

# **Agenda Item 3**



**STATE OF NEVADA  
COMMISSION ON ETHICS**

<http://ethics.nv.gov>

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

**January 17, 2018**

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

**Nevada Legislative Building  
Room 3138  
401 S. Carson Street  
Carson City, NV 89701**

and via video-conference to:

**Grant Sawyer State Building  
Room 4401  
555 E. Washington Avenue  
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 and Roll Call.

Chair Cheryl A. Lau, Esq. called the meeting to order in Carson City, Nevada at 9:30 a.m. Also present in Carson City were Commissioners Brian Duffrin, and Philip K. O'Neill. Present in Las Vegas, Nevada were Commissioners Lynn Stewart and Amanda Yen, Esq. Commissioner Barbara Gruenewald, Esq. appeared telephonically. Present for Commission staff in Carson City were Executive Director Yvonne M. Nevarez-Goodson, Esq., Commission Counsel Tracy L. Chase, Esq., Associate Counsel Judy Prutzman, Esq., Senior Legal Researcher Darci Hayden and Executive Assistant Kari Pedroza. Vice-Chair Keith A. Weaver, Esq. was excused for the majority of the meeting, however, he appeared telephonically under Agenda Item 5.

The pledge of allegiance was conducted.

2. Public Comment.

No public comment.

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

Commissioner O'Neill moved to accept the November 15, 2017 Minutes as presented, Commissioner Duffrin seconded the motion. The Motion was put to a vote and carried unanimously.

4. Discussion and approval of a Proposed Stipulation concerning Ethics Complaint No. 17-37C regarding Bryce B. Boldt, Administrative Officer, Boulder City, Nevada.

Bryce B. Boldt, Administrative Officer, Boulder City, Nevada appeared before the Commission telephonically. Appearing on behalf of the Executive Director was Associate Counsel Judy A. Prutzman, Esq.

Commission Counsel Chase presented a brief overview of the Proposed Stipulation in Ethics Complaint Case No. 17-37C to the Commission.

Associate Counsel Prutzman gave an overview of the Ethics Complaint Case No. 17-37C, stating that the Complaint alleged that Mr. Boldt violated the Ethics Law when he stayed overnight in the storage area of a city owned building adjacent to the city hall building where he was employed. The Complaint alleged that Mr. Boldt violated NRS 281A.400(2) and (7) in the use of government property for personal purposes.

Associate Counsel Prutzman stated that material facts in this case were not disputed and Mr. Boldt admitted that he used the storage area for his personal purposes.

The Proposed Stipulation Agreement reflects that Mr. Boldt's conduct would result in a willful violation of the Ethics Law and a \$1,000 civil penalty.

Commissioner Gruenewald moved to accept the terms of the Proposed Stipulation as presented by the parties and direct Commission Counsel to finalize the stipulation in appropriate form, provided that such form does not materially change the terms as approved by the Commission. Commissioner Yen seconded the Motion. The Motion was put to a vote and carried as follows:

Chair Lau:	Aye.
Commissioner Gruenewald:	Aye.
Commissioner Yen:	Aye.
Commissioner Stewart:	Aye.
Commissioner Duffrin:	No.
Commissioner O'Neill:	No.

The Motion Passed. See Exhibit A, Boldt Proposed Stipulated Agreement.

5. Discussion and approval of a Proposed Stipulation concerning Third-Party Request for Opinion No. 16-81C regarding Terrence Taylor, Captain/ Fire Investigator for the East Fork Fire Protection District, Douglas County, Nevada.

Appearing before the Commission in this matter was Subject Terrence Taylor and his counsel, Rich R. Hsu, Esq., of Maupin, Cox, and LeGoy. Appearing on behalf of the Executive Director was Associate Counsel Judy A. Prutzman, Esq.

Commission Counsel Chase provided a brief overview of the Proposed Stipulation in Case No. 16-81C to the Commission.

Associate Counsel Prutzman provided a synopsis of the Proposed Stipulation affirming that the Subject and the Executive Director proposed a finding of a single course of conduct resulting in one willful violation of the Ethics Law, implicating NRS 281A.400(2), as interpreted by the provisions of NRS 281A.020. The Request for Opinion alleged that Terrence Taylor, a captain and fire investigator for the East Fork Fire Protection District in Douglas County used his public position to further his private interests related to his private fire investigation business, Terry Taylor Investigations. Associate Counsel Prutzman stated that the Proposed Stipulation reflects that Mr. Taylor's conduct results in one willful violation and a \$500 civil penalty, with an additional penalty in the amount of \$1,659.40, which equals the financial benefit realized by Mr. Taylor. Associate Counsel Prutzman summarized similar Ethics decisions and settlements addressed by the Commission and asserted that the proposed penalty amount in this case results in a settlement that treats the Subject comparably to other similar decisions and agreements approved by the Commission as required by NRS 281A.465.

Associate Counsel Prutzman stated that the allegations implicating NRS 281A.400(1) and (10) are recommended to be dismissed through the Proposed Stipulation because the investigation did not yield a preponderance of the evidence to support a violation with regard to those specific allegations.

Commissioner Gruenewald moved to accept the terms of the stipulation as presented by the parties, and direct Commission Counsel to finalize the stipulation in appropriate form, provided that such form does not materially change the terms as approved by the Commission. Chair Lau seconded the Motion. The Motion was put to a vote with results as follows:

Chair Lau:	Aye.
Commissioner Gruenewald:	Aye.
Commissioner Duffrin:	Aye.
Commissioner O'Neill:	No.
Commissioner Stewart:	No.
Commissioner Yen:	No.

The Motion Failed.

Commission Counsel Chase informed the Commission that in the event of a three-three tie with a Commissioner not present, the item would be brought before the Commission again at the next meeting so that Vice-Chair Keith A. Weaver, Esq. may consider the matter and at that point in time the stipulation would be considered. Executive Director Nevarez-Goodson asked whether the chair would table the matter to provide staff the opportunity to contact Vice-Chair Weaver to determine his availability to appear telephonically to address the matter later in the agenda. Commission Counsel Chase agreed that if Vice-Chair Weaver could participate telephonically, the matter could be revisited at another time during the meeting.

Chair Lau tabled the matter to provide staff an opportunity to consult with Vice-Chair Weaver regarding his availability later in the meeting to address this matter.

A five minute recess was taken.

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

- Upcoming Commission Meetings
- FY18 Budget Status/ Upcoming Biennial Budget Cycle (2020 – 2021)
- Administrative Regulation Planning
- Interim Salary Study (S.C.R. 6)

- Education and Outreach by the Commission
- Case Management System, Opinion Database and Commission Website
- Commission Appointments

Upcoming Commission Meetings: Executive Director requested that Commissioners reserve the third Wednesday of every month and she will let Commissioners know in advance if a meeting will be canceled. She also informed the Commission that there would not be a formal meeting in February but that there may be a need for a teleconference which she would announce as soon as possible.

FY18 Budget Status/ Upcoming Biennial Budget Cycle (2020 – 2021): Executive Director briefly summarized the current status of the FY18 Budget, highlighting the increase in contract amounts such as Lexis, cost savings from court reporting due to fewer Commission meetings than anticipated and work programs to accommodate allocated funds transferred to other categories. She outlined possible enhancements to the upcoming biennial budget and requested Commission input on these enhancements. She stated the enhancements could include additional salary enhancements, possible increase in staff positions and any bill draft housekeeping changes necessary as the result of Senate Bill 84.

Administrative Regulation Planning: Executive Director Nevarez-Goodson explained the administrative rulemaking procedure and the need to revise current regulations to ensure compliance with changes brought by SB 84. She stated that draft regulations could be brought to the Commissioners over the next few months.

Interim Salary Study (S.C.R. 6): Executive Director Nevarez-Goodson provided an update that Commission staff salaries would be included in an interim study and that she would work in cooperation with staff members of the Public Utilities Commission and the Gaming Control Board to provide necessary data to assist with the study.

Education and Outreach by the Commission: Executive Director Nevarez-Goodson briefly summarized the education and outreach presentations she has provided to the public agencies across the state. She noted that there has been an increase in training requests from state agencies and intends to research additional methods by which the Commission staff can provide trainings through technology to meet the demands and make the resources available on a broader scale.

Case Management System, Opinion Database and Commission Website: Executive Director Nevarez-Goodson asked the Commissioners to view the recently launched online searchable database of published opinions and provide any feedback regarding the case management system to Commission staff about the functionality of the features. She stated that the majority of acknowledgement forms received this year were submitted online which has resulting in time savings for Commission staff in that there is no need for further processing of those forms.

Commission Appointments: Executive Director Nevarez-Goodson informed the Commissioners that the recent appointee to the Commission currently served in a different public office which created a conflict and that we are awaiting a determination from the Legislative Commission whether this appointee would be confirmed. If the position remained vacant, the Legislative Commission would make another appointment.

In response to the Executive Director's report on agency operations, Commissioner Stewart moved that the Commission be supportive in actively pursuing salary increases for staff to bring them on par with other Commissions in the Executive, Legislative and Judicial branches of the Government of the State of Nevada. Commissioner Duffrin seconded the motion. The Motion was put to a vote and carried unanimously.

7. 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.

No Commissioner comment.

A five minute recess was taken.

Vice-Chair Keith A. Weaver, Esq. joined the meeting telephonically.

5. Discussion and approval of a Proposed Stipulation concerning Third-Party Request for Opinion No. 16-81C regarding Terrence Taylor, Captain/ Fire Investigator for the East Fork Fire Protection District, Douglas County, Nevada.

Chair Lau reopened this agenda item regarding the Proposed Stipulation in this matter. Vice-Chair Weaver confirmed that he had been provided the meeting materials related to this matter along with the other Commissioners in advance of the meeting and he had reviewed the information.

Associate Counsel Prutzman, with the permission of the Commission, streamlined her presentation and represented the comparable cases with regard to the proposed penalty for Third-Party Request for Opinion No. 16-81C concerning Terrance Taylor to Vice-Chair Weaver. Subject Taylor and his counsel did not object to the presentation or appearance by Vice-Chair Weaver.

Commissioner Gruenewald renewed her motion to accept the terms of the Proposed Stipulation as presented by the parties and direct Commission Counsel to finalize the stipulation in appropriate form, provided that such form does not materially change the terms as approved by the Commission. Chair Lau seconded the Motion. The Motion was put to a vote and carried as follows:

Chair Lau:	Aye.
Vice-Chair Weaver:	Aye.
Commissioner Gruenewald:	Aye.
Commissioner Duffrin:	Aye.
Commissioner O'Neill:	No.
Commissioner Stewart:	No.
Commissioner Yen:	No.

The Motion Passed. See Exhibit B, Taylor Proposed Stipulated Agreement.

8. Open Session for Public Comment.

No public comment.

9. Adjournment.

The meeting adjourned at 11:05 a.m.

Minutes prepared by:

/s/ Kari Pedroza

Kari Pedroza  
Executive Assistant

/s/ Yvonne M. Nevarez-Goodson

Yvonne M. Nevarez-Goodson, Esq.  
Executive Director

Minutes approved March 21, 2018:

/s/ Cheryl A. Lau

Cheryl A. Lau, Esq.  
Chair

/s/ Keith A. Weaver

Keith A. Weaver, Esq.  
Vice-Chair

**Exhibit A**  
**Boldt Proposed Stipulated Agreement**

**Nevada Commission on Ethics**  
**January 17, 2018 Meeting Minutes**



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

In re **Bryce B. Boldt**, Administrative  
Officer, Boulder City, State of Nevada,

Ethics Complaint Case No. **17-37C**

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

**DRAFT**

**PROPOSED STIPULATED AGREEMENT**

1. **PURPOSE:** This Stipulated Agreement resolves Ethics Complaint Case No. 17-37C before the Nevada Commission on Ethics (“Commission”) concerning Bryce B. Boldt (“Boldt”), Administrative Officer, Boulder City (“City”), Nevada.

2. **JURISDICTION:** At all material times, Boldt was employed by the City and is a public employee, as defined in NRS 281A.150. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A<sup>1</sup> gives the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Boldt in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION**

- a. On or about September 11, 2017, the Commission received Ethics Complaint No. 17-37C (“Ethics Complaint”) from a member of the public (“Requester”), alleging that Boldt used his public position to secure or grant unwarranted privileges or advantages for himself (NRS 281A.400(2)) and used governmental time, property, equipment or other facility to benefit his significant personal or pecuniary interest (NRS 281A.400(7));
- b. On October 26, 2017, the Commission issued its *Order on Jurisdiction* accepting jurisdiction and directing the Executive Director to investigate this matter.

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<sup>1</sup> Senate Bill 84 (“S.B. 84”) of the 79<sup>th</sup> Session of the Nevada Legislature (2017) amends and enacts various provisions of NRS Chapter 281A, which statutes have yet to be formally codified. The amendatory provisions of S.B. 84 control over any contrary provisions of NAC Chapter 281A.

- c. On October 26, 2017, staff of the Commission issued a *Notice to Subject* under NRS 281A.440(2), stating that the Commission accepted jurisdiction to investigate the allegations regarding alleged violations of NRS 281A.400(2) and (7). Boldt was provided an opportunity to provide a written response to the Ethics Complaint.
- d. On December 6, 2017, in lieu of a written response, Boldt elected to meet with Commission staff to provide an oral response.
- e. Boldt waived his right to a panel determination pursuant to NRS 281A.440 and acknowledges that credible evidence establishes just and sufficient cause for the Commission to render an opinion regarding the allegations implicating NRS 281A.400(2) and (7).

**4. PROPOSED STIPULATED FACTS:** At all material times, the following facts were relevant to this matter:<sup>2</sup>

- a. Boldt is an Administrative Officer in Human Resources of Boulder City and a public employee as defined by NRS 281A.150. Boldt has worked for Boulder City since December 2009.
- b. Employees of Boulder City must use a key card to enter secure spaces within the Boulder City City Hall during normal working hours and to enter other city-owned buildings adjacent to City Hall after normal working hours. The key card system records employee entries but does not record employee departures.
- c. Boldt works a 4-day, 10-hour schedule and his normal work hours are Monday through Thursday, 7:00 am to 6:00 pm.
- d. Many of the files and documents retained by Boulder City Human Resources are stored in a first floor storage area (“Records Storage Area”) in a public building adjacent to the City Hall building where Boldt’s office is located. Accordingly, Boldt must access the Records Storage Area to obtain those files and documents.

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

- e. Boldt's key card records indicate that between July 18, 2016 and February 14, 2017, he used his Boulder City employee key card to enter the Records Storage Area on a daily basis, including 162 entry times after the end of normal work hours over the course of 80 days. Boldt's after-hours entries to the Records Storage Area consistently occurred on Monday, Tuesday and Wednesday nights and some of the entry times were as late as 9 pm. Boldt entered this City facility for personal purposes, including on several occasions to stay overnight.
- f. On May 15, 2017, Boldt received a letter from then City Manager, David Fraser, reprimanding Boldt for his admitted use of a City facility for personal reasons.
- g. As a consequence of his personal use of a City facility, Boldt was suspended and placed on leave without pay for two days in 2017.
- h. Boldt's leave without pay resulted in lost wages in the amount of \$1,203.60, in addition to a \$337.01 reduction in employee contributions to the Public Employees Retirement System of Nevada ("PERS").

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

- a. Each of the stipulated facts enumerated in Section 4 of this Stipulated Agreement is agreed to by the parties.
- b. Boldt is a public employee, which constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the citizens of Boulder City).
- c. As a public employee, Boldt may not use his public position to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself (NRS 281A.400(2)) or use government resources to benefit a significant personal or pecuniary interest. (NRS 281A.400(7)).
- d. Boldt did not adequately avoid the conflict of interest between his public duties and private interests when he used the Records Storage Area as a place to stay overnight.
- e. In using the Records Storage Area for personal purposes, Boldt used his position in government to secure an unwarranted privilege or advantage for

himself, in violation of NRS 281A.400(2). His use of governmental property to benefit his significant personal or pecuniary interest also violated NRS 281A.400(7).

- f. Boldt's actions constitute a single course of conduct resulting in one violation of the Ethics Law, implicating the provisions of NRS 281A.400(2) and (7), as interpreted and applied in accordance with the provisions of NRS 281A.020(1).
- g. Boldt's violation of NRS Chapter 281A was willful pursuant to NRS 281A.170 because he acted intentionally and knowingly, as those terms are defined in NRS 281A.105 and 281A.115, respectively.
- h. Without limitation, the Commission considered the following factors in determining whether Boldt's violation is willful and the amount of the civil penalty to be imposed on Boldt:
  - 1) Boldt has not previously violated the Ethics Law.
  - 2) Boldt has been diligent to cooperate with and participate in the Commission's investigation and resolution of this matter.
  - 3) Boldt has been reprimanded by his employer for the conduct described in this Complaint and suffered a loss of income and benefits equal to approximately \$1,500.
- i. Despite the consideration and application of the statutory mitigating criteria set forth in NRS 281A.475 and other mitigating circumstances presented in this matter, the Commission concludes that Boldt's violation in this case should be deemed a willful violation pursuant to NRS 281A.170.
- j. For the willful violation, Boldt will pay a civil penalty of \$1,000.00, pursuant to NRS 281A.480, on or before June 30, 2018. Boldt may pay the penalty in one lump sum payment or in monthly installment payments as negotiated with the Commission's Executive Director.
- k. This Stipulated Agreement depends on and applies only to the specific facts, circumstances and law related to the Ethics Complaint now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.

- I. This agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding Boldt. If the Commission rejects this Stipulated Agreement, none of the provisions herein shall be considered by the Commission or be admissible as evidence in a hearing on the merits in this matter.

**6. WAIVER**

- a. Boldt knowingly and voluntarily waives his right to an Investigatory Panel proceeding and any related hearing before the full Commission on the allegations in Ethics Complaint Case No. 17-37C and all rights he may be accorded with regard to this matter pursuant to NRS Chapter 281A, S.B. 84, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.
- b. Boldt knowingly and voluntarily waives his right to any judicial review of this matter as provided in NRS 281A, NRS 233B or any other applicable provisions of law.

**7. ACCEPTANCE:** We, the undersigned parties, have read this Stipulated Agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on January 17, 2018.<sup>3</sup>

DATED this \_\_\_\_ day of \_\_\_\_\_, 2018. DRAFT  
Bryce B. Boldt

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<sup>3</sup> Subject waived any right to receive written notice pursuant to NRS 241.033 of the time and place of the Commission's meeting to consider his character, alleged misconduct, professional competence, or physical or mental health.

The above Stipulated Agreement is approved by:

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.  
Executive Director, Commission on Ethics

DATED this \_\_\_\_ day of \_\_\_\_\_, 2018. DRAFT  
\_\_\_\_\_  
Judy A. Prutzman, Esq.  
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this \_\_\_\_ day of \_\_\_\_\_, 2018. DRAFT  
\_\_\_\_\_  
Tracy L. Chase, Esq.  
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.<sup>4</sup>

DATED \_\_\_\_\_, 2018.

By: DRAFT  
Cheryl A. Lau, Esq.  
Chair

By: DRAFT  
Philip K. O'Neill  
Commissioner

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

By: DRAFT  
Lynn Stewart  
Commissioner

By: DRAFT  
Brian Duffrin  
Commissioner

By: DRAFT  
Amanda Yen, Esq.  
Commissioner

By: DRAFT  
Barbara Gruenewald, Esq.  
Commissioner

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<sup>4</sup> Subject waived his right to an Investigatory Panel pursuant to NRS 281A.440. Accordingly, this Stipulated Agreement was executed prior to a Panel hearing in this matter and no Commissioner was precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220.

**Exhibit B**  
**Taylor Proposed Stipulated Agreement**

**Nevada Commission on Ethics**  
**January 17, 2018 Meeting Minutes**



**STATE OF NEVADA**

**BEFORE THE NEVADA COMMISSION ON ETHICS**

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Terrence Taylor**, Captain/Inspector,  
East Fork Fire Protection District,  
Douglas County, State of Nevada,

Request for Opinion No. **16-81C**

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

**DRAFT**

**PROPOSED STIPULATED AGREEMENT**

1. **PURPOSE**: This Stipulated Agreement resolves Third-Party Request for Opinion (“RFO”) No. 16-81C before the Nevada Commission on Ethics (“Commission”) concerning Terrence Taylor (“Taylor”), a Captain/Fire Investigator for the East Fork Fire Protection District (“District”) in Douglas County, Nevada.

2. **JURISDICTION**: At all material times, Taylor was employed by the District and is a public employee, as defined in NRS 281A.150. The Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A gives the Commission jurisdiction over elected and appointed public officers and public employees whose conduct is alleged to have violated the provisions of NRS Chapter 281A. See NRS 281A.280. Accordingly, the Commission has jurisdiction over Taylor in this matter.

3. **PROCEDURAL HISTORY BEFORE COMMISSION:**

a. On or about November 23, 2016, the Commission received RFO No. 16-81C from a member of the public, Timothy Lomprey (“Lomprey” or “Requester”), alleging that Taylor violated:

- (1) NRS 281A.020(1) - avoiding conflicts between public and private interests;
- (2) NRS 281A.400(1) - accepting employment or economic opportunities which would tend improperly to influence a reasonable person in public position to depart from an impartial discharge of public duties;

**DRAFT**

- (3) NRS 281A.400(2) – using public position to secure or grant unwarranted advantages;
  - (4) NRS 281A.400(4) – accepting compensation from private source for performance of duties as a public employee;
  - (5) NRS 281A.400(5) - acquiring, through his public duties or relationships, information not available to the public to further the pecuniary interests;
  - (6) NRS 281A.400(7) - using governmental resources for nongovernmental purpose or private benefit;
  - (7) NRS 281A.400(10) - seeking other employment or contracts through the use of public position;
  - (8) NRS 281A.420(1) - failure to disclose conflict of interest; and
  - (9) NRS 281A.420(3) -failure to abstain.
- b. On December 12, 2016, staff of the Commission issued a Notice to Subject under NRS 281A.440(2), stating that the Commission accepted jurisdiction to investigate the allegations regarding violations of: (1) NRS 281A.020(1); (2) NRS 281A.400(1); (3) NRS 281A.400(2); and (4) NRS 281A.400(10). Taylor was provided an opportunity to respond to the RFO.
  - c. On or about February 23, 2017, Taylor, through his legal counsel, Rick R. Hsu, Esq., of Maupin, Cox and LeGoy, provided a written Response to the RFO.
  - d. Taylor waived his rights to a panel determination pursuant to NRS 281A.440 and acknowledges that credible evidence establishes just and sufficient cause for the Commission to render an opinion regarding the allegations implicating NRS 281A.400(2).

**4. PROPOSED STIPULATED FACTS:** At all material times, the following facts were relevant to this matter: <sup>1</sup>

- a. Taylor has been employed as a Captain/Fire Investigator for the East Fork Fire Protection District (“District”) since 1997. As such, he is a public employee as defined in NRS 281A.150.

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

- b. The District is a political subdivision as defined in NRS 281A.145.
- c. The District provides emergency services to Douglas County, Nevada, which includes approximately 1,000 fire-related responses a year.
- d. As the Captain/Fire Investigator for the District, Taylor is responsible for the investigation of fires and explosions within the District's jurisdiction. Taylor's public-sector investigations are primarily focused on determining the origin and cause of a fire, including whether a crime such as arson has been committed.
- e. Policy number 200.27 of the Douglas County Administrative Policies and Procedures states that "[e]mployees are required to obtain authorization from their Department Head/Elected Official prior to engaging in outside employment."
- f. Pursuant to this policy, on April 30, 2001, Taylor requested permission from the District to engage in outside work to conduct investigations of fires in the private sector outside of Douglas County, which was granted by the District Fire Chief on May 4, 2001.
- g. According to the District Fire Chief, the District benefits from Taylor's outside employment because fire investigations in the private sector expose him to a wider array of experiences and training not otherwise possible in the public sector, which make him a more proficient investigator for the District.
- h. The District submitted letters outlining the terms of its approval of Taylor's outside employment to the Nevada Private Investigators Licensing Board ("PILB") in 2003 and 2011 to activate Taylor's private investigator's license to allow him to conduct fire investigations in the private sector.
- i. The District's 2011 letter to the PILB sets forth the District's restrictions on Taylor's outside employment:
  - 1. Taylor is not to perform any duties associated with his private fire investigator's license while on duty for the District and cannot use any District equipment, supplies or staff for that private activity.
  - 2. Taylor is not to perform any private fire investigator activities for cases that arise in Douglas County.

3. Taylor is not to be involved with any action or case in which the State of Nevada or a political subdivision of the State is a first party defendant.
- j. Taylor's private sector fire investigations are performed under his business name of Terry Taylor Investigations. Private sector fire investigations focus on determining fault, often for use in an insurance subrogation or personal injury action, and involve more in-depth investigation techniques.
  - k. Terry Taylor Investigations employed two independent contractors, including Duane Lemons ("Lemons"), who perform private sector fire investigations.
  - l. Terry Taylor Investigations conducts approximately 30 to 40 private fire investigations each year for attorneys and insurance companies, including Farmers Group, Liberty Mutual, Safeco and Crum & Forster.
  - m. On December 22, 2015, on behalf of the District, Taylor responded to a fire located at 2617 Vicky Lane ("Vicky Lane Fire"), which is a single-family residence located in Douglas County, Nevada.
  - n. As Fire Captain/Investigator for the District, Taylor spent approximately seven hours investigating the Vicky Lane Fire on December 22, 2015. Taylor's written report concludes that a lithium battery caused the fire.
  - o. On or around January 6, 2016, Taylor was contacted by a representative of his private client, Crum & Forster, who requested that Taylor conduct a private fire investigation.
  - p. On or about January 8, 2016, Crum & Forster sent an email directly to Lemons requesting Lemons to investigate the Vicky Lane Fire. Taylor did not receive a copy of the email.
  - q. Crum & Forster is the insurance company for the manufacturer of the lithium battery found in the Vicky Lane Fire. Allstate is the insurance company for the homeowner at Vicky Lane, and requested Lomprey<sup>2</sup> to investigate the Vicky Lane Fire.

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<sup>2</sup> Lomprey is the Requestor who filed the Third-Party Request for Opinion.

- r. On January 18, 2016, Lomprey and Lemons attended a joint field inspection at the Vicky Lane Fire site to meet with Taylor and discuss his investigation and findings as Captain /Fire Investigator for the District.
- s. Taylor allowed Lomprey and Lemons to interview him regarding his public-sector findings to assist them in their respective private sector investigations.
- t. As reflected in the invoice to Crum & Forster, Terry Taylor Investigations spent 8.6 hours conducting the investigation, which included the time spent at the site of the Vicky Lane Fire with Taylor as the District investigator on scene.
- u. Terry Taylor Investigations received \$1,659.40 from Crum & Forster for its investigation of the Vicky Lane Fire.

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

- a. Each of the stipulated facts enumerated in Section 4 of this Stipulated Agreement is agreed to by the parties.
- b. Taylor is a public employee, whose public office constitutes a public trust to be held for the sole benefit of the people of the State of Nevada (in particular, the citizens of Douglas County).
- c. Taylor has a substantial and continuous business relationship with Terry Taylor Investigations, which creates a commitment in a private capacity to the interests of the business under NRS 281A.065(5). As the owner of Terry Taylor Investigations, Taylor also has a significant pecuniary interest in the business. NRS 281A.139.
- d. As a public employee, Taylor has a duty to avoid conflicts of interest. See NRS 281A.020. Specifically, Taylor must not use his position in government to: 1) seek any employment or economic opportunity which would tend to improperly influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties (NRS 281A.400(1)); 2) secure or grant unwarranted privileges, preferences or advantages for himself or for any business entity in which he has a significant pecuniary interest (NRS 281A.400(2)); or 3) seek other employment or contracts (NRS 281A.400(10)).

- e. By allowing Lemons to continue the private sector investigation of the Vicky Lane Fire on behalf of Terry Taylor Investigations, Taylor violated the conditions of his approval of outside employment by the District. Taylor agrees that by violating the terms of his agreement with the District, he used his position in government to secure unwarranted advantages for Terry Taylor Investigations, a business entity in which Taylor has a significant pecuniary interest, in violation of NRS 281A.400(2).
- f. Taylor's actions constitute a single course of conduct resulting in one violation of the Ethics Law, implicating the provisions of NRS 281A.400(2), as interpreted and applied in accordance with the provisions of NRS 281A.020(1).
- g. Although the private investigation work conducted by Terry Taylor Investigations on the Vicky Lane Fire implicates the provisions of NRS 281A.400(1) because it was contrary to the faithful discharge of his public duties to accept a private engagement in conflict with his employment agreement, the preponderance of evidence does not support the allegation that such employment, engagement or economic opportunity tended improperly to influence a reasonable person in Taylor's public position to depart from the faithful and impartial discharge of his public duties. Taylor conducted and made conclusions on the cause of the fire on behalf of the District before knowing that Crum and Forster had requested Terry Taylor Investigations to investigate the Vicky Lane Fire. The subsequent employment by Crum & Forster of Terry Taylor Investigations did not affect Taylor's conclusions in his public-sector investigation, which conclusions were adverse to Crum & Forster's insured, the lithium battery company. The Commission therefore dismisses the allegations regarding NRS 281A.400(1) through this Stipulated Agreement.
- h. Although the private investigation work conducted by Terry Taylor Investigations on the Vicky Lane Fire implicates the provisions of NRS 281A.400(10), the preponderance of evidence does not support the allegation that he sought employment through the use of his official position based on the undisputed evidence that Crum & Forster contacted Terry Taylor

DRAFT

Investigations, unsolicited. The Commission therefore dismisses the allegations regarding NRS 281A.400(10) through this Stipulated Agreement.

- i. NRS 281A.170 defines a “willful violation” as a violation in which the public officer or employee: (1) acted intentionally and knowingly; or (2) was in a situation where this chapter imposed a duty to act and the public officer or employee intentionally and knowingly failed to act in the manner required by the Ethics Law.
- j. Taylor was under a public duty to prevent Lemons and Terry Taylor Investigations from investigating any fire that violated the terms of his outside employment agreement with the District. Instead, Taylor authorized and benefited from the private investigation. The Commission therefore determines, and Taylor agrees, that the violation of NRS 281A.400(2) was “willful” under NRS 281A.170.
- k. Pursuant to the factors set forth in NRS 281A.475 in determining whether a violation is willful and the amount of any civil penalty, if any, the Commission has considered the following factors:
  - 1) Taylor has not previously violated the Ethics Law.
  - 2) Taylor has been diligent to cooperate with and participate in the Commission’s investigation and resolution of this matter.
  - 3) Taylor is scheduled to retire from public service on or about May 2018.
  - 4) Taylor is willing to disgorge all money received by Terry Taylor Investigations from Crum & Forster.
- l. For one willful violation, Taylor will pay a civil penalty of \$500 pursuant to NRS 281A.480(1)(a). Pursuant to NRS 281A.480(3), Taylor will pay an additional civil penalty in the amount of \$1,659.40, which penalty equals the financial benefit realized by Taylor for the private investigation of the Vicky Lane Fire. Taylor may pay the penalty in one lump sum payment or in monthly installment payments as negotiated with the Commission’s Executive Director, with the full penalty amount paid not later than 90 days after Taylor’s receipt of the fully executed Stipulated Agreement.

- m. This Stipulated Agreement depends on and applies only to the specific facts, circumstances and law related to this RFO now before the Commission. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.
- n. This agreement is intended to apply to and resolve only this specific proceeding before the Commission and is not intended to be applicable to or create any admission of liability for any other proceeding, including administrative, civil, or criminal regarding Taylor. If the Commission rejects this Stipulated Agreement, none of the provisions herein shall be considered by the Commission or be admissible as evidence in a hearing on the merits in this matter.

7. **ACCEPTANCE**: We, the undersigned parties, have read this Stipulated Agreement, understand each and every provision therein, and agree to be bound thereby. The parties orally agreed to be bound by the terms of this agreement during the regular meeting of the Commission on November 15, 2017<sup>3</sup>.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. DRAFT  
Terrence Taylor

The above Stipulated Agreement is approved by:

FOR TERRENCE TAYLOR, Subject

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. DRAFT  
Rick R. Hsu, Esq.  
Maupin, Cox and LeGoy

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.  
Executive Director, Commission on Ethics

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. DRAFT  
Judy A. Prutzman, Esq.  
Associate Counsel

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<sup>3</sup> Subject waived any right to receive written notice pursuant to NRS 241.033 of the time and place of the Commission’s meeting to consider his character, alleged misconduct, professional competence, or physical or mental health.

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. DRAFT  
Tracy L. Chase, Esq.  
Commission Counsel

The above Stipulated Agreement is accepted by the Commission.<sup>4</sup>

DATED \_\_\_\_\_, 2017.

By: DRAFT  
Cheryl A. Lau, Esq.  
Chair

By: DRAFT  
Phillip K. O'Neill  
Commissioner

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

By: DRAFT  
Lynn Stewart  
Commissioner

By: DRAFT  
Brian Duffrin  
Commissioner

By: DRAFT  
Amanda Yen, Esq.  
Commissioner

By: DRAFT  
Barbara Gruenewald, Esq.  
Commissioner

<sup>4</sup> Subject waived his right to an Investigatory Panel pursuant to NRS 281A.440. Accordingly, this Stipulated Agreement was executed prior to a Panel hearing in this matter and no Commissioner was precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220.

# **Agenda Item 4**



## STATE OF NEVADA

### BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Kurt Carson**, Council Member, Seat 2,  
City of Ely, State of Nevada,

Request for Opinion No. **17-23C**

Subject. /

#### DEFERRAL AGREEMENT

1. On October 19, 2017, this Review Panel authorized the Executive Director of the Nevada Commission on Ethics ("Commission") and Kurt Carson ("Carson"), a Member of the Ely City Council, to develop this Deferral Agreement (the "Agreement") to address the conduct at issue in Third-Party Request for Opinion No. 17-23C (the "RFO") instead of referring the RFO to the Commission for further proceedings.

2. At all material times, Carson served as a City Council Member for the City of Ely, Nevada and was an elected public officer as defined in NRS 281A.160. The Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A gives the Commission jurisdiction over Carson as an elected public officer whose conduct is alleged to have violated the provisions of NRS Chapter 281A, as amended by Senate Bill 84 of the 79<sup>th</sup> Session of the Nevada Legislature (2017) ("S.B. 84").<sup>1</sup> See NRS 281A.280.

3. This Agreement is entered into based upon the statement of facts established by sufficient credible evidence to support just and sufficient cause for the Commission to render an opinion in this matter. See attached Appendix A (the "Statement of Facts").<sup>2</sup>

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<sup>1</sup> S.B. 84 amends and enacts various provisions of NRS Chapter 281A, which statutes have yet to be formally codified.

<sup>2</sup> The Statement of Facts does not constitute part of the "Investigative File" as that term is defined by NRS 281A.440(17), as amended by S.B. 84. All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Agreement. The Review Panel's Determination considered the Executive Director's Panel Recommendation and the record of proceedings.

### **Procedural History**

4. On or about June 27, 2017, the Commission received RFO No. 17-23C from a member of the public (“Requester”), alleging that Carson:

- a. Failed to disclose his commitment in a private capacity to the interests of his father and step-mother who own a mobile home park in Ely during Ely City Council meetings on March 24, 2016 and January 26, 2017 (NRS 281A.420(1)); and
- b. Failed to abstain from voting on agenda items at Ely City Council meetings on March 24, 2016 and January 26, 2017 that purportedly had a material effect on the mobile home park owned by his family members (NRS 281A.420(3)).

5. On July 12, 2017, staff of the Commission issued a Notice to Subject under NRS 281A.440(2), stating that the Commission accepted jurisdiction to investigate the allegations and Carson was provided an opportunity to respond to the RFO.

6. On or about August 30, 2017, Carson, through his legal counsel, Ely City Attorney Charles H. Odgers, Esq., provided a written Response to the RFO.

7. On October 12, 2017, the Executive Director presented a recommendation relating to just and sufficient cause to a three-member review panel pursuant to Section 4 of S.B. 84.

8. A Panel Determination issued on October 19, 2017 concluded that:
  - a. There is sufficient credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the allegations pertaining to Carson’s failure to disclose a conflict at the March 24, 2016 City Council meeting;
  - b. There is not sufficient credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the allegations pertaining to Carson’s failure to abstain at the March 24, 2016 meeting and his failure to disclose and abstain at the January 26, 2017 City Council meeting; and
  - c. Carson’s alleged failure to disclose the interests of his family’s mobile home park at the March 24, 2016 City Council Meeting may be appropriately

addressed through corrective action under the terms and conditions of a deferral agreement instead of referring this RFO to the Commission for further proceedings.

**Terms and Conditions**

9. This Agreement shall be in effect for a period of two years (the “Deferral Period”) from the date of approval by the Review Panel.

10. Carson must comply in all respects with the provisions of NRS Chapter 281A during the Deferral Period without being the subject of another ethics complaint arising from an alleged violation occurring during the Deferral Period and for which the Review Panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter.

13. The Review Panel recognizes that Carson attended an ethics training presented by the Commission’s Executive Director on September 28, 2017.

12. The Executive Director shall monitor Carson’s compliance with this Agreement. Should the Executive Director discover that Carson has not complied with any term or condition of this Agreement, the Executive Director shall:

- a. Inform the Commission of any alleged failure of Carson to comply with the Agreement;
- b. Give Carson written notice of any alleged failure to comply with the Agreement; and
- c. Allow Carson not less than 15 days to respond to such a notice.

13. The Commission may vacate this Agreement and conduct further proceedings in the matter if the Commission finds that Carson has failed to comply with any terms and conditions of the Agreement.

14. If Carson complies in a satisfactory manner with this Agreement, the Commission shall dismiss the matter.

15. This Agreement is entered and approved without prejudice and depends on and applies only to the specific facts, circumstances and law related to this RFO. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.

**Acceptance:** We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this 7 day of Nov., 2017. Kurt Carson  
Kurt Carson

The above Stipulated Agreement is approved by:

FOR KURT CARSON, Subject  
DATED this 7 day of Nov, 2017. Charles H. Odgers  
Charles H. Odgers, Esq.  
Ely City Attorney

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.  
Executive Director, Commission on Ethics

DATED this 7<sup>th</sup> day of November, 2017. Judy A. Prutzman  
Judy A. Prutzman, Esq.  
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this \_ day of \_\_\_\_\_, 2017. \_\_\_\_\_  
Tracy L. Chase, Esq.  
Commission Counsel

The above *Deferral Agreement* is approved by the Review Panel.

DATED \_\_\_\_\_, 2017.

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

By: \_\_\_\_\_  
Phillip K. O'Neill  
Commissioner

By: \_\_\_\_\_  
Brian Duffrin,  
Commissioner

**Acceptance:** We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. \_\_\_\_\_  
Kurt Carson

The above Stipulated Agreement is approved by:

FOR KURT CARSON, Subject

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. \_\_\_\_\_  
Charles H. Odgers, Esq.  
Ely City Attorney

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.  
Executive Director, Commission on Ethics

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017. \_\_\_\_\_  
Judy A. Prutzman, Esq.  
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this 13th day of November, 2017. /s/ Tracy L. Chase  
Tracy L. Chase, Esq.  
Commission Counsel

The above *Deferral Agreement* is approved by the Review Panel.

DATED November 13, 2017.

By: /s/ Cheryl A. Lau  
Cheryl A. Lau, Esq.  
Chair

By: /s/ Phillip K. O'Neill  
Phillip K. O'Neill  
Commissioner

By: /s/ Brian Duffrin  
Brian Duffrin,  
Commissioner

## **Appendix A – Statement of Facts**

At all times relevant to this RFO, Carson’s father and stepmother, Keith and Paula Carson, owned one of six mobile home parks in Ely through a Nevada limited-liability company called KP Investments, LLC. The park sits on a 40,000 square foot parcel and has 10 mobile home lots. When Keith and Paula purchased the mobile home park in 2006, it was being operated as the Bristlecone Trailer Park and this name appeared in the Ely County Assessor’s records until sometime in 2016, when the property name was changed to “Creekside Park.” However, there are no signs on the property to identify the mobile home park and Keith and Paula’s business license identifies the business as KP Investments.

During the City Council Meeting on March 24, 2016 (March Meeting), Agenda Item 9A required the Ely City Council to consider zoning changes recommended by the City Planning Commission for four of the six mobile home parks in Ely. The zoning for these parks needed to be corrected to M-H-1 zoning, which applied to mobile home parks, because they had been incorrectly zoned as M-H-3, which applies to a residential lot for a single mobile home outside a mobile home park.

The meeting minutes reflect that City Attorney Odgers recommended that the Council combine Agenda Items 9A1, 2, 3 and 5 under a consent agenda. The City Planning Commission recommended approval of all four of the following agenda items:

1. Recommendation to correct the zoning on the Apeceche Trailer Park,<sup>3</sup> APN 0108102, from M-H-3 to M-H-1 pursuant to City Ordinance 410.
2. Recommendation to correct the zoning on the White Pine Mobile Home Park,<sup>4</sup> APN 02-193-01, from M-H-3 to M-H-1 pursuant to City Ordinance 410.
3. Recommendation to correct the zoning on the Joe Ciscar Trailer Park,<sup>5</sup> APN 02-203-02, from M-H-3 to M-H-1 pursuant to City Ordinance 410.
4. Recommendation to correct the zoning on the Bristlecone Trailer Park, APN 0104502, from M-H-3 to M-H-1 pursuant to City Ordinance 410.

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<sup>3</sup> Apeceche Trailer Park sits on a 27,500 square foot parcel and has 9 mobile home lots.

<sup>4</sup> White Pine Mobile Home Park sits on a 101,200 square foot parcel and has 30 mobile home lots.

<sup>5</sup> Joe Ciscar Trailer Park sits on a 38,750 square foot parcel and has 11 mobile home lots.

Carson did not make any disclosures and voted on the consent agenda item, which was approved unanimously.

Carson received meeting materials for the March Meeting prior to the meeting. However, 20 pages of meeting materials associated with Agenda Item 9A were not provided to City Council members prior to the meeting and were placed at each Council member's seat when the meeting started. Page 9 of these materials included parcel details from the Assessor's website for the mobile home park listed in Agenda Item 9A4. Although the property was, at the time, incorrectly designated as Bristlecone Trailer Court, KP Investments was correctly noted as the property's owner. Carson knew or should have known the mobile home park was owned by his father and stepmother through KP Investments.

Cheryl A. Lau, Esq.  
Chair

Keith A. Weaver, Esq.  
Vice-Chair



Yvonne Nevarez-Goodson, Esq.  
Executive Director  
(D) 775-687-4312  
[ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

**State of Nevada**  
**COMMISSION ON ETHICS**  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703  
(775) 687-5469 • Fax (775) 687-1279  
[ethics.nv.gov](http://ethics.nv.gov)

February 15, 2018

*Delivered via Certified Mail No: 9171 9690 0935 0037 6378 87*

Kurt Carson  
Council Member  
City of Ely  
501 Mill Street  
Ely, Nevada 89301

RE: Request for Opinion No. 17-23C (Carson) - Notice to Consider Character,  
Alleged Misconduct, Professional Competence or Health (NRS 241.033)

Dear Mr. Carson,

In compliance with Nevada Revised Statute (NRS) 241.033, please find enclosed the Commission's *Notice to Consider Your Character, Alleged Misconduct, Professional Competence or Health* ("Notice"). On Wednesday, March 21, 2018, the Nevada Commission on Ethics ("Commission") will consider a report provided by the Executive Director regarding the Review Panel's approval of the Deferral Agreement in this matter. The meeting will be open to the public and you and/or your legal counsel should you desire to attend.

Under Nevada's Open Meeting Law, a person must be provided notice when a public body considers the person's character, alleged misconduct, professional competence or health. The Ethics Complaint and Deferral Agreement in this matter relate to your alleged misconduct under the Ethics Law. Accordingly, the enclosed *Notice* is provided regarding the Commission's anticipated consideration of the Executive Director's report concerning the Deferral Agreement.

Please note that the terms and conditions approved by the Review Panel in the fully executed Deferral Agreement signed on November 13, 2018 will remain in effect and not change based on any discussion or action taken by the Commission during the March 21, 2018 meeting. The purpose of this agenda item is to inform the full Commission of the decisions of its review panels in approving deferral agreements.

Please contact me with any questions or concerns.

Sincerely,

[/s/ Yvonne M. Nevarez-Goodson](#)  
Yvonne M. Nevarez-Goodson, Esq.  
Executive Director

Enclosure  
cc: Charles H. Odgers, Esq., City Attorney, City of Ely, via Email



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

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Kurt Carson**, Council Member, City of  
Ely, State of Nevada,

Request for Opinion No. **17-23C**

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

**NOTICE OF MEETING TO CONSIDER YOUR CHARACTER, ALLEGED  
MISCONDUCT, PROFESSIONAL COMPETENCE OR HEALTH  
(NRS 241.033)**

**PLEASE TAKE NOTICE** that the Nevada Commission on Ethics ("Commission") will hold a public meeting to consider a report from Commission Staff regarding the Review Panel's approval of a deferral agreement in Ethics Complaint No. 17-23C. In doing so, the Commission may consider or discuss your character, alleged misconduct, professional competence or health during the public meeting. Pursuant to NRS 241.033(1), notice must be provided to you, as the subject, of the time and place of the meeting in compliance with Nevada's Open Meeting Law. The meeting is a public meeting and you and any representative counsel may attend.

**The Meeting Will Take Place:**

**Wednesday, March 21, 2018** at **9:00 a.m.**, or as soon thereafter as the  
Commission is able to hear the matter, at the following location:

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

and via video-conference to:

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

Date: February 15, 2018

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

## CERTIFICATE OF SERVICE

I certify that I am a staff member of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I served the foregoing NRS 241.033 Notice of Meeting of the Nevada Commission on Ethics to consider the character, alleged misconduct, professional competence or health of the referenced Subject with regard to RFO No. 17-23C (Carson) on February 15, 2018, by:

(check service method)

- personal service five working days in advance of the meeting; or
- certified mail sent at least 21 working days in advance of the meeting to the last known address of subject, as follows:

Kurt Carson  
Council Member  
City of Ely  
501 Mill Street  
Ely, NV 89301

Certified Mail: 9171 9690 0935 0037 6378 87

cc: Via Email to representative counsel Charles H. Odgers, Esq. City Attorney, City of Ely, 501 Mill Street, Ely, NV 89301, [codgers@elycity.com](mailto:codgers@elycity.com).



\_\_\_\_\_  
Nevada Commission on Ethics Staff



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

In the Matter of the Third-Party Request  
for Opinion Concerning the Conduct of  
**Kurt Carson**, Council Member, City of  
Ely, State of Nevada,

Request for Opinion No. **17-23C**

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

**AMENDED**  
**NOTICE OF MEETING TO CONSIDER YOUR CHARACTER, ALLEGED**  
**MISCONDUCT, PROFESSIONAL COMPETENCE OR HEALTH**  
**(NRS 241.033)**

*(Amendment establishes meeting room changes only)*

**PLEASE TAKE NOTICE** that the Nevada Commission on Ethics ("Commission") will hold a public meeting to consider a report from Commission Staff regarding the Review Panel's approval of a deferral agreement in Ethics Complaint No. 17-23C. In doing so, the Commission may consider or discuss your character, alleged misconduct, professional competence or health during the public meeting. Pursuant to NRS 241.033(1), notice must be provided to you, as the subject, of the time and place of the meeting in compliance with Nevada's Open Meeting Law. The meeting is a public meeting and you and any representative counsel may attend.

**The Meeting Will Take Place:**

**Wednesday, March 21, 2018** at **9:00 a.m.**, or as soon thereafter as the Commission is able to hear the matter, at the following location:

Nevada Legislative Building  
**Room 3138**  
401 S. Carson Street  
Carson City, NV 89701

and via video-conference to:

Grant Sawyer State Building  
**Room 4401**  
555 E. Washington Avenue  
Las Vegas, NV 89101

Date: March 14, 2018

/s/ Tracy L. Chase

Tracy L. Chase, Esq.  
Commission Counsel

## CERTIFICATE OF SERVICE

I certify that I am a staff member of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **AMENDED NOTICE OF MEETING TO CONSIDER YOUR CHARACTER, ALLEGED MISCONDUCT, PROFESSIONAL COMPETENCE OR HEALTH** in RFO No. 17-23C via U.S. Certified Mail and Email as follows:

Charles H. Odgers, Esq.  
City Attorney  
City of Ely  
501 Mill Street  
Ely, NV 89301

Email: [codgers@elycity.com](mailto:codgers@elycity.com)

*Attorney for Subject*

Kurt Carson  
City of Ely  
501 Mill Street  
Ely, NV 89301

Certified Mail: 9171 9690 0935 0037 6375 80

*Subject*

Dated: March 14, 2018

  
\_\_\_\_\_  
Employee, Nevada Commission on Ethics

# **Agenda Item 5**



## STATE OF NEVADA

### BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Carl Lackey**, Biologist, Game  
Division, Department of Wildlife,  
State of Nevada,

Ethics Complaint  
Case No. **17-27C**

Subject. /

#### DEFERRAL AGREEMENT

1. On November 20, 2017, this Review Panel authorized the Executive Director of the Nevada Commission on Ethics ("Commission") and Carl Lackey ("Lackey"), a Biologist in the Game Division of the Nevada Department of Wildlife, to develop this Deferral Agreement (the "Agreement") to address the conduct at issue in Ethics Complaint No. 17-27C ("Complaint") instead of referring the Complaint to the Commission for further proceedings.

2. At all material times, Lackey worked for the Nevada Department of Wildlife ("NDOW") as a Biologist and was a public employee as defined in NRS 281A.150. The Ethics in Government Law ("Ethics Law") set forth in NRS Chapter 281A gives the Commission jurisdiction over Lackey as a public employee whose conduct is alleged to have violated the provisions of NRS Chapter 281A, as amended by Senate Bill 84 of the 79<sup>th</sup> Session of the Nevada Legislature (2017) ("S.B. 84").<sup>1</sup> See NRS 281A.280.

3. This Agreement is entered into based upon the statement of facts established by sufficient credible evidence to support just and sufficient cause for the Commission to render an opinion in this matter. See attached Appendix A (the "Statement of Facts").<sup>2</sup>

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<sup>1</sup> S.B. 84 amends and enacts various provisions of NRS Chapter 281A, which statutes have yet to be formally codified.

<sup>2</sup> The Statement of Facts does not constitute part of the "Investigative File" as that term is defined by NRS 281A.440(17), as amended by S.B. 84. All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Agreement. The Review Panel's Determination considered the Executive Director's Panel Recommendation and the record of proceedings.

### **Procedural History**

4. On or about August 2, 2017, the Commission received Complaint No. 17-27C from a member of the public (“Requester”).

5. On September 13, 2017, staff of the Commission issued a Notice of Complaint and Investigation to Subject under NRS 281A.440(2), stating that the Commission accepted jurisdiction to investigate alleged violations of the following provisions of the Ethics Law:

**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 public employee’s position to depart from the faithful and impartial discharge of public employee’s public duties.

**NRS 281A.400(2)** - Using public position to secure or grant unwarranted privileges or preferences to benefit any business entity in which there is a significant pecuniary interest, or any person to whom there is a commitment in a private capacity.

**NRS 281A.400(7)** Using governmental time, property or equipment or other facility to benefit a significant personal or pecuniary interest or that of any person to whom there is a commitment in a private capacity.

**NRS 281A.420(1)** - Failing to sufficiently disclose a pecuniary interest or commitment in a private capacity to the interest of another person which is reasonably affected by an official matter.

6. On or about October 12, 2017, Lackey, through his legal counsel, Deputy Attorney General Joshua M. Woodbury, Esq., provided a written Response to the Complaint.

7. On November 1, 2017, the Executive Director presented a recommendation relating to just and sufficient cause to a three-member review panel pursuant to Section 4 of S.B. 84. A Panel Determination issued on November 20, 2017 concluded that:

- a. There is sufficient credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the allegations pertaining to NRS 281A.400(2) and (7) and NRS 281A.420(1) with regard to Lackey’s use of his public NDOW title in the GoFundMe campaign established to raise funds for his private legal costs/fees; his creation and use of an NDOW PowerPoint presentation that

publicized a private business owned and operated by Lackey and his spouse (Carson Creature Catchers); and his failure to disclose his pecuniary and private interests associated with Carson Creature Catchers when he included a reference to the business in NDOW PowerPoint presentations he created.

- b. There is not sufficient credible evidence to support a determination that just and sufficient cause exists for the Commission to render an opinion in the matter regarding the allegations pertaining to NRS 281A.400(1); and
- c. Lackey's conduct may be appropriately addressed through corrective action under the terms and conditions of a deferral agreement instead of referring this Complaint to the Commission for further proceedings.

**Terms and Conditions**

8. This Agreement shall be in effect for a period of two years (the "Deferral Period") from the date of approval by the Review Panel.

9. Lackey must comply in all respects with the provisions of NRS Chapter 281A during the Deferral Period without being the subject of another ethics complaint arising from an alleged violation occurring during the Deferral Period and for which a Review Panel determines that there is just and sufficient cause for the Commission to render an opinion in the matter.

10. Lackey must complete an ethics course within six months, which may be satisfied by completing any online ethics course approved by the Commission's Executive Director that may become available within the next six months.

11. As a remedial course of action, Lackey will not withdraw the remaining funds, which total \$4,401.29, from the GoFundMe account for his personal use and must either return these funds to the donors or donate the funds to a bona fide charitable or nonprofit organization designated by the individuals who established the GoFundMe account no later than February 1, 2018.

12. The Executive Director will notify the Director of NDOW and the Division Administrator of Human Resource Management of this Deferral Agreement.

13. The Executive Director shall monitor Lackey's compliance with this Agreement. Should the Executive Director discover that Lackey has not complied with any term or condition of this Agreement, the Executive Director shall:

- a. Inform the Commission of any alleged failure of Lackey to comply with the Agreement;
- b. Give Lackey written notice of any alleged failure to comply with the Agreement; and
- c. Allow Lackey not less than 15 days to respond to such a notice.

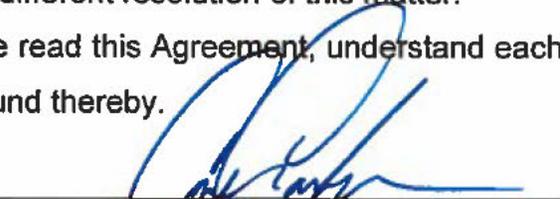
14. The Commission may vacate this Agreement and conduct further proceedings in the matter if the Commission finds that Lackey has failed to comply with any terms and conditions of the Agreement.

15. If Lackey complies in a satisfactory manner with this Agreement, the Commission shall dismiss the matter at the conclusion of the Deferral Period.

16. This Agreement is entered and approved without prejudice and depends on and applies only to the specific facts, circumstances and law related to this Complaint. Any facts or circumstances that may come to light after its entry that are in addition to or differ from those contained herein may create a different resolution of this matter.

**Acceptance:** We, the undersigned parties, have read this Agreement, understand each and every provision therein, and agree to be bound thereby.

DATED this 9 day of January, 2018.

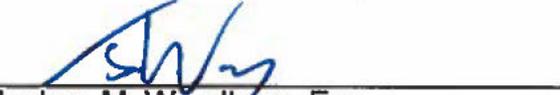


Carl Lackey

The above Stipulated Agreement is approved by:

FOR CARL LACKEY, Subject

DATED this 9 day of January, 2018.



Joshua M. Woodbury, Esq.  
Deputy Attorney General

FOR YVONNE M. NEVAREZ-GOODSON, ESQ.  
Executive Director, Commission on Ethics

DATED this 11<sup>th</sup> day of January, 2018.



Judy A. Prutzman, Esq.  
Associate Counsel

Approved as to form by:

FOR NEVADA COMMISSION ON ETHICS

DATED this 16<sup>th</sup> day of January, 2018.

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

After review of the record and good cause appearing, the above Deferral Agreement is approved by the Review Panel.

DATED: January 16, 2018.

By: /s/ Cheryl A. Lau  
Cheryl A. Lau, Esq.  
Chair

By: /s/ Philip K. O'Neill  
Philip K. O'Neill  
Commissioner

By: /s/ Brian Duffrin  
Brian Duffrin,  
Commissioner

## **Appendix A – Statement of Facts**

### **The NDOW PowerPoint Presentation Created by Lackey**

Approximately two years ago, Lackey created a PowerPoint presentation to be used when he and other NDOW employees provide presentations and trainings to law enforcement personnel about wildlife control. Lackey provides the presentation three to four times per year and estimates that approximately 700 law enforcement personnel have seen the presentation.

Part III of the presentation, entitled “First Responder Considerations,” provides information and resources to help law enforcement deal with situations involving wildlife such as bears and mountain lions. Slide 26 of Part III provides the names and phone numbers of two private nuisance wildlife control businesses that assist with removal of other types of wildlife, such as raccoons, bats and snakes. One of the businesses listed on slide 26 is Carson Creature Catchers, a private business owned by Lackey and his spouse. At least five private businesses in the northern Nevada region handle some level of wildlife nuisances like those handled by Carson Creature Catchers, but only Carson Creature Catchers and a Reno-based business are referenced in the NDOW presentation.

Lackey did not disclose to his supervisor that he was including Carson Creature Catchers in the PowerPoint presentation before he created and used it in NDOW presentations.

### **The GoFundMe Page**

In May 2017, a GoFundMe page was established with the title “Support Carl Lackey” and included the following explanation of the page’s purpose:

This site has been set up to support NDOW biologist Carl Lackey. It’s our hope that sportsman and conservationists will come together to donate and help support Carl’s legal fees as he defends himself against animal rights/bear activists who have created a defamatory, slanderous and libelous smear campaign against him.

These activists have sought to damage Carl’s reputation, NDOW’s reputation and the ability to manage wildlife responsibly. As sportsmen and conservationists, we need to unite to support each other and stand up with Carl.

Carl is recognized as a wildlife professional and human –bear conflict expert by bear biologists across the west. He has been leading the Karelian Bear Dog program and bear management research in Nevada. The Nevada Department of Wildlife’s Karelian Bear Dog program is a unique tool used by the Department to help keep bears out of trouble with humans.

Any donation is welcome. Please spread the word to help support Carl. Any funds that are not used towards his legal fees will go straight to bear conservation, research and education in Nevada.

Although the GoFundMe page was not created by Lackey, he was aware that the page was being created and he reviewed and approved the text that described the page's purpose. The page was deactivated shortly after this Complaint was submitted. Before deactivation, donations totaling \$11,550 had been received. Lackey withdrew \$6,400 from the GoFundMe account to pay legal costs associated with his private defamation lawsuit. The remaining funds are held in a bank account that Lackey can access.

Cheryl A. Lau, Esq.  
Chair

Keith A. Weaver, Esq.  
Vice-Chair



Yvonne Nevarez-Goodson, Esq.  
Executive Director  
(D) 775-687-4312  
[ynevarez@ethics.nv.gov](mailto:ynevarez@ethics.nv.gov)

**State of Nevada**  
**COMMISSION ON ETHICS**  
704 W. Nye Lane, Suite 204  
Carson City, Nevada 89703  
(775) 687-5469 • Fax (775) 687-1279  
[ethics.nv.gov](http://ethics.nv.gov)

February 15, 2018

Delivered via Certified Mail No: 9171 9690 0935 0037 6378 70

Carl Lackey  
2788 Esaw Street  
Minden, Nevada 89423-9007

RE: Request for Opinion No. 17-27C (Lackey) - Notice to Consider Character,  
Alleged Misconduct, Professional Competence or Health (NRS 241.033)

Dear Mr. Lackey,

In compliance with Nevada Revised Statute (NRS) 241.033, please find enclosed the Commission's *Notice to Consider Your Character, Alleged Misconduct, Professional Competence or Health* ("Notice"). On Wednesday, March 21, 2018, the Nevada Commission on Ethics ("Commission") will consider a report provided by the Executive Director regarding the Review Panel's approval of the Deferral Agreement in this matter. The meeting will be open to the public and you and/or your legal counsel should you desire to attend.

Under Nevada's Open Meeting Law, a person must be provided notice when a public body considers the person's character, alleged misconduct, professional competence or health. The Ethics Complaint and Deferral Agreement in this matter relate to your alleged misconduct under the Ethics Law. Accordingly, the enclosed *Notice* is provided regarding the Commission's anticipated consideration of the Executive Director's report concerning the Deferral Agreement.

Please note that the terms and conditions approved by the Review Panel in the fully executed Deferral Agreement signed on January 16, 2018 will remain in effect and not change based on any discussion or action taken by the Commission during the March 21, 2018 meeting. The purpose of this agenda item is to inform the full Commission of the decisions of its review panels in approving deferral agreements.

Please contact me with any questions or concerns.

Sincerely,

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

Enclosure  
cc: Joshua M. Woodbury, Deputy Attorney General, via Email



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

In re **Carl Lackey**, Biologist, Game  
Division, Department of Wildlife,  
State of Nevada,

Ethics Complaint  
Case No. **17-27C**

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

**NOTICE OF MEETING TO CONSIDER YOUR CHARACTER, ALLEGED  
MISCONDUCT, PROFESSIONAL COMPETENCE OR HEALTH  
(NRS 241.033)**

**PLEASE TAKE NOTICE** that the Nevada Commission on Ethics ("Commission") will hold a public meeting to consider a report from Commission Staff regarding the Review Panel's approval of a deferral agreement in Ethics Complaint No. 17-27C. In doing so, the Commission may consider or discuss your character, alleged misconduct, professional competence or health during the public meeting. Pursuant to NRS 241.033(1), notice must be provided to you, as the subject, of the time and place of the meeting in compliance with Nevada's Open Meeting Law. The meeting is a public meeting and you and any representative counsel may attend.

**The Meeting Will Take Place:**

**Wednesday, March 21, 2018** at **9:00 a.m.**, or as soon thereafter as the  
Commission is able to hear the matter, at the following location:

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

and via video-conference to:

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

Date: February 15, 2018

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

## CERTIFICATE OF SERVICE

I certify that I am a staff member of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I served the foregoing NRS 241.033 Notice of Meeting of the Nevada Commission on Ethics to consider the character, alleged misconduct, professional competence or health of the referenced Subject with regard to Ethics Complaint No. 17-27C (Lackey) on February 15, 2018, by:

(check service method)

- personal service five working days in advance of the meeting; or
- certified mail sent at least 21 working days in advance of the meeting to the last known address of subject, as follows:

Carl Lackey  
2788 Esaw Street  
Minden, NV 89423-9007

Certified Mail: 9171 9690 0935 0037 6378 70

cc: Via Email to representative counsel Joshua M. Woodbury, Deputy Attorney General, Attorney General's Office, State of Nevada, 100 N. Carson Street, Carson City, Nevada 89701, [jwoodbury@ag.nv.gov](mailto:jwoodbury@ag.nv.gov).



\_\_\_\_\_  
Nevada Commission on Ethics Staff



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

In re **Carl Lackey**, Biologist, Game  
Division, Department of Wildlife,  
State of Nevada,

Ethics Complaint  
Case No. **17-27C**

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

**AMENDED**  
**NOTICE OF MEETING TO CONSIDER YOUR CHARACTER, ALLEGED**  
**MISCONDUCT, PROFESSIONAL COMPETENCE OR HEALTH**  
**(NRS 241.033)**

*(Amendment establishes meeting room changes only)*

**PLEASE TAKE NOTICE** that the Nevada Commission on Ethics ("Commission") will hold a public meeting to consider a report from Commission Staff regarding the Review Panel's approval of a deferral agreement in Ethics Complaint No. 17-27C. In doing so, the Commission may consider or discuss your character, alleged misconduct, professional competence or health during the public meeting. Pursuant to NRS 241.033(1), notice must be provided to you, as the subject, of the time and place of the meeting in compliance with Nevada's Open Meeting Law. The meeting is a public meeting and you and any representative counsel may attend.

**The Meeting Will Take Place:**

**Wednesday, March 21, 2018** at **9:00 a.m.**, or as soon thereafter as the  
Commission is able to hear the matter, at the following location:

Nevada Legislative Building  
**Room 3138**  
401 S. Carson Street  
Carson City, NV 89701

and via video-conference to:

Grant Sawyer State Building  
**Room 4401**  
555 E. Washington Avenue  
Las Vegas, NV 89101

Date: March 14, 2018

/s/ Tracy L. Chase

Tracy L. Chase, Esq.  
Commission Counsel

## CERTIFICATE OF SERVICE

I certify that I am a staff member of the Nevada Commission on Ethics and that on this day in Carson City, Nevada, I transmitted a true and correct copy of the **AMENDED NOTICE OF MEETING TO CONSIDER YOUR CHARACTER, ALLEGED MISCONDUCT, PROFESSIONAL COMPETENCE OR HEALTH** in Ethics Complaint Case No. 17-27C via U.S. Certified Mail and Email as follows:

Joshua M. Woodbury,  
Deputy Attorney General  
Attorney General's Office  
100 N. Carson Street  
Carson City, NV 89701

Email: [jwoodbury@ag.nv.gov](mailto:jwoodbury@ag.nv.gov)

*Attorney for Subject*

Carl Lackey  
2788 Esaw Street  
Minden, NV 89423-9007

Certified Mail: 9171 9690 0935 0037 6375 97

*Subject*

Dated: March 14, 2018



\_\_\_\_\_  
Employee, Nevada Commission on Ethics

# **Agenda Item 6**



## STATE OF NEVADA COMMISSION ON ETHICS

### MEMORANDUM

\*\*\*

DATE: March 21, 2018  
TO: Commissioners  
FROM: Yvonne M. Nevarez-Goodson, Esq., Executive Director  
SUBJECT: Proposed BDR Concepts (2019 Legislative Session)

Commissioners:

Under NRS 281A.240, the Commission's Executive Director must "recommend to the Commission any legislation that the Executive Director considers desirable or necessary to improve the operation of the Commission and maintain high standards of ethical conduct in government." In response to this statutory mandate, please consider the following recommendations of proposed bill draft request ("BDR") concepts for the 2019 Legislative Session. According to the current Executive Branch budget instructions, on or before April 13, 2018, the Commission must submit any non-budgetary BDR concepts for the Governor's review. The Governor will approve or deny the proposed concepts on or before May 11, 2018. If approved, on or before June 8, 2018, the Commission must submit the formal BDR proposal (detailed request) to the Governor's Office for referral to LCB.

The Commission presented an extensive bill during the 2017 Session (SB 84) and the Legislature enacted various amendments to NRS Chapter 281A providing the Commission with broader discretion to resolve complaint cases, including through letters of caution and instruction, deferral agreements, and additional penalties other than monetary sanctions, such as public admonishments, reprimands, censures, and other corrective or remedial action. The bill further streamlined the Commission's processing of complaint cases to reflect fair due process and promote significant efficiencies in Commission processes and staff work flow while establishing certainty, predictability and stability for Nevada's public officers and employees. Finally, SB 84 addressed inconsistencies among the Ethics Law's standards of conduct to ensure equal application to conflicts that involve financial interests and relationship-based interests. Commission staff has been working hard during the Interim to implement these changes and the Commission still must adopt new and revised regulations to reflect many of these changes.

For the 2019 Legislative Session, I recommend consideration of a less robust legislative proposal. Instead, the Commission may wish to focus its 2019 legislative efforts on a few budget-related reforms that will be presented to the budget process. Nevertheless, the following BDR Concepts are included for your review and consideration as issues that have arisen by virtue of the Commission's outreach and education program and its implementation of SB 84. These statutory changes may be beneficial to clarify the legislative intent and/or the Commission's interpretation of certain provisions of NRS Chapter 281A, as amended by SB 84.

**BDR Concepts:**

- 1) Clarify Scope of Open Meeting Law Exemption to Commission proceedings – Including action taken in Complaint Cases – in particular during confidential phases of a case.
- 2) Impose fees for late filings of Acknowledgment Forms.
  - Secretary of State imposes fines for late Financial Disclosure Statements;
  - In discussions with the Governor's Office of Finance and the Department of Administration, such a fee could operate as revenue to off-set certain expenses in our budget and/or serve as an efficiency measure as required by the current budget instructions after a pilot period of one to two years to determine the amount of projected revenue.
- 3) Impose additional "cooling-off" measure: Prohibit public officers or employees from securing or granting privileges, preferences, exemptions, advantages, or economic opportunities, including, without limitation, any gift, service, favor, employment, engagement, or emolument for himself/herself or a person to whom he/she has a commitment in a private capacity within 1 year after the public officer has taken an official action related to the matter.
  - Example: Planning Commissioner/Board Member votes to approve a zoning amendment. The Commissioner/Board Member is a realtor in his/her private capacity. The additional "cooling-off" measure would restrict the Commissioner/ Board member from listing the same property for a client on the same matter that he/she acted in his/her official capacity to ensure the zoning within 1 year.
  - Possible Exceptions:
    - o Introduction of legislative matter exempt from disclosure/abstention; could exempt benefits resulting from an action taken as initiation of a legislative measure.
    - o Consider ability for Commission to grant relief from strict application in appropriate circumstances.
      - Example: The official action does not create a benefit or opportunity greater than that for any other person similarly situated.
- 4) Clarify disclosure/abstention obligations related to conflicts that arise out of confidential relationships which are established through a legally protected or confidential relationship.

- Example: Attorney/client Relationships – Must disclose that the matter affects a private client relationship, but the full nature and extent of the conflict (name of client/nature of representation) need not be disclosed if it is accompanied by an abstention.
  - Example: Realtors - Various nondisclosure agreements by law require absolute confidentiality in listing agreements.
  - If disclosure without explaining full nature of conflict, must abstain to protect public trust.
  - Exclusions: Confirm that the public officer may not contract out of the application of the Ethics Law and/or the definition of a “commitment in a private capacity to the interests of another person”.
- 5) Clarify scope of Cooling-Off Prohibitions.
- Various agency attorneys continuously ask for clarification regarding the scope of cooling-off applicable to certain positions within the agency.
  - Some agencies have offered that the effects of cooling-off are having the opposite impact than originally intended by the Legislature which was, in part, to prevent government from losing its qualified staff to the private sector. Instead, agencies are having difficulty with recruitment for positions in regulatory agencies for positions which are later prohibited from returning to the private sector for one year.
  - Apply similar criteria to cooling-off interpretation that may be consistent with private sector non-compete clauses; i.e. whether an interpretation causes an undue hardship or unreasonable restraint than is generally necessary on the public officer or employee.
  - Agency counsel contemplates that concerns about actual impropriety, *quid pro quo*, misuse of positions can be captured under other statutes.
  - Repeal language in NRS 281A.550(3) prohibiting “seeking” of employment.
- 6) Clarify criteria regarding the Commission’s ability to initiate a complaint on its own motion.
- Example – Current law states that the Commission may not initiate a complaint on its own motion based solely on an anonymous source. Could we indicate that we may accept information from an anonymous source if the information includes otherwise publicly available information that would not otherwise be readily knowable to the Commission staff?
- 7) Advisory Opinions.
- Without disclosing the name or position of the requester of an advisory opinion, unless confidentiality is waived, authorize Commission to seek information from agency legal counsel in context of a request for advisory opinion to ensure Commission has accurate information regarding the role of agency and duties of a position in rendering advice.
  - Authorize governmental agencies to bring requests for advisory opinions seeking clarification of Ethics Laws as applicable to certain positions within the agency given a specific set of circumstances.

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- 8) Clarify contracting provisions.
- Under current law, any public officer or employee is prohibited from entering into a contract with ANY state or local governmental entity, unless the contract is subject to open competitive bidding or otherwise receives relief from the Commission.
  - This proposal mirrors the suggestion of SB 391 from 2011 which clarifies that the ethical concerns relate to contracts in which the public officer or employee has some influence or other conflict of interest as a result of his public position.
  - Example: Is it an ethical conflict for a public employee who works for a State agency to enter into a contract with a county to provide plumbing services unrelated to his/her work for the State?
- 9) Expand Ethics Law to include prohibition against abuse of position or power.
- The Commission's current jurisdiction to investigate and render an opinion in a matter must include evidence of a pecuniary interest or commitment in a private capacity to the interests of another person that is in conflict with public duties.
  - The Commission is criticized for not having the ability to evaluate inappropriate conduct of public officers and employees that does not implicate these specific private interests but nevertheless implicates conduct that does not comport with the public trust and is otherwise an abuse of official power. As a concept, this may be a valuable idea, but it will require the Commission to develop specific guidelines for public officers to understand the boundaries of conduct deemed as abusive.
  - We may develop factors to consider in evaluating whether conduct amounts to an abuse of authority or power.
  - Commission should evaluate scope of similar provisions in other jurisdictions.
- 10) Clarify and/or revise the criteria for the Limited Use Exception to statute which otherwise prohibits use of governmental resources for a significant personal purpose.
- 11) Extend or clarify definition of a Commitment in a Private Capacity for a public officer or employee to the following relationships:
- Fiduciary or other volunteer service to a "Nonprofit entity"
    - o We have significant requests for clarification and/or application about the nature of conflicts for disclosure and abstention purposes for public officers who are affiliated with nonprofit entities. Concerns have been raised by agency legal counsel that this type of relationship is not captured specifically in statute and has many variations.
  - Subordinate employees
    - o Current law states that a public officer or employee has a commitment to his/her employ~~er~~ – not to his/her employ~~ee~~ (subordinate). Various cases have prompted questions about whether a public officer or employee acts inappropriately to benefit or affect the interests of a subordinate.

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12) Clarify scope of Legislative Privilege and Immunity

- Confirm that the Commission has jurisdiction to investigate allegations of legislative misconduct to determine whether the conduct is protected by legislative privilege and immunity.

13) Confirm scope of Commission Counsel's or other designated counsel's authority regarding litigation.

## State of Nevada Agency Request Budget - Important Due Dates

The following are key dates and deadlines for submitting the 2019-2021 biennial Agency Request Budget:

<b>TASK</b>	<b>DEADLINE</b>
Non-Budgetary Bill Draft Requests (BDR) Concept Statement Due	04/13/18
Non-Budgetary BDR Concept Statement approved or denied	05/11/18
Final Non-Budgetary BDRs due	06/08/18
Submittal of Agency Request Budget and any budgetary BDRs	08/31/18

# **Agenda Item 7**

**State of Nevada**  
**Commission on Ethics**  
**FY18 Training Information**

<b>Date</b>	<b>Presenter</b>	<b>Entity:</b>	<b>Location:</b>	<b>Jurisdiction</b>
7/26/17	YMNG	UNR IVLP Parliamentarian Delegation	Carson City	State
7/26/17	YMNG	TRMPA Truckee Meadows Regional Planning Agency	Sparks	Local
7/27/17	YMNG	UNR - Northern NV International Center - Burmese Delegation	Carson City	Other
8/1/17	YMNG	Clerk's Academy (UNR Extended Studies)	Reno	Local
8/16/17	JAP	UNR - Northern NV International Center - Jordan Delegation	Carson City	Other
9/13/17	YMNG	Clark County Training #1	Las Vegas	Local
9/13/17	YMNG	City of Las Vegas	Las Vegas	Local
9/14/17	YMNG	County Fiscal Officer's Presentation	Pahrump	Local
9/26/17	YMNG	NACO Conference	Winnemucca	Local
9/27/17	YMNG	City of Elko	Elko	Local
9/27/17	YMNG	City of West Wendover	West Wendover	Local
9/28/17	YMNG	City of Ely	Ely	Local
10/3/17	YMNG	DETR	Carson City	State
10/11/17	YMNG	Virgin Valley Water District/City of Mesquite	Mesquite	Local
10/12/17	YMNG	Clark County Dept. of Building & Fire Prevention	Las Vegas	Local
10/25/2017	YMNG	AG Boards & Commission Training	Carson City	State
11/1/17	YMNG	AG Boards & Commission Training	Las Vegas	State
11/8/17	YMNG	LVCVA Executive Staff	Las Vegas	Local
11/14/17	YMNG	LVCVA Staff	Las Vegas	Local
11/17/17	YMNG	NV Association of School Boards	Carson City	State
12/12/17	YMNG	LVCVA B.O.D. - I	Las Vegas	Local
1/19/18	YMNG	Social Worker's Board	Reno	State
1/24/18	YMNG	Regional Transportation Commission - Washoe County	Reno	Local
1/25/18	YMNG	PEBP Board	Carson City	State
1/26/18 (AM)	YMNG	NV State Public Charter School Authority	Carson City	State
1/26/18 (PM)	YMNG	No NV Assoc Gov't Accountants Panel	Reno	Local
2/1/18	YMNG	DETR	Carson City	State
2/5/18	YMNG	Carson City DA Retreat	Carson City	Local
2/13/18 (AM)	YMNG	LVCVA B.O.D. - II	Las Vegas	Local
2/13/18 (PM)	YMNG	UNLV Ethics in Public Administration Class	Las Vegas	Other
2/15/18	YMNG	AG Boards & Commission Training	Carson City	State
	YMNG	Bureau of Disability Adjudication	Carson City	State
3/1/18	YMNG	Clark Co Dept. of Business License	Las Vegas	Local
3/13/18	YMNG	Incline Village General Improvement District	Incline	Local
3/14/18	YMNG	NV Dept of Agriculture	Sparks	State
4/3/18	YMNG	DETR	Carson City	State
6/6/18	YMNG	DETR	Carson City	State



# STATE OF NEVADA COMMISSION ON ETHICS

## Meeting Dates for 2018 (3<sup>rd</sup> Wednesday of Each Month)\*

January 17<sup>th</sup>

February 21<sup>st</sup>

March 21<sup>st</sup>

April 18<sup>th</sup>

May 16<sup>th</sup>

June 20<sup>th</sup>

July 18<sup>th</sup>

August 15<sup>th</sup>

September 19<sup>th</sup>

October 17<sup>th</sup>

November 14<sup>th</sup>\* (2<sup>nd</sup> Wed.)

December 12<sup>th</sup>\* (2<sup>nd</sup> Wed.)