



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **Jim Alworth**, Councilmember,
City of Ely, State of Nevada,

Ethics Complaint
Case No. 19-095C

_____ Subject /

STIPULATED AGREEMENT

1. **PURPOSE:** This Stipulated Agreement resolves Ethics Complaint Case No. 19-095C before the Nevada Commission on Ethics ("Commission") concerning Jim Alworth ("Alworth"), Councilmember, City of Ely ("City"), Nevada.

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

3. **PROCEDURAL HISTORY BEFORE COMMISSION**

- a. On November 25, 2019, the Commission issued a Confidential Advisory Opinion in Case No. 19-049A (Alworth) in response to an advisory request received from Alworth.
- b. On or about October 1, 2019, the Commission received Ethics Complaint No. 19-095C ("Ethics Complaint") from a member of the public ("Requester"), alleging that Alworth used his public position to secure or grant unwarranted privileges or advantages for himself (NRS 281A.400(2)) and attempted to benefit a significant personal or pecuniary interest through the influence of a subordinate (NRS 281A.400(9)).
- c. On November 18, 2019, the Commission issued its *Order on Jurisdiction* accepting jurisdiction and directing the Executive Director to investigate this matter.

- d. On November 18, 2019, 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 (9) and whether Alworth acted in contravention of a confidential written opinion issued to Alworth in violation of NRS 281A.685. Alworth was provided an opportunity to provide a written response to the Ethics Complaint.
- e. On or about December 9, 2019, Alworth provided a response to the Ethics Complaint.
- f. Alworth was served with a Notice of Additional Issues and Facts (“Notice”) on July 15, 2021, providing Alworth with notice that the Commission’s investigation had identified additional issues and facts concerning alleged violations of NRS 281A.420(1) and (3) for failing to disclose a conflict of interest and abstain from voting on matters during Ely City Council meetings. Alworth was provided an opportunity to provide a written response to the Notice.
- g. On July 26, 2021, Alworth provided a response to the Notice.
- h. The Executive Director presented a recommendation on August 18, 2021 relating to just and sufficient cause to a three-member review panel pursuant to NRS 281A.720.
- i. A Panel Determination issued on August 18, 2021:
 - 1) Determined that credible evidence supported just and sufficient cause for the Commission to render an opinion in the matter regarding the alleged violations of NRS 281A.400(2) and (9), NRS 281A.420(1) and (3) and NRS 281A.685 related to Alworth’s conduct associated with his participation in Ely City Council matters regarding the Ely Fire Department and Ely Volunteer Fire Department; and
 - 2) Referred the matter to the Commission for further proceedings.
- j. In lieu of an adjudicatory hearing before the Commission, Alworth and the Commission now enter into this Stipulated Agreement.

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

- a. Alworth is a member of the Ely City Council and a public officer pursuant to NRS 281A.160.
- b. Alworth was previously a 36-year active member of the Ely Volunteer Fire Department (“EVFD”).
- c. On June 10, 2019, Alworth requested an advisory opinion from the Commission regarding his disclosure and abstention obligations under the Ethics Law as a councilmember associated with his continuing volunteer affiliation with the EVFD.²
- d. As a volunteer for the EVFD, Alworth has been provided stipends, insurance coverage, training, and other benefits for his service. Alworth received his fire and EMT training from the Ely Fire Department (“EFD”), attended conferences and additional training paid for by the EVFD, and when he was volunteering, he would receive a small stipend from the City of Ely for services provided to the EFD.
- e. Alworth indicated in his request for an advisory opinion that as a member of the Ely City Council he anticipated considering ordinances, contracts (including collective bargaining agreements for career staff), budgets, administrative and personnel matters and other matters pertaining to the EVFD and EFD.
- f. The Commission advised and Alworth specifically recognized in his request for the advisory opinion that he must disclose and abstain pursuant to NRS 281A.420 on any personnel matters affecting his status and working conditions as a volunteer.
- g. Alworth changed to inactive status with EVFD in November 2019. Inactive members are not required to attend EVFD meetings or trainings and are not subject to regular call-out requirements but continue to enjoy all the privileges

¹ Stipulated Facts do not constitute part of the “Investigative File” as that term is defined by NRS 281A.775. All statutory and common law protections afforded to the Investigative File shall remain and are not affected by this Stipulated Agreement.

² Alworth hereby voluntarily waives the confidentiality of the Advisory Opinion issued by the Commission in Case No. 19-049A (Alworth) pursuant to NRS 281A.685(1)(b).

of EVFD membership and can still be called out to assist EFD in the event of large fires or other events that require additional personnel.

- h. At subsequent City Council meetings, Alworth discussed and/or voted on matters relating to the EFD and/or the EVFD without properly disclosing his affiliation, conflict of interest or recusing himself from participation on the following dates: January 9, 2020, June 25, 2020, July 23, 2020, and August 13, 2020.

5. **TERMS / CONCLUSIONS OF LAW**: Based on the foregoing, Alworth 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. Alworth, as a public officer, was required to commit himself to avoid conflicts between his private interests and those of the general public whom he served. NRS 281A.020.
- c. A public officer must sufficiently disclose his pecuniary interest or commitment in a private capacity to the interest of another person that is reasonably affected by an official matter (NRS 281A.420(1)). Alworth violated NRS 281A.420(1) by failing to publicly disclose the full nature and extent of his pecuniary interests in presenting and participating in matters related to the EFD and EVFD. See *In re Murnane*, Comm'n Op. No. 15-45A (2016) (Appointed public officer must disclose information regarding a conflict that is sufficient to inform the public body and public attending a public meeting), citing *In re Buck*, Comm'n Op. No. 11-63C (2011) (A public officer must disclose the conflict "at the time the matter is considered" and relying on a prior disclosure fails to properly comply with NRS 281A.420(1)).
- d. Allegations that Alworth violated NRS 281A.400(2) and (9) and NRS 281A.685 are hereby dismissed for lack of sufficient evidence to support a violation by a preponderance of the evidence.
- e. Alworth now understands that he must disclose and abstain pursuant to NRS 281A.420 each time any matter comes before the Ely City Council regarding

- the EFD and/or the EVFD despite Alworth's transfer to inactive status with the EVFD.
- f. Alworth's actions constitute a single course of conduct resulting in one violation of the Ethics Law, implicating the provisions of NRS 281A.420(1) and (3), as interpreted and applied in accordance with the provisions of NRS 281A.020(1).
 - g. Based upon the consideration and application of the statutory mitigating criteria set forth in NRS 281A.775, the Commission concludes that Alworth's violation in this case should not be deemed a willful violation pursuant to NRS 281A.170 and the imposition of a civil penalty is not appropriate for the following reasons:
 - 1) Alworth has not previously been the subject of any violation of the Ethics Law.
 - 2) Alworth properly completed and filed his Acknowledgement of Statutory Ethical Standards as required by NRS 281A.500(3).
 - 3) Alworth has completed Ethics training and has encouraged other City public officials and employees to complete Ethics training. Alworth did not receive any financial benefit as a result of his conduct.
 - 4) The City Council Meeting Minutes reflect Alworth made partial, if improper, disclosures during many of the identified meetings.
 - 5) Alworth has been diligent to cooperate with and participate in the Commission's investigation and resolution of this matter.
 - 6) Alworth was not aware that his change to inactive status with the EVFD did not change his disclosure and abstention requirements on City Council matters pertaining to the EVFD and EFD.
 - h. 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 Alworth. 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. Alworth knowingly and voluntarily waives his right to a hearing before the full Commission on the allegations in Ethics Complaint Case No. 19-095C and all rights he may be accorded with regard to this matter pursuant to NRS Chapter 281A, the regulations of the Commission (NAC Chapter 281A), the Nevada Administrative Procedures Act (NRS Chapter 233B) and any other applicable provisions of law.
- b. Alworth 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 October 20, 2021.³

DATED this 21 day of OCT, 2021.


Jim Alworth

The above Stipulated Agreement is approved by:

FOR EXECUTIVE DIRECTOR,
NEVADA COMMISSION ON ETHICS

DATED this 2nd day of November 2021.


Elizabeth J. Bassett, Esq.
Associate Counsel

³ 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 2nd day of November, 2021.

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

The above Stipulated Agreement is accepted by the Commission:⁴

DATED: November 2, 2021

By: /s/ Kim Wallin
Kim Wallin, CPA, CMA, CFM
Chair

By: /s/ Thoran Towler
Thoran Towler, Esq.
Commissioner

By: /s/ Teresa Lowry
Teresa Lowry, Esq.
Commissioner

By: /s/ Amanda Yen
Amanda Yen, Esq.
Commissioner

By: /s/ Damian R. Sheets
Damian R. Sheets, Esq.
Commissioner

⁴ Vice-Chair Duffrin and Commissioners Gruenewald and Oscarson participated in the Review Panel hearing for Ethics Complaint No. 19-095C and are therefore precluded from participating in this Stipulated Agreement pursuant to NRS 281A.220(4).