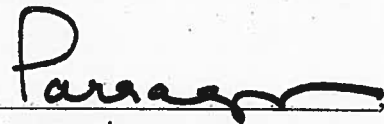
We conclude that substantial evidence does not support the Commission’s determination that Mayor Goodman violated NRS 281.481(2). Accordingly, we

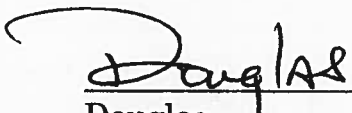
ORDER the judgment of the district court AFFIRMED.

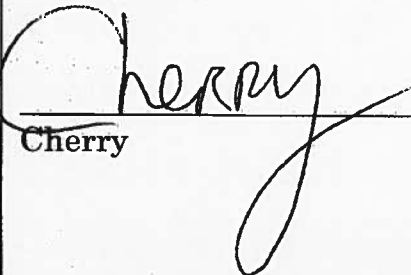
  
\_\_\_\_\_, C.J.  
Maupin


  
\_\_\_\_\_, J.  
Gibbons

  
\_\_\_\_\_, J.  
Hardesty

  
\_\_\_\_\_, J.  
Parraguirre

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

cc: Hon. Mark R. Denton, District Judge  
Lester H. Berkson, Settlement Judge  
Attorney General Catherine Cortez Masto/Carson City  
Nevada Commission on Ethics  
Goodman Brown & Premsrirut  
Eighth District Court Clerk

ATTACHMENT 5

ATTACHMENT 5

ATTACHMENT 5





**STATE OF NEVADA  
COMMISSION ON ETHICS**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

**IN THE MATTER OF THE REQUEST FOR OPINION  
CONCERNING THE CONDUCT OF  
LYNETTE BOGGS-MCDONALD, Former City Councilwoman  
City of Las Vegas**

---

**Opinion No. 04-77**

This matter came before the Nevada Commission on Ethics (hereinafter "Commission") for hearing on January 11, 2006 on a Request for Opinion filed on October 18, 2004 pursuant to NRS 281.511(2)(b), and a determination on September 28, 2005, by a Commission panel finding just and sufficient cause for the Commission to hold a hearing on the matter and render an opinion on whether former City of Las Vegas Councilwoman Lynette Boggs-McDonald's conduct violated the provisions of NRS 281.481(2) and NRS 281.481(9).

The issues before the Commission in this matter are limited to the following:

1. With regard to NRS 281.481(2), did Ms. Boggs-McDonald use her position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for herself or her husband by asking two legislators to intervene on a bill before the legislature that may have concerned Mr. McDonald's employment?
2. With regard to NRS 281.481(9), did Ms. Boggs-McDonald attempt to gain a personal benefit through the influence of a subordinate, specifically: a) Wendell Williams; and b) Morse Arberry?

Notice of the hearing was properly posted and served. Lynette Boggs-McDonald was present with her counsel, John H. Mowbray, Esq., and William B. Terry, Esq., and provided sworn testimony. The following individuals appeared as witnesses and provided sworn testimony:

Wendell Williams, former Nevada Assemblyman and former City of Las Vegas employee; Brian Krolicki, Nevada State Treasurer; Kathryn Besser, Nevada State Treasurer Chief of Staff; Morse Arberry, Nevada Assemblyman and former City of Las Vegas employee; Steven McDonald, Lynette Boggs-McDonald's husband and former Deputy State Treasurer for Unclaimed Property; Kimberly McDonald, Lynette Boggs-McDonald's sister-in-law; Audrie Dodge, former Senior Executive Assistant to Councilwoman Lynette Boggs-McDonald; Mike Hougen, City of Las Vegas Information Technology System Infrastructure Manager; Douglas Selby, Las Vegas City Manager; Virginia Valentine, Assistant Clark County Manager and former Las Vegas City Manager; Elizabeth Fretwell, Las Vegas Deputy City Manager; Brad Jerbic, Las Vegas City Attorney; Mark Vincent, City of Las Vegas Director of Finance and Business Services; and Mary Henderson, Lobbyist for Nevada League of Cities and Municipalities.

#### **FINDINGS OF FACT**

The Commission, after hearing testimony and considering the evidence presented herein, makes the following Findings of Fact:

1. Ms. Boggs-McDonald worked for the City of Las Vegas as an Assistant City Manager from January 1994 through January 1997.
2. Ms. Boggs-McDonald was appointed to a vacant position as City Councilwoman for Ward 2 for the City of Las Vegas on July 12, 1999, and served in that capacity from 1999 through 2004.
3. Ms. Boggs-McDonald was appointed to a vacant position as County Commissioner in 2004 for District F for Clark County. Upon appointment, she resigned from her position with the Las Vegas City Council.
4. Ms. Boggs-McDonald is married to Steven McDonald. Steven McDonald was employed with the Nevada State Treasurer and served as Deputy State Treasurer for Unclaimed Property from July 1, 2001 through September 3, 2003.
5. The Nevada State Treasurer introduced Senate Bill 446 (hereinafter "SB 446") during the 2003 legislative session which proposed to codify a reorganization of unclassified staff positions within the State Treasurer's office. Hearings on SB 446 were held before both the Assembly Ways and Means and Assembly Government Affairs Committees.

6. Although the provisions of SB 446 had no effect on the position of Deputy State Treasurer for Unclaimed Property, Steven McDonald believed the bill would affect his position.
7. Steven McDonald sought the help of Assemblymen Wendell Williams and Morse Arberry in advocating against the passage of SB 446.
8. Wendell Williams served in the Nevada Legislature for nine (9) terms, beginning with the 1987 session and ending with the 2003 session and was the senior member of the Assembly Government Affairs Committee during the 2003 session.
9. Wendell Williams began employment at the City of Las Vegas in 1996 and was employed with the City of Las Vegas Neighborhood Services Department during the 2003 legislative session.
10. Morse Arberry has served in the Nevada Legislature for eleven (11) terms, beginning with the 1985 session, and was Chairman of the Assembly Ways and Means Committee during the 2003 session.
11. Morse Arberry was employed with the City of Las Vegas in various capacities beginning in 1977. He separated from service with the City of Las Vegas on January 4, 2002.
12. Kimberly McDonald is the sister of Steven McDonald. During the 2003 legislative session she was employed as a Special Projects Analyst and Lobbyist for the City of North Las Vegas.
13. Witness testimony revealed that Steven McDonald prepared and Kimberly McDonald delivered materials to Mr. Williams for his use in questioning the Treasurer's office at the hearing on SB 446 before the Assembly Government Affairs Committee.
14. Minutes of the Assembly Government Affairs Committee confirmed that Mr. Williams questioned the Treasurer's office extensively about SB 446.
15. Mr. Williams testified that Lynette Boggs-McDonald called him and asked him to defeat SB 446. However, this testimony was not corroborated by any other witnesses, phone records, e-mail correspondence or any other documents.
16. A telephone call thought to have been made by Ms. Boggs-McDonald to Mr. Williams from her city-issued cellular telephone was instead made by another individual. Evidence showed that the city telephone number thought to have been Ms. Boggs-McDonald's was registered to a different city employee.
17. Ms. Boggs-McDonald testified that she was out of the country during the time period that the hearings on SB 446 took place and that she had no involvement with the documents provided to Mr. Williams and that she played no part in lobbying to defeat the bill.

18. Before the end of the 2003 legislative session, Mr. Arberry asked State Treasurer Brian Krolicki about SB 446 questioning the measure's effects on State Treasurer employees. Thereafter, Treasurer Krolicki telephoned Steven McDonald, assured him that his job would not be affected by passage of SB 446 and urged Steven McDonald to relay this to Mr. Arberry.

19. Mr. Arberry testified that neither Steven McDonald nor Ms. Boggs-McDonald contacted him regarding SB 446.

20. The City of Las Vegas has a council-manager form of government, meaning the City Council appoints the City Manager. All city employees report through their supervisors to the City Manager, with the exception of the City Attorney and the City Auditor. Both the City Attorney and the City Auditor are appointed by the City Council and report directly to the City Council. The City of Las Vegas organization chart specifically provides that the Director of the Neighborhood Services Department reports directly to a Deputy City Manager, who reports directly to the City Manager.

### **CONCLUSIONS OF LAW**

1. Lynette Boggs-McDonald is a former public officer as defined in NRS 281.4365.
2. The Commission has jurisdiction to render an opinion in this matter pursuant to NRS 281.465 and NRS 281.511(2)(b).

**WHEREFORE**, based upon a preponderance of the evidence, on a motion made, seconded, and approved by a five-to-one vote,<sup>1</sup> the Commission renders the following Opinion:

### **OPINION**

The complaint that is the basis of this opinion alleges that former City Councilwoman Lynette Boggs-McDonald violated NRS 281.481(2) by using her position in government to prevent her husband, Steven McDonald, from losing his job at the State Treasurer's office.

While serving on the Las Vegas City Council, Ms. Boggs-McDonald allegedly attempted to influence two city employees, Wendell Williams and Morse Arberry, to obstruct legislation

---

<sup>1</sup> Commissioners Rick Hsu, James Kosinski, George Keele, Randall Capurro and Caren Jenkins voted to approve the motion that there was no finding of a violation by Ms. Boggs-McDonald of NRS 281.481(2) or NRS 281.481(9). Commissioner William Flangas voted Nay. Commissioners Timothy Cashman and Mark Hutchison did not participate in the hearing because they served on the panel that determined that the ethics complaint should proceed to a hearing.

pending in the 2003 Nevada Legislature which she believed proposed the elimination of her husband's job at the State Treasurer's office.

During the 2003 legislative session, both Mr. Williams and Mr. Arberry were members of the Nevada State Assembly. Mr. Williams was the senior member of the Assembly Government Affairs Committee which held hearings on SB 446 concerning the reorganization of the State Treasurer's office. Mr. Arberry served as Chairman of the Assembly Ways and Means Committee.

Under NAC 281.189, the Executive Director of this Commission may investigate relevant issues and facts beyond those presented in an ethics complaint in determining her written recommendation of whether just and sufficient cause exists for the Commission to render an opinion on the ethics complaint. Consistent with this provision, the Executive Director recommended the panel forward to the Commission the question of whether Ms. Boggs-McDonald's conduct also violated NRS 281.481(9) by attempting to gain a benefit through the influence of her subordinates.

**1. NRS 281.481(2) states:**

"A public officer or employee shall not use 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. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281.501<sup>2</sup>.

---

<sup>2</sup> NRS 281.501(8) defines "commitment in a private capacity to the interests of others" as commitment to a person: (a) Who is a member of his household; (b) who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity; (c) who employs him or a member of his household; (d) with whom he has a substantial and continuing business relationship; or (e) any other commitment or relationship that is substantially similar to a commitment or relationship described in this subsection.



(b) “Unwarranted” means without justification or adequate reason.”

In its analysis, the Commission looked to past opinions for guidance in interpreting NRS 281.481(2). While at least one prior opinion held that a public officer who merely attempts, but does not succeed, in securing or granting an unwarranted advantage does not violate NRS 281.481(2)<sup>3</sup>, several members of this Commission believe that such an interpretation would be at odds with legislative intent and that merely making an attempt to obtain an unwarranted benefit would in fact bring the activity within the parameters of NRS 281.481(2). However, the Commission did not render a decision on this issue because the matter could be decided on other grounds.

On its face, NRS 281.481(2) appears to require the Commission in its deliberations to find by a preponderance of the evidence the following elements: 1) A public officer or public employee; 2) secured or granted; 3) an unwarranted benefit; 4) to himself, any business entity in which he has a significant pecuniary interest, or any person to whom he has a private commitment; 4) by using; 5) his position in government.

With the above elements in mind, the Commission considered the evidence surrounding the allegation that Ms. Boggs-McDonald used her official position to gain a benefit for her husband. Although evidence was presented that Steven McDonald asked Mr. Williams and Mr. Arberry to intervene regarding SB 446, the Commission did not find a preponderance of evidence that Ms. Boggs-McDonald herself had any related communications with Mr. Williams or Mr. Arberry. The nexus between Ms. Boggs-McDonald and SB 446 fails for several reasons.

---

<sup>3</sup> See, *Matter of William Barrett, CEO No. 01-08A*

First, Mr. Williams' testimony that Ms. Boggs-McDonald communicated with him for the sole purpose of requesting him to defeat SB 446 was vague, uncorroborated by any credible evidence, and inherently unreliable. Second, although Mr. Arberry testified that Ms. Boggs-McDonald never contacted him, he appeared to contradict an earlier statement made to Commission staff that Ms. Boggs-McDonald indeed contacted him. Before the Commission, Mr. Arberry had a remarkably selective lack of memory of many events which made it difficult for the Commission to find a preponderance of evidence for a finding of a violation. Finally, no other evidence supported the contention that Ms. Boggs-McDonald contacted Mr. Arberry to intervene with regard to SB 446.

Based on the insufficiency of the evidence presented, the Commission makes no finding that Ms. Boggs-McDonald violated NRS 281.481(2).

**2. NRS 281.481(9) states:**

“A public officer or employee shall not attempt to benefit his personal or financial interest through the influence of a subordinate.”

Ms. Boggs-McDonald argued that, as a city councilwoman, she was in no position to exert improper influence over Mr. Williams under the council-manager form of government, since Mr. Williams was five to seven management levels subordinate to the City Council. The Commission disagreed. An employee may very well feel undue pressure to follow instructions given by an elected official regardless of the number of management levels between the employee and the elected governing body on which the official serves. However, for the same reasons as set forth above, the Commission did not find a preponderance of evidence to demonstrate that Ms. Boggs-McDonald attempted to personally benefit by influencing a subordinate, including Mr. Williams.



With regard to Mr. Arberry, since he was not a City of Las Vegas employee during the time of the alleged conduct, he could not be a subordinate over which Ms. Boggs-McDonald could attempt to improperly influence. Therefore, the Commission makes no finding of a violation by Ms. Boggs-McDonald of NRS 281.481(9).

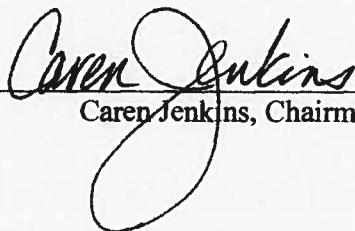
### **CONCLUSION**

Based on the foregoing, the Commission makes no finding that Ms. Boggs-McDonald violated NRS 281.481(2) or NRS 281.481(9).

**NOTE: THE FOREGOING OPINION APPLIES ONLY TO THE SPECIFIC FACTS AND CIRCUMSTANCES DEFINED HEREIN. FACTS AND CIRCUMSTANCES THAT DIFFER FROM THOSE IN THIS OPINION MAY RESULT IN AN OPINION CONTRARY TO THIS OPINION. NO INFERENCES REGARDING THE PROVISIONS OF NEVADA REVISED STATUTES QUOTED AND DISCUSSED IN THIS OPINION MAY BE DRAWN TO APPLY GENERALLY TO ANY OTHER FACTS AND CIRCUMSTANCES.**

DATED: September 15, 2006.

NEVADA COMMISSION ON ETHICS

By:   
Caren Jenkins, Chairman

**ATTACHMENT 6**

**ATTACHMENT 6**

**ATTACHMENT 6**



**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**RICHARD "DICK" GAMMICK**,  
District Attorney, Washoe County,  
State of Nevada,

**Request for Opinion No. 10-71C**

\_\_\_\_\_  
Public Officer. /

**OPINION**

**I. STATEMENT OF THE CASE**

Pursuant to NRS 281A.440(2)(b), a Third-Party Request for Opinion ("RFO") was filed with the Nevada Commission on Ethics ("Commission"), alleging that during his 2010 campaign for re-election, Washoe County District Attorney Richard "Dick" Gammick violated the Ethics in Government Law ("Ethics Law") as set forth in Chapter 281A of the Nevada Revised Statutes. As provided in NRS 281A.440, the Commission staff conducted an investigation. Thereafter, an Investigatory Panel<sup>1</sup> of two commissioners determined that just and sufficient cause existed for the Commission to hold a hearing and

render an opinion regarding the allegations.

The matter then came before a quorum of the Commission for a public hearing on February 10, 2011.<sup>2</sup> Gammick attended the hearing and provided sworn testimony. He was represented during the Commission proceedings by attorney Rew R. Goodenow, Esq., of the law firm of Parsons, Behle & Latimer.

At the conclusion of the hearing, and after fully considering the facts and circumstances disclosed by the evidence, including witness testimony and documents, the Commission deliberated on the record and orally announced its decision that a

<sup>1</sup> Commissioners Magdalena M. Groover and James Shaw served on the Investigatory Panel. Pursuant to NRS 281A.220(4), they did not thereafter participate in any proceedings of the Commission relating to the matter.

<sup>2</sup> The quorum consisted of Chairman J.T. Moran III, Esq. and Commissioners Erik Beyer, Paul H. Lambole, Esq., George M. Keele, John W. Marvel and Gregory Gale.

preponderance of the substantive and probative evidence did not support the allegations before the Commission. Accordingly, the Commission dismissed the allegations.<sup>3</sup> The Commission now renders this written Opinion setting forth its formal findings of fact and conclusions of law.

## II. PROCEDURAL HISTORY

On October 6, 2010, the Commission received an RFO from Chris Wedge, the campaign manager for Gammick's opponent in the 2010 election campaign for Washoe County District Attorney. The RFO alleged that Gammick had committed numerous ethical violations during his 2010 campaign for re-election. After an investigation by Commission staff, the Commission's Executive Director recommended that the Panel consider the following four specific alleged actions by Gammick:

1. An August 19, 2010, campaign related e-mail that Gammick sent during working hours from his county e-mail address;
2. An August 30, 2010, speech that Gammick made to the Republican Jewish Coalition event in Reno, when Gammick drove his county-issued vehicle to the event, county-purchased pens bearing Gammick's name were available to the public, a county employee assisted Gammick in operating a county-owned laptop computer and PowerPoint presentation developed by the district attorney's office, another county employee brought yard signs promoting Gammick's candidacy, a

campaign sign promoting Gammick's re-election was prominently displayed, and Gammick asked those in attendance for their vote and invited them to take home campaign signs;

3. A September 17, 2010, tailgating event at the University of Nevada stadium parking lot in Reno, where Gammick drove his county-owned vehicle containing campaign materials to the event and parked it behind a table staffed by a county employee displaying campaign literature encouraging passersby to vote for Gammick;
4. A September 26, 2010, event attended by a county employee, who gave his county business card to an individual and suggested that he could be contacted at that number regarding the campaign; however, the investigation disclosed no evidence that Gammick had anything to do with the county employee's invitation to respond to campaign questions at his county office.

The Executive Director further advised the Panel that Gammick's alleged actions on these four occasions raised the following six concerns under NRS chapter 281A:

1. By using government resources to further his interest in being reelected, Gammick may have violated NRS 281A.020, declaring that public officers must commit themselves to avoid conflicts between their public and private interests;

---

<sup>3</sup> Commissioners Gale and Lamboley voted against dismissal of certain allegations.



2. By using his position to benefit his reelection campaign, Gammick may have violated NRS 281A.400(2), which prohibits a public officer from using his position in government to secure unwarranted privileges, preferences, exemptions or advantages for himself;
3. By using his public office to acquire information generally not available to the public to benefit his reelection campaign, Gammick may have violated NRS 281A.400(5), which prohibits such action;
4. By using government resources to benefit his personal or financial interest, Gammick may have violated NRS 281A.400(7), which prohibits such action;
5. By attempting to influence his subordinates to benefit his personal or financial interest, Gammick may have violated NRS 281A.400(9), which prohibits such action;
6. By causing a governmental entity to incur an expense or make expenditures to support his candidacy, Gammick may have violated NRS 281A.520, which prohibits such action.

On December 9, 2010, the Panel formally considered the matter and determined that just and sufficient cause existed to forward four of these six allegations to the Commission for a hearing and issuance of an opinion. Specifically, the Panel found "that just and sufficient cause exists for the Commission to render an opinion on allegations that Gammick failed to properly separate his private and public

interests at the Republican Jewish Coalition event on August 30, 2010, and at the tailgating event on September 17, 2010, potentially implicating NRS 281A.020, NRS 281A.400(2), NRS 281A.400(7) and NRS 281A.520."

The Panel also found, however, "that just and sufficient cause did not exist to forward to the Commission those allegations related to using information not generally available to the public (NRS 281A.400(5)) or the influencing of a subordinate (NRS 281A.400(9)) to benefit his personal interest in achieving reelection." The Panel noted that "the employees stated that they had volunteered for the campaign related work, and no public information that should not have been disclosed was actually disclosed, so far as the investigator was able to determine."

### III. FINDINGS OF FACT<sup>4</sup>

1. Gammick is the duly elected Washoe County District Attorney and was seeking reelection to that office when the alleged violations under consideration occurred in 2010.
2. Gammick attended the Republican Jewish Coalition event on August 30, 2010, and made a speech at the invitation of that organization. He utilized in his speech a laptop owned by Washoe County and a PowerPoint presentation developed by Gammick as a visual aid. The PowerPoint slides describe the

---

<sup>4</sup> Findings of Fact numbered 2 - 8, were included in a stipulated agreement between Gammick and the Commission; they were unanimously adopted and approved by the Commission at the hearing.

history and functions of the district attorney's office.

3. Washoe County incurred no additional costs for Gammick's use of the laptop or software at the Republican Jewish Coalition event.
4. The Commission exhibit of a video recording of the Republican Jewish Coalition event constitutes an accurate copy of what it purports to be, a video of Gammick's speech recorded at the time and place the speech was given.
5. The Commission exhibit of a photograph of a ballpoint pen given out by Gammick at the Republican Jewish Coalition event constitutes an accurate representation of the item.
6. The Commission exhibits of photographs of the September 17, 2010, tailgate event constitute an accurate representation taken contemporaneously with the event.
7. Washoe County Code Section 5.389 authorizes Gammick's use of his vehicle under the conditions stated therein. Washoe County Code Section 5.340 subparagraph (2) permits use of county property for personal purposes if its use does not interfere with the county officer's public duties, its cost or value is nominal, and its use does not create an appearance of impropriety. Washoe County Internet and Intranet Acceptable Use Policy Section 5.340, subsection (2) is admissible in this case.
8. Washoe County Code Section 5.341 permits Gammick to engage in political activities after business hours. Whether they were or were not political in nature, the Republican Jewish Coalition and tailgate events both occurred after business hours.
9. A county employee, Gammick's Law Office Manager, assisted Gammick's reelection campaign as an unpaid volunteer on his own time after working hours by distributing Gammick's campaign signs. He attended the Republican Jewish Coalition event on his own time and on his own volition. He took campaign signs into the event, put one sign up on a wall in the room where the event was held, and placed some on a table for the public. Gammick did not request, influence or direct him to attend the event or to bring the signs.
10. A county employee, the administrative assistant in the district attorney's office, voluntarily attended the Republican Jewish Coalition event on her own time and without compensation. She also attended the tailgating event as an unpaid volunteer for Gammick's reelection campaign and on her own time after work hours. At the Republican Jewish Coalition event she assisted Gammick in his speech by operating a PowerPoint presentation using Gammick's county-owned laptop computer. At the tailgating event she assisted the Gammick campaign by staffing a table displaying campaign literature that was set up in a parking space



behind Gammick's county-owned vehicle.

11. Gammick drove his county-owned vehicle to the Republican Jewish Coalition event and the tailgating event. During the Republican Jewish Coalition speech Gammick stated that he was going to ask the members of the audience for their vote and later encouraged those present to take a campaign sign. The major part of his presentation, however, was devoted to the history and duties of the district attorney's office.
12. As the district attorney, Gammick is on call 24 hours a day and seven days a week. On the date of the tailgating event, he drove his county-owned vehicle to the scene of a murder investigation prior to taking that same vehicle to the tailgating function. He transported a folding table and campaign literature to the event in the vehicle.
13. At the tailgating event, although the tailgate on Gammick's county-owned vehicle was left open and some emergency lights were visible, he did not otherwise seek to draw attention to any special features of the vehicle.

#### **IV. STATEMENT OF ISSUES**

The issues in this matter arise from the three above-noted events: (1) an e-mail that Gammick sent on August 19, 2010; (2) the presentation that Gammick made to the Republican Jewish Coalition on August 30, 2010; and (3) the tailgating event at the University of Nevada Reno parking lot on September

17, 2010. In the context of these events, the Commission considered whether Gammick violated: NRS 281A.020 (failing to separate his public and private interests by using government resources to further reelection campaign); NRS 281A.400(2) (using his position in government to secure unwarranted privileges, preferences, exemptions or advantages to benefit his reelection campaign); NRS 281A.400(7) (using government resources to benefit his personal or financial interest); and NRS 281A.520 (causing a governmental entity to incur an expense or make expenditures to support his candidacy).

At the beginning of the Commission proceedings of February 10, 2011, Chairman Moran moved to dismiss the allegation concerning the e-mail that Gammick sent on August 19, 2010. The Commission unanimously approved the motion. Specifically, the Commission found that the Investigatory Panel had not specifically addressed that e-mail allegation in its proceedings, and therefore, the Panel had not properly provided Gammick with notice that the e-mail allegation would be considered at the Commission hearing. The Commission further found that, even if it were to address that allegation on the merits, Washoe County's Internet and Intranet Acceptable Use Policy clearly and unambiguously permitted the limited personal e-mail use at issue and that the county did not incur any specific expense related to that use.<sup>5</sup>

---

<sup>5</sup> The Washoe County policy references Washoe County Code Section 5.340 and former NRS 281.481(7), which has been replaced by NRS 281A.400(7). These statutory and county code provisions permit limited personal use of



During the hearing, the Commission deliberated on the remaining allegations. In accordance with NRS 281A.480(9), which requires Commission findings of ethical violations by a public officer to be supported by a preponderance of the evidence, the Commission found that none of the remaining allegations before it was supported by sufficient evidence.

## **V. DISCUSSION OF RELEVANT STATUTES AND ISSUES**

### **A. Public Policy**

#### **NRS 281A.020 provides in part:**

1. It is hereby declared to be the public policy of this state that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

Gammick moved the Commission to dismiss all charges alleging independent violations of this provision. Gammick's counsel argued that NRS 281A.020 did not constitute an independent basis upon which any violation could be found because it contained merely "aspirational,

---

government property if an established policy authorizes the limited use, the use does not interfere with the performance of public duties or provision of services, the cost or value related to the use is nominal, and the use does not create an appearance of impropriety.

precatory language" and was not within the Code of Ethical Standards that the Commission is charged with enforcing. In particular, counsel noted that the Code of Ethical Standards setting forth specific rules of ethical conduct begins with NRS 281A.400, whereas NRS 281A.020 was set forth under the statutory heading: "General Provisions."

Under the specific facts and circumstances of this particular case, the Commission voted four to two to dismiss the allegations asserting independent violations of NRS 281A.020.<sup>6</sup> As Commissioner Keele observed, however, the statute contains exceedingly important language, some of which can be read to be mandatory. Thus, the Commission limited its ruling in this respect to the facts and circumstances of this case. The Commission did not address whether NRS 281A.020 might be used in another case as a predicate for finding violations of this or other provisions of NRS chapter 281A.

### **B. Causing Governmental Expense or Expenditure to Support Candidacy.**

NRS 281A.520(1)(b) provides in part that "a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose . . . a candidate." Under NRS 281A.520(2) and (3) such an expense or expenditure is considered to be in support of a candidate, if it is made "for the creation or dissemination of a pamphlet, brochure, publication,

---

<sup>6</sup> Commissioners Gale and Lamboley voted against the motion to dismiss the NRS 281A.020 allegations.

advertisement or television programming that prominently features the activities of a current public officer of the governmental entity who is a candidate for a state, local or federal elective office." In addition, "the pamphlet, brochure, publication, advertisement or television programming" must be "created or disseminated" during the period beginning "when the current public officer of that governmental entity files a declaration of candidacy or acceptance of candidacy" and ending "on the date of the general election, general city election or special election for the office for which the current public officer . . . is a candidate."

Gammick moved the Commission to dismiss the alleged violations of NRS 281A.520. His counsel observed that none of the specific enumerated items, such as pamphlets or brochures, had been shown to be involved in this case, and there was no evidence of public monies having been expended for any such items. Thus, based on its finding that the evidence failed to establish the particular elements of a violation under the statute, the Commission unanimously voted to dismiss the allegations associated with NRS 281A.520.<sup>7</sup>

---

<sup>7</sup> A ballpoint pen identifying Gammick as the district attorney and providing the telephone number of the office, was paid for at public expense and available to the public at the Republican Jewish Coalition event, but it was not purchased or created for Gammick's campaign or during the relevant period of Gammick's candidacy, it was not an item enumerated in NRS 281A.520(2), and it did not prominently feature any of Gammick's activities.

**C. Using Government Position or Property to Secure Unwarranted Privileges, Preferences, Exemptions or Advantages to Benefit Reelection Campaign and Using Government Resources to Benefit Personal or Financial Interest.**

NRS 281A.400(2) prohibits a public officer from using his "position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer . . . ."

NRS 281A.400(7)(a) prohibits a public officer from using "government time, property, equipment or other facility to benefit the public officer's . . . personal or financial interest." NRS 281A.400(7) does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances.

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety[.]



**1. Use of Computer and PowerPoint Presentation to Benefit Campaign.**

Gammick moved to dismiss the alleged violations of NRS 281A.400(2) and (7), involving the use at the Republican Jewish Coalition meeting of the county-owned laptop computer and the PowerPoint presentation. His counsel noted that no evidence was adduced demonstrating an unwarranted public cost associated with that use. The Commission agreed that no evidence supported a finding of a violation of the provisions at issue and voted unanimously to dismiss the allegations under NRS 281A.400(2) and (7) relating to the use of the laptop computer and PowerPoint presentation.

**2. Use of Position, County-Owned Vehicle or Other Government Property to Benefit Campaign at Republican Jewish Coalition Event.**

The Commission also unanimously found that Gammick's other actions at the Republican Jewish Coalition event did not violate NRS 281A.400(2) or (7). The evidence showed that event evolved over time into what essentially became a public informational presentation. While some campaigning occurred, it appeared to result primarily from the actions of a zealous campaign volunteer, who acted on his own without any request, influence or direction from Gammick. Further, the Commission found that no violations of NRS 281A.400(2) or (7) were implicated by the fact that Gammick drove his county-owned vehicle to the Republican Jewish Coalition event after work hours and before going home for the evening, or

by the distribution of any county-purchased ballpoint pens. The evidence failed to demonstrate that the use of county property under these circumstances was unauthorized, that it interfered with Gammick's performance of public duties in any way, that its cost was anything other than nominal, or that it created an appearance of impropriety.

**3. Violation of NRS 281A.400(2) by Use of County-Owned Vehicle at Tailgating Event of September 17, 2010.**

The Commission voted five to one to dismiss the allegation that Gammick violated NRS 281A.400(2) by driving his county-owned vehicle to the tailgating event of September 17, 2010.<sup>8</sup> The evidence before the Commission showed that Gammick is subject to being called to his public duties 24 hours a day, seven days a week, and that Washoe County has made a county-owned vehicle available to him for his use. On the date in question, Gammick had driven his county-owned vehicle to the scene of a murder investigation immediately prior to driving to the tailgating event. Thus, a majority of the Commission found that his use of the vehicle to attend and transport campaign materials to the tailgating event under these circumstances was incidental, warranted and authorized.

---

<sup>8</sup> Commissioner Lamboley voted against dismissal of the allegation.

**4. Violation of NRS 281A.400(7) by Use of County-Owned Vehicle at Tailgating Event of September 17, 2010.**

By a vote of five to one, the Commission voted to dismiss the allegation that Gammick violated NRS 281A.400(7) by using his county-owned vehicle to drive and transport campaign materials to the tailgating event of September 17, 2010.<sup>9</sup> A majority of the Commission found that there was a policy authorizing Gammick's use of the vehicle under these circumstances, that the use of the vehicle did not interfere in any way with Gammick's performance of his public duties, that there was no evidence that the cost of the use was anything other than nominal, and that based on the fact that he drove directly to the event from a murder investigation, no appearance of impropriety was created.

**VI CONCLUSIONS OF LAW**

1. At all times relevant to this matter, Gammick was a "public officer" as defined by NRS 281A.160. The Commission has jurisdiction over public officers pursuant to NRS 281A.280.
2. Pursuant to NRS 281A.440(2)(b) and NRS 281A.460, the Commission has jurisdiction to render an opinion in this matter.
3. Under the facts and circumstances presented in this matter, NRS 281A.020 did not provide an independent basis of a violation.

<sup>9</sup> Commissioner Lamboley voted against dismissal of this allegation.

4. A preponderance of the evidence before the Commission did not establish that Gammick violated NRS 281A.400(2) by using his position in government to secure unwarranted privileges, preferences, exemptions or advantages to benefit his reelection campaign.
5. A preponderance of the evidence before the Commission did not establish that Gammick violated NRS 281A.400(7) by using government resources to benefit his personal or financial interest.
6. A preponderance of the evidence before the Commission did not establish that Gammick violated NRS 281A.520 by causing a governmental entity to incur an expense or make expenditures to support his candidacy.

Dated this 29<sup>th</sup> day of May 2012.

NEVADA COMMISSION ON ETHICS

By: Erik Beyer  
Erik Beyer  
Chairman<sup>10</sup>

<sup>10</sup> At the time this written opinion was issued, the presiding officer in this matter, then-Chair Moran, no longer served on the Commission. Therefore, current Chair Beyer signed this opinion on behalf of the participating Commissioners.



## STATE OF NEVADA

### BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Leonard Lance Gilman**, Member,  
Storey County Commission, State of  
Nevada,

Request for Opinion No. **14-73C**

\_\_\_\_\_  
Public Officer. /

#### PANEL DETERMINATION

NRS 281A.440(5); NAC 281A.440

The Nevada Commission on Ethics received a Third-Party Request for Opinion ("RFO"), No. 14-73C, regarding the conduct of Leonard Lance Gilman ("Gilman") alleging violations of the Ethics in Government Law set forth in NRS Chapter 281A ("Ethics Law"). The RFO alleges violations of NRS 281A.020, NRS 281A.400(2), NRS 281A.400(7), and NRS 281A.520. With respect to the alleged violation of NRS 281A.520, the RFO did not provide sufficient evidence as required by NAC 281A.400 for the Commission to accept jurisdiction, investigate or present such allegation to the Panel.

At the time of the alleged conduct, Gilman served as a Member of the Storey County Board of Commissioners, a public officer as defined in NRS 281A.160. The Commission has jurisdiction over the conduct of public officers pursuant to NRS 281A.280. Therefore, the Commission has jurisdiction in this matter.

On July 15, 2015, pursuant to NRS 281A.440(5), an Investigatory Panel consisting of Commissioners Magdalena Groover and Keith A. Weaver, Esq. reviewed the following: 1) RFO; 2) Notice to Subject; 3) Subject's written response to RFO; 4) Subject's supplemental response to RFO; 5) the results of the Commission's related investigation; 6) the Associate Counsel's Investigatory Report to Executive Director; and (7) the Executive Director's Recommendation to Investigatory Panel.

Under NAC 281A.435, the Panel concludes that the facts do not establish credible evidence to substantiate just and sufficient cause for the Commission to consider the alleged violation of NRS 281A.400(7). Therefore, this allegation is dismissed.

However, the Panel unanimously concludes that credible evidence does support just and sufficient cause for the Commission to hold a hearing and render an opinion regarding whether Gilman violated NRS 281A.020 and NRS 281A.400(2) by using his official position as a Commissioner, during a meeting of the Storey County Board of County Commissioners, to make a statement from the dais during an agenda item entitled "Board Comments" to draw special Board and public attention to a private business matter.

Therefore, the Investigatory Panel refers the alleged violations of NRS 281A.020 and NRS 281A.400(2) to the Commission to hold a hearing and render an opinion in accordance with the provisions of the Ethics Law. Under NRS 281A.440, a notice of hearing and a procedural order will follow.

Dated: July 20, 2015

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



### CERTIFICATE OF MAILING

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 **PANEL DETERMINATION** in Request for Opinion **No. 14-73C**, via and E-mail and U.S. Mail to the parties and interested persons as follows:

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director  
Jill C. Davis, Esq.  
Associate Counsel  
Commission on Ethics  
704 W. Nye Lane, Suite 204  
Carson City, NV 89703

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Email: [jilldavis@ethics.nv.gov](mailto:jilldavis@ethics.nv.gov)

Rick R. Hsu, Esq.  
Maupin, Cox & LeGoy  
4785 Caughlin Parkway  
Reno, NV 89519

Email: [rhsu@mclrenolaw.com](mailto:rhsu@mclrenolaw.com)

Leonard Lance Gilman  
Storey County Commission  
26 South B Street  
Virginia City, NV 89440

Gerald Antinoro  
P.O. Box 88  
Virginia City, NV 89440

Email: [gantinatoro@hotmail.com](mailto:gantinoro@hotmail.com)

DATED: July 20, 2015



\_\_\_\_\_  
Employee of the Nevada Commission on Ethics







STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party  
Request for Opinion Concerning the  
Conduct of **Leonard Lance Gilman**,  
Member, Storey County Commission,  
State of Nevada,

Request for Opinion No. **14-73C**

Subject. /

**NOTICE OF HEARING**

**PLEASE TAKE NOTICE**, that the Nevada Commission on Ethics ("Commission") will consider a **Proposed Stipulated Agreement** regarding the allegations submitted in Third Party Request for Opinion No. 14-73C at the following time and location:

**The Hearing Will Take Place:**

**Wednesday, April 20, 2016 at 2:00 p.m., or as soon thereafter as the  
Commission is able to hear the matter, at the following location:**

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

and via video-conference to:

**Governor's Office of Economic Development  
555 E. Washington Ave, Suite 5400  
Las Vegas, NV 89101**

This hearing is to consider a Proposed Stipulated Agreement in lieu of a Hearing on the Motions originally noticed in the *Fifth-Amended Notice of Hearing on the Motions and Scheduling Order* issued on January 12, 2016. 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 Sixth-Amended Notice of Hearing setting the date, time and location for a hearing to consider the matter.

DATED: April 6, 2016

/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. **14-73C**, via email, addressed 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, Nevada 89703

Email: [ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

Email: [jprutzman@ethics.nv.gov](mailto:jprutzman@ethics.nv.gov)

Rick R. Hsu, Esq.  
Maupin, Cox & LeGoy  
4785 Caughlin Parkway  
Reno, NV 89519

Email: [rhsu@mcclrenolaw.com](mailto:rhsu@mcclrenolaw.com)

Gerald Antinoro  
P.O. Box 88  
Virginia City, NV 89440

Email: [gantinatoro@hotmail.com](mailto:gantinoro@hotmail.com)

DATED: April 6, 2016



An employee, Nevada Commission on Ethics