

Opinion No. 92-33

BEFORE THE NEVADA COMMISSION ON ETHICS

In The Matter of the Opinion Request Regarding GEORGE C. CHACHAS

This Opinion is in response to a request for an opinion from the Nevada Commission on Ethics (Commission) on July 24, 1992, by Harlan G. Arnold, an Ely City Councilman, concerning, at that time, the Mayor of the City of Ely, George C. Chachas.

On November 28, 1992, the Commission met in Las Vegas, Nevada and reviewed the opinion request to determine whether there was just and sufficient cause to conduct a hearing and render an opinion in response to the opinion request pursuant to NRS 281.511 (2)(b). The opinion requestor, Mr. Arnold, and the subject of the opinion request, Mr. Chachas, were present and testified. At the conclusion of the hearing, the Commission decided there was just and sufficient cause to proceed to a hearing and render an opinion on the following three of the nine^[1] issues in Mr. Arnold's opinion request:

1. GEORGE C. CHACHAS, while on the premises of Ely City Hall, became engaged in a loud, argumentative and disruptive dispute with the City Clerk/Manager regarding a licensing matter pertaining to his private business. When the City Clerk/Manager did not conform her position to that of the Mayor's, he threatened to take action against her in a closed personnel session.

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3. GEORGE C. CHACHAS, while acting in his official capacity as mayor of the City of Ely utilized City personnel, equipment and monies, which were under his official control, to have a sewer clean out placed on the private sewer line of the owners of 513 Parker Avenue. This action by GEORGE C. CHACHAS was done with the full knowledge that such action was prohibited by the policy of the Ely Water/Sewer Board and in direct violation thereof. Furthermore, this action did not benefit anyone other than the private property owners of 513 Parker Avenue and 525 Parker Avenue, which may be in violation of NRS 197.110, NRS 281.481(2), and may constitute a gross misdemeanor.

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7. GEORGE C. CHACHAS has used his position as a public officer in an effort to have a barricade removed from a city alley, after it had been placed there by action of the Ely City Council for public safety reasons, because he believes it will benefit a commercial enterprise which he owns which opens onto the same alley.

A full hearing on the merits of these issues was held on April 2, 1993. Mr. Arnold and Mr. Chachas were present and testified in the matter and stipulated that the November 28, 1992 Commission hearing would be incorporated into the April 2, 1993 hearing record.

The opinion request and hearings were confidential pursuant to NRS 281.511(4) and therefore not open to the public. However, the Commission believes that it is in the public's interest to release this opinion publicly pursuant to its authority to do so under NRS 281.511(4)(f).

The Commission has jurisdiction over this matter pursuant to NRS 281.511(2)(b).

FINDINGS

A. Business License

1. Mr. Chachas served as Mayor of the City of Ely from June of 1991, until he was recalled and last served on October 16, 1992. During his service as mayor, Mr. Chachas was a public officer as defined in NRS 281.4365.
 2. In his private capacity, Mr. Chachas owned a restaurant ("The Greek") and an amusement center from which he operated a Radio Shack dealership, in downtown Ely, Nevada.
 3. Prior to becoming Mayor of Ely, Mr. Chachas had been sued by the City of Ely for not paying the city business license fees on video games in his businesses. Mr. Chachas argued in that lawsuit that the City of Ely was not doing its job properly in collecting business license fees from other outstanding businesses and that he would not pay the business license fees sought in the lawsuit until other businesses were required to pay such fees. Mr. Chachas was not successful in defending the lawsuit and was ordered to pay the fees and a fine of \$850.00.
- Mr. Chachas' subsequent 1991 business license renewal application reflected that his amusement center contained an additional amusement game and poker machine than had been reflected on his previous year's business license application.
4. On July 29, 1991, Charlene Wood, the City Clerk/Manager for the City of Ely, sent Mr. Chachas a letter stating the following:

Dear Mr. Chachas:

This letter is to inform you that the City of Ely is amending the business license renewal bill sent to you for the third quarter ending September 30, 1991.

It has been brought to my attention that you have one (1) amusement game plus one (1) poker machine that is not licensed with the City of Ely.

Your current business license fee is \$43.57 and \$10.00 for one (1) amusement game for a total of \$53.57. The new fee for your poker machine is \$15.00 and \$10.00 for your amusement game. With these two (2) additional fees this will bring your business license to a total of \$78.57.

Additionally, I have enclosed a copy of the amended business license application for your review and signature. If you do not agree with this letter, please discuss this with me at your earliest convenience.

Your prompt attention to this matter will be appreciated.

Sincerely,

Charlene Wood
City Clerk/Manager

5. On August 2, 1991, Mr. Chachas went to the Ely City Clerk's Office to obtain copies of minutes of a past city council meeting he had requested several weeks earlier. He was told by a deputy city clerk that the requested information had to first be cleared by the Ely City Attorney. Mr. Chachas was angry for having been denied copies of the minutes and began to leave the City Clerk's Office when he encountered Charlene Wood who asked the Mayor if

she could be of assistance. During that conversation, Charlene Wood invited Mr. Chachas into her office and discussed Mr. Chachas' business license application and the increase in his license fees. City Attorney Dave Olson was present in Ms. Wood's office during her conversation with Mr. Chachas. Ms. Wood asked Mr. Chachas if he had received her letter of July 29, 1991, which Mr. Chachas indicated he had. Mr. Chachas disagreed with the change in the business license fee referred to in Ms. Wood's letter and said that a closed personnel session was appropriate to discuss his license fee and his belief that someone in City Hall was not doing their job. Mr. Chachas felt the personnel session would have brought forth information showing that the City was not consistently enforcing business license collections from him and other members of the business community. Mr. Chachas demanded the personnel session during the conversation with Ms. Wood in which non-payment of his business license fees was discussed.

Mr. Chachas' voice during his conversation with Ms. Wood was heard by employees outside of Ms. Wood's office despite the fact that the door to her office being closed. At the conclusion of the brief conversation, Ms. Wood asked Mr. Chachas to leave her office. Mr. Chachas began to leave and then turned around and pushed back toward the door, unsuccessfully trying to gain reentry.

6. On September 9, 1991, the Ely City Council passed in a 4/5 vote, over Mayor Chachas' veto, Resolution 91-16 which censured Mr. Chachas for his conduct towards Ms. Wood during his conversation with her on August 2, 1991. [2]

B. Clogged Sewer

7. In January 1992, Lou Jean Drakulich, a private property owner who lived on Parker Avenue in Ely, hired Fred Ahlvers of Ahlvers Heating and Plumbing, to clean out a clogged sewer line at his residence. The sewer line ran in excess of 200 feet from the rear of the Drakulich residence on Parker Avenue, crossed under an alley and under another residence before it connected with the city sewer main on Ogden Avenue. Because of the length of the sewer line, Mr. Ahlvers was unable to clean the line with his equipment. Ms. Drakulich's alternative was to install a new sewer line running from the front of her house to a closer sewer main hook up on Parker Avenue.

8. Mr. Ahlvers called City of Ely Engineer, Dean Day, for approval to install a new service to the Drakulich residence, which would exit directly from the residence to the closest sewer main on Parker Avenue. Mr. Day gave the approval for the installation.

9. On January 11, 1992, Mr. Dale Salvi, Ms. Drakulich's son-in-law, telephoned Mr. Day to report that he was upset at the prospect of having to have a new sewer service hooked up and wanted City assistance. Mr. Day denied the request in light of Ely City Code 17-16 which provides the following:

Each owner of houses, buildings or other properties used for human occupancy, employment, recreation, commercial industrial or other like purposes situated within the areas of the city shall connect to such sewer [city sewer system] within ninety days after such sewer is available for use, wherever such public sewer line is within three hundred feet of any building discharging sanitary or industrial waste. Connections to the sewer system are the sole responsibility of the owner of the property so connected. (Ord. No. 385, sec. 23.)

10. On January 12, 1992, Mr. Salvi called Mayor Chachas at his home and repeated his request for City assistance with Ms. Drakulich's sewer blockage.

11. On January 14, 1992, Mayor Chachas contacted Dan Bliss, Ely Water Department Work Supervisor. Mr. Chachas ordered Mr. Bliss to install a sewer clean-out on Ms. Drakulich's line at the point where it crossed the alley.

Because the sewer line was located in the alley, which was designated as public access, Mr. Chachas decided that Ms. Drakulich's sewer line was city property. Mr. Chachas determined that city crews would be able to clean out the sewer lines because their snakes were longer than those of the private plumbers in Ely.

Mr. Bliss advised Mr. Chachas that it was inappropriate for the City of Ely to perform the work on Ms. Drakulich's sewer line, because the sewer line was privately owned.

Mr. Chachas nonetheless ordered Mr. Bliss to perform the work and Mr. Bliss subsequently complied. A sewer clean-out was conducted at a cost to the city of \$375.12.

12. At a February 10, 1992, Ely City Council meeting following completion of the clean-out of Ms. Drakulich's sewer line, the matter was reviewed. Mr. Chachas explained that he felt it was appropriate for the City to pay for the sewer clean out because the City had previously fixed a sewer line for another private citizen. Mr. Chachas also stated that he thought the sewer line under the alley was City property .The other sewer line cleared by the City was done as a result of City error on one of the lines near the property .Mayor Chachas offered to pay for the installation of the clean-out himself if he had made a mistake in concluding that the City was responsible for the procedure.

13 .At the time of the Commission hearing, neither Mr. Chachas nor Ms. Drakulich had been presented with a bill for the sewer clean-out.

C. Business Barricade

14. NRS 266.277 provides the following:

The city council may, by ordinance regulate:

(1) All vehicular, pedestrian and other traffic within the city and provide generally for the public safety on public streets, publicly owned parking lots, parking areas to which the public is invited and public rights of way.

(2) The length of time for which vehicles may be parked upon the public streets and publicly owned parking lots.

The Ely City Council has the authority to place or remove barricades within its jurisdictional boundaries.

15. Prior to Mr. Chachas' election as Mayor of Ely, the Ely City Council approved construction of a barricade in the alley behind Mr. Chachas' restaurant and Radio Shack businesses. The barricade was constructed by Norm Goeringer, owner of the adjacent Jailhouse Casino Complex, in an attempt to protect casino customers who may be endangered by through traffic as they crossed from one building to another.

16. Mr. Chachas' restaurant, "The Greek", had been vandalized both prior to and after becoming Mayor. Mr. Chachas had, on several occasions, requested the Ely City Council to order that the barricade be removed in the evening to make it easier for the police to patrol the alley behind his businesses.

17. After becoming Mayor in June of 1991, Mr. Chachas continued to seek to have the Ely City Council order the barricade removed. In a letter addressed to Mr. Chachas and dated February 20, 1992, and discussed at the February 24, 1992 City Council Meeting, the Ely Fire Chief informed Mr. Chachas that the barricade, which was removable, did not present any problem for fire protection or law enforcement. During the February 24, 1992 City Council discussion on the topic, it was suggested to Mr. Chachas that his pursuit of the matter may be "a personal vendetta". The following discussion ensued:

Councilman Wilcox: "I think this is a personal vendetta."

Mayor Chachas: "You can say what you want sir. There's a problem in that alley. Your [sic] not the one that's being broken into. I am I want those officers going down that street. I agreed that the thing would be taken out a eleven o'clock I have no problem with it. But the only one that is agreeing is me. And I am the one that's getting hurt."

Councilman Arnold: "Your [sic] the only one there that's claiming that your [sic] getting hurt."

Mayor Chachas: "Not claims, this is well documented by the Sheriff's Office. "

Councilman Ferrari: "Mr. Bouk (?) has a problem with it also."

Mayor Chachas: "People are parking in that alley, now if were going to allow that for one we are to allow that for everybody. In fact I'm going to start parking there myself. I'm going to research it and if in fact I can prove my point and the agreement as stated at the meeting is not being kept then it is over with."

City Attorney Olsen: "It does not change the law, that the City Council has the authority to block public access ways if they deem that it is in the public interest."

Mayor Chachas: "If in fact the agreement is not being kept, and the other person broke that agreement, then the agreement is null and void."

Councilman Wilcox: "There was no agreement with this council. This council did agree to leave the barricade there."

City Attorney Olsen: "Perhaps you may be right Mayor Chachas but I need to caution you to be very careful as to whether or not you are approaching this as the Mayor of the City of Ely or as whether you are approaching it as George Chachas private business owner who feels that an agreement has been violated."

Mayor Chachas: "As the mayor, as the mayor I want to know what the fire code is and I have yet to find out."

City Attorney Olsen: "You've been informed by the Fire Chief that there's no fire code regulation having to do with this barricade or with barricades generally."

Mayor Chachas: "Put that verbatim if you would."

18. Mr. Chachas did not disclose his personal interest in the barricade agenda item prior to discussing the matter at the City Council meeting on February 24, 1992. No vote was taken by the City Council at the February 24, 1992, meeting.

OPINION

After having heard testimony and reviewed other evidence in this case, it is apparent that considerable ongoing differences existed between Mr. Chachas and other members of the Ely City Government. Many of these problems resulted in unfortunate circumstances over which the Commission has no jurisdiction but which appear to have contributed to a volatile, albeit abbreviated, term of office for former Mayor Chachas. The issues within the Commission's jurisdiction are: They are:

Whether George Chachas used his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself or any business entity in which he had a significant pecuniary interest, or any other person in violation of NRS 281.481(2), by or through (i) his interactions with the Ely City Clerk regarding his business licenses, (ii) his conduct in ordering city workers to clear a sewer line connected to the private residence of Ms. Drakulich, or (iii) in seeking removal of a barricade in an Ely City alley which abutted his restaurant and Radio Shack dealership.

Also at issue is whether George Chachas violated the provisions of NRS 281.501(3) by failing to publicly disclose his pecuniary interests in the removal of a barricade from an alley directly behind his businesses at the time the matter

was considered and discussed at the February 24, 1992, Ely City Council meeting.

NRS 281.481(2) provides the following:

A public officer or employee shall not use his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for himself, any member of his household, any business entity in which he has a significant pecuniary interest, or any other person. NRS 281.481(2).

NRS 281.501(3) provides:

A public officer or employee shall not approve, disapprove, vote, abstain from voting, or otherwise act upon any matter:

(a) Regarding which he has accepted a gift or loan;

(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

(c) In which he has a pecuniary interest, without disclosing the full nature and extent of the gift, loan, commitment or interest. Such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected.

The public policy of Nevada's Ethics in Government law is contained in NRS 281.421 and provides the following:

Legislative declaration and findings.

1. It is hereby declared to be the public policy of this state that:

(a) A public office is a public trust and shall be held for the sole benefit of the people.

(b) A public officer or employee must commit himself to avoid conflicts between his private interest and those of the general public whom he serves.

2. The legislature finds that:

(a) The increasing complexity of state and local government, more and more closely related to private life and enterprise, enlarges the potentiality for conflict of interests.

(b) To enhance the people's faith in the integrity and impartiality of public officers and employees, adequate guidelines are required to show the appropriate separation between the roles of persons who are both public servants and private citizens.

A. Business License

The first issue is whether, in violation of NRS 281.481(2), Mr. Chachas used his position as Mayor to secure unwarranted privileges, preferences or advantages for himself and/or his businesses during his conversation with City Clerk Charlene Wood on August 2, 1991, regarding a business license fee which Mayor Chachas disputed owing.

At the Commission hearing, Mr. Chachas denied threatening Ms. Wood with holding a personnel session in

response to Ms. Wood's demand for an additional city business license fees from Mr. Chachas for his private business interests. Instead, Mr. Chachas maintained that the personnel session to which he referred during the August 2, 1992 meeting with Ms. Wood was for the deputy city clerk who had just previously denied Mr. Chachas request for public records. However, at the Commission hearing, Mr. Chachas testified that the subject matter of the personnel session to which he was referring in his conversation with Ms. Wood, would have been to discuss his difficulties with his business license and proper enforcement of business license collections for other members of the community. According to Mr. Chachas' own testimony, Mr. Chachas told Ms. Wood that a personnel session was necessary to discuss the propriety of the business license assessment which Ms. Wood was attempting to collect for the City of Ely.

Rather than separating his private interest, in contesting what he believed to be an improper business license fee, from his authority as Mayor of Ely to schedule personnel sessions for unsatisfactory work performance for city staff, Mr. Chachas sought to address his private business dispute with assessed license fees by using his position as mayor to threaten to hold a personnel session to address the problem. A private citizen would not have had, as Mayor Chachas had, the appearance of authority to make such a threat to advance his private business interests. Even though Mr. Chachas did not have actual authority to hold a personnel session to address his business license fee problem, his threat to hold such a session in response to the City Clerk's attempt to collect a business license fee from him was, under NRS 281.481(2), an improper use of his position as Mayor to secure an unwarranted advantage of disputing the City's ability to collect a license fee from him as a private business person.

Whether the personnel session occurred is irrelevant. Mr. Chachas violated NRS 281.481(2) when he made the threat to use his position as Mayor to hold a personnel session in which the propriety of the license fee would be reviewed. A public official simply does not have the authority to use, or threaten to use, the jurisdiction or powers of his or her office to resolve their private business concerns. By doing so, Mr. Chachas violated NRS 281.481(2).

B. Clogged Sewer

Mr. Chachas, while acting in his official capacity as Mayor, ordered the Ely Water Department to install a sewer clean-out for a sewer line privately owned by Lou Jean Drakulich. The cost to the City to perform that task was \$375.12.

Mr. Chachas believed he had authority to direct the City to help clean out the sewer line since it partially ran under City property even though he was first advised by Supervisor Dan Bliss of the Ely City Water Department that the city could not work on the line since it was private property .The Mayor nonetheless ordered the sewer cleaned out and the Ely City Water Department complied with his order. At the administrative hearing, Mr. Chachas testified that he thought his decision was authorized because the City had previously cleaned another private owner's sewer line. However, Mr. Chachas made no inquiry or attempt to try and confirm whether the water department's statement that the City could not do the work was accurate.

Mayor Chachas exceeded his legal authority when he required the Ely City Water Department to clear a private property sewer line. His decision went beyond poor judgment because he was definitively told by the Water Department prior to making the decision, that the City could not work on the line because it was private property. Knowing that, the Mayor, without consulting any other member of the City of Ely Government staff on legal counsel, immediately ordered that the work be done. By doing so, Mr. Chachas used his position as Mayor to grant an unwarranted benefit, privilege, and advantage to private property owner Drakulich and thereby violated the provisions of NRS 281.481(2).

C. Business Barricade

The question with respect to Mr. Chachas' objecting to the Ely City Council' s decision to the place a barricade in the

alley behind his business is not whether the barricade should have remained in place, but, rather what actions Mr. Chachas took in his public capacity as Mayor, distinct from those taken as a private citizen, to seek to promote the removal of the barricade to improve his private business interests. Mr. Chachas' concern was that the barricade prevented law enforcement officers from effectively patrolling the alley. Mr. Chachas had requested that the issue be placed on the Ely City Council agenda both before and after becoming mayor. Mr. Chachas made his last request on the matter at the city council meeting on February 24, 1992. The issue had appeared on the Ely City Council agenda as requested by "Mayor Chachas." At that meeting, Mr. Chachas did not disclose or clarify that he had a private business interest in the matter although at one point, Mr. Chachas declared that, "I am the one that's getting hurt." Mr. Chachas later maintained that his interest in the topic was strictly in his public capacity: "As the Mayor, ...I want to know what the fire code is and I have yet to find out." Mr. Chachas rejected outright statements by the local fire chief that the fire code did not prohibit the barricade and that the county sheriff did not consider the barricade a law enforcement problem.

During the February 24, 1992, meeting, City Attorney Dave Olsen was sufficiently concerned about Mr. Chachas conflicting roles in the City Council's deliberation of the barricade issue to warn Mayor Chachas "to be very careful as to whether or not you are approaching this as the Mayor of the City of Ely or as whether you are approaching it as George Chachas private business owner..."

The Commission finds that Mr. Chachas did not distinguish and separate his conflicting interests in the barricade issue as a private citizen and his public responsibilities as the Mayor. Instead Mr. Chachas used his position of office to attempt to influence, control and dominate the City Council's deliberations with respect to the question of placement of the barricade in the alley. Mr. Chachas would not have been in such a position of dominance and control to further his private business interest had he been a private citizen. As a result, Mr. Chachas used his position as Mayor to secure the unwarranted privilege and advantage of dominating and controlling the City Council meeting in which he sought to advance his private business interests.

Mayor Chachas should have relinquished his responsibilities and role as Mayor and presented his position as any other private citizen would have had to have done in presenting a matter to the City Council. Mr. Chachas' failure to have done so violated the provisions of NRS 281.481(2).

Mr. Chachas also violated the provisions of NRS 281.511(3) by failing to disclose publicly at the outset of the council's discussion, his personal interest in the city council's agenda item addressing removal of a city barricade, which was on the Council's February 24, 1992 agenda.

CONCLUSION

Mr. Chachas violated the provisions of NRS 281.481(2) when he: (i) threatened the Ely City Clerk with holding a personnel session in response to her attempt to collect additional business license fees from Mr. Chachas; (ii) used his position as Mayor to direct the Ely City Water Department to use public resources to repair a sewer line for a private citizen; and (iii) used his role as Mayor to advocate a position before the Ely City Council which was in furtherance of his private business interests in removing a city barricade from the alley behind his place of business. Mr. Chachas also violated NRS 281.501(3) by failing to disclose his interest in the removal of a city barricade discussed by the Ely City Council at its meeting on February 24, 1992.

COMMENT

It is specifically noted that the foregoing Opinion applies only to these specific circumstances, and may not apply to other circumstances. The provisions of Chapter 281 of the Nevada Revised Statutes quoted and discussed above must be applied on a case-by-case basis, the results of which will vary depending on the specific facts and circumstances involved.

DATED: May 31, 1995.

NEVADA COMMISSION ON ETHICS

By: /s/ THOMAS R.C. WILSON, II, Chairman

[1] The remaining 6 issues were:

2. At the conclusion of the above-referenced argument, GEORGE C. CHACHAS became physically aggressive toward the City Clerk/Manager, causing her to fear for her personal safety and further, causing other members of city hall staff to become frightened. Such behavior on the part of GEORGE C. CHACHAS, may be in violation of N.R.S. 203.010, a misdemeanor, and N.R.S. 266.190(2)(c), general powers and duties of the mayor. (Because of the above behavior on the part of GEORGE C. CHACHAS, he was censured by the Ely City Council.)

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4. GEORGE C. CHACHAS, while acting in his official capacity as mayor of the City of Ely, has committed several acts in violation of N.R.S. 283.440 and N.R.S. 266.190(2)(d) by refusing or neglecting to perform the official duties pertaining to his office as prescribed by law, in that GEORGE C. CHACHAS has routinely refused to sign, or execute, various contracts and agreements which have been deliberated upon in public meetings by the Ely City Council and subsequently, duly and properly passed and approved by said Ely City Council. Such refusal or neglect in the performance of his lawful duties has interrupted and interfered with the orderly and lawful flow of Ely city business and continues to interrupt and interfere with the same.

5. GEORGE C. CHACHAS, while in his official capacity as mayor of the city of Ely, has routinely engaged in quarrelsome, loud, tumultuous, offensive and threatening conduct on the premises of Ely City Hall, in the presence of city employees, which conduct was frightening to said city employees and disruptive to the orderly and lawful flow of Ely city business. Such behavior on the part of GEORGE C. CHACHAS, may be in violation of N.R.S. 203.010, a misdemeanor, and N.R.S. 266.190(2)(c), general powers and duties of the mayor.

6. GEORGE C. CHACHAS routinely uses his position as mayor of the City of Ely to threaten employees with "holding closed personnel sessions" against the City Clerk/Manager, City Attorney and other city officials and employees to bully and threaten city personnel into submission to his demands.

8. GEORGE C. CHACHAS used his position as mayor of the City of Ely to unilaterally appoint himself as the representative to the Bureau of Land Management (B.L.M.) for environmental analysis of a proposed mining operation known as the Magma Project. GEORGE C. CHACHAS then secretly entered into an agreement, known as a Memorandum of Understanding between The Bureau of Land Management and the City of Ely (MOU), without informing or consulting with the Ely City Council. GEORGE C. CHACHAS subsequently corresponded with the B.L.M., purporting to represent the City of Ely, without advising or consulting with the Ely City Council.

9. GEORGE C. CHACHAS has used his position as mayor of the City of Ely to harass and intimidate appointed officials (City Manager, City Attorney, and others) by placing their names on agenda after agenda, demanding that they be fired, in spite of definite action by the City Council in opposition to such behavior.

[2] The draft resolution reads as follows:

Resolution No.91-16

A RESOLUTION CENSURING MAYOR GEORGE CHACHAS FOR CONDUCT UNBECOMING AN ELECTED CITY OFFICIAL

WHEREAS, the Ely City Council is empowered to make and pass all resolutions necessary for the municipal government and management of the city affairs pursuant to N.R.S. 266.105(1); and

WHEREAS, the Mayor is the chief executive of the City and the presiding officer of the City Council; and
WHEREAS, the Ely City Council has enacted ordinances, pursuant to its powers under N.R.S. 266.321, to protect the public peace, safety and welfare; and

WHEREAS, the Ely City Council has determined through written statements and testimony that Mayor George Chachas has engaged in disorderly, unprofessional, and inappropriate conduct, unbecoming an elected City Official and contrary to the scope of his powers under N.R.S. 266.190, toward an appointed City Official, to-wit: that the Mayor attempted to use physical force against the person of City Clerk, Charlene Wood, through violent, loud, offensive, tumultuous conduct, specifically by pushing against and striking and kicking the office door to the City Clerk's office, while said City Clerk was immediately on the other side of the door; all of which occurred within the City offices at City Hall during regular business hours while other City employees and private citizens were present, and all of which caused the City Clerk to fear for her personal safety, and was frightening to other City employees and disturbing and disruptive to the orderly conduct of City business; and

WHEREAS, N.R.S. 266.190(c) charges the Mayor with taking all proper measures for the preservation of public peace and order and the suppression of all forms of public disturbances; and

WHEREAS, the acts of Mayor George Chachas against City Clerk, Charlene Wood amount to a direct violation of his public duty under N.R.S. 266.190(c); and

WHEREAS, the Ely City Council has determined that such disorderly, unprofessional and inappropriate conduct on the part of any Elected Official is reprehensible and unacceptable and contrary to orderly and responsible City government; and

WHEREAS, the Ely City Council is empowered to punish its members for disorderly conduct pursuant to N.R.S. 266.240;

NOW THEREFORE, BE IT RESOLVED, that the Ely City Council hereby formally censures Mayor George Chachas for engaging in conduct toward an appointed City Official that was disorderly, unprofessional, and inappropriate, amounting to conduct unbecoming an elected City Official and contrary to the scope of his powers under the law.