



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In re **John Cassinelli**, Commissioner,
Lyon County Commission,
Lyon County, State of Nevada,

Advisory Opinion No. 24-185A
CONFIDENTIAL

Subject. /

OPINION

EXECUTIVE SUMMARY¹

TOPIC: CONTRACTS

John Cassinelli (“Cassinelli”), Lyon County Commissioner, requested this confidential advisory opinion from the Nevada Commission on Ethics (“Commission”) pursuant to NRS 281A.675, regarding the propriety of his conduct as it relates to the Ethics in Government Law (“Ethics Law”) set forth in NRS Chapter 281A. Cassinelli requests an advisory opinion regarding whether his private contracting company, Cassinelli Landscaping and Contracting (“CLC”), can continue to contract with government agencies without violating NRS 281A.430’s prohibition against public officers and employees contracting with government agencies. If contracting with such government agencies would violate NRS 281A.430, Cassinelli seeks relief under NRS 281A.430(6).

After fully considering his request and analyzing the facts and circumstances as presented by Cassinelli, the Commission determines CLC qualifies for NRS 281A.430(4)’s exemption to the contracting prohibition but only for contracts obtained through a competitive bidding process that require certifications or qualifications that are unique to CLC and where there are three or fewer competitors in the in the Northwestern Nevada region with the qualifications to be awarded the contract at issue. The Commission also grants the requested relief from the contracting agencies under NRS 281A.430(6) as to contracts between CLC and government agencies other than Lyon County for which CLC possesses specific and unique experience and qualifications. Relief is not granted under NRS 281A.430(6) with respect to future contracts between CLC and Lyon County or any government agencies under the jurisdiction of the Lyon County Commission.

¹ This executive summary constitutes no part of the opinion of the Commission. It has been prepared by Commission staff for the convenience of the reader.

I. FINDINGS OF FACT

1. Cassinelli is a Lyon County Commissioner. He was elected to the Lyon County Commission in November 2024.
2. In his private capacity, Cassinelli is the President and CEO of CLC, a general engineering and landscape contracting company in Carson City. CLC is in its 50th year of business. The business was started by Cassinelli's father and Cassinelli took over operations in 1994.
3. CLC has contracted to perform work, either directly or as a subcontractor, for a number of government entities, including NDOT, City of Carson City, Douglas County, Storey County, Lyon County, Nevada State Parks, US Forrest Service, State Public Works, and the US Postal Service. Projects CLC has worked on for government entities includes Sand Harbor Visitor's Center, Lahontan State Park, Zephyr Cove Campground, Carson City I-580 Freeway Landscaping, Mills Park, Northridge Linear Park, Heritage Park, Carson City Public Safety Building, Carson City Main Post Office, Nevada State Museum Plaza, Laxalt Plaza, and Carson Senior Center.
4. The work performed by CLC for government entities has primarily been park construction and improvement, as well as landscaping installation for public buildings and grounds. CLC has obtained most of this work through competitive bidding processes.
5. In the last few years, CLC has downsized its work for government entities but still maintains a working relationship with Storey County and Carson City, performing work including concrete and landscaping improvements. In Storey County, CLC recently made improvements to Miner's Park including pavers and sod turf replacement. CLC obtained this job through a competitive bidding process. For Carson City, CLC has recently performed the removal and replacement of concrete at Carriage Square Park, a job it also obtained through a competitive bidding process. CLC also currently has a 'Will Call' contract with Carson City for non-competitive bid items such as snow removal, repairs, concrete, and a groundskeeping contract for several water-well sites.
6. While there are a few other landscape contracting companies that could bid on projects for Carson City and Storey County, there are no other contractors in Northwestern Nevada who have the combination of multiple licenses, multiple certifications and \$250,000 bonding capacity that CLC possesses. Cassinelli is the only Landscape Industry Certified Manager in Northern Nevada (there are two other Landscape Industry Certified Managers in Nevada, both located in Clark County) and CLC is the only landscape contractor in Northwestern Nevada that that is also licensed as a general engineering and building contractor and has a high bonding capacity, which allows it to perform larger projects and work within road right-of-ways, which is unique in its industry. CLC is also a state licensed Pest Control Operator, state licensed Nursery, and is certified through organizations such as American Water Works Association ("AWWA"), National Association of Landscape Professionals ("NALP"), Interlocking Concrete Pavement Institute ("ICPI"), National Concrete Management Association ("NCMA"), American Concrete Institute ("ACI") and Qualified Water Efficient Landscaper ("QWEL"). Cassinelli is also one of just a few AWWA certified backflow assembly testers in

Northern Nevada, as well as an ACI certified Concrete Finisher, which is a unique licensure and is required on many municipal projects.

7. CLC's unique set of qualifications for Northwestern Nevada is the primary reason the Carson City Parks Department has selected CLC for an on-call contract for many years.
8. CLC does not currently perform work for Lyon County or any state or local government entities within Lyon County and Cassinelli does not intend for CLC to seek or perform any work for Lyon County or any state or local government entities within Lyon County while he serves on the Lyon County Commission.
9. CLC does intend to continue to contract with and perform work for Carson City and other government entities outside of Lyon County. Cassinelli therefore seeks an advisory opinion as to whether it would be a violation of NRS 281A.430 for CLC to continue to contract with government entities outside of Lyon County while Cassinelli serves on the Lyon County Commission.
10. If NRS 281A.430 would apply to prohibit contracts between CLC and government entities outside of Lyon County, Cassinelli requests relief under NRS 281A.430(6).

II. RELEVANT STATUTES

A. NRS 281A.020(1)—Duty to Avoid Conflicts of Interest

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

B. NRS 281A.065—Commitment in a Private Capacity

“Commitment in a private capacity,” with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:

4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. With whom the public officer or employee has a substantial and continuing business relationship; or
6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subparagraphs 1 to 5, inclusive.

C. NRS 281A.139—Pecuniary Interest

“Pecuniary interest” means any beneficial or detrimental interest in a matter that consists of or is measured in money or is otherwise related to money, including, without limitation:

1. Anything of economic value; and

2. Payments or other money which a person is owed or otherwise entitled to by virtue of any statute, regulation, code, ordinance or contract or other agreement.

D. NRS 281A.430—Contracting

1. Except as otherwise provided in this section and NRS 218A.970 and 332.800, a public officer or employee shall not bid on or enter into a contract between an agency and any business entity in which the public officer or employee has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board, commission or body may, in the ordinary course of his or her business, bid on or enter into a contract with an agency, except the board, commission or body on which he or she is a member, if the member has not taken part in developing the contract plans or specifications and the member will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the Nevada System of Higher Education may bid on or enter into a contract with an agency, or may benefit financially or otherwise from a contract between an agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255...

4. Except as otherwise provided in subsection 2, 3 or 5, a public officer or employee may bid on or enter into a contract with an agency if:

(a) The contracting process is controlled by the rules of open competitive bidding or the rules of open competitive bidding or for a solicitation are not employed as a result of the applicability of NRS 332.112 or 332.148;

(b) The sources of supply are limited;

(c) The public officer or employee has not taken part in developing the contract plans or specifications; and

(d) The public officer or employee will not be personally involved in opening, considering or accepting offers.

If a public officer who is authorized to bid on or enter into a contract with an agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281A.420, shall disclose the public officer's interest in the contract and shall not vote on or advocate the approval of the contract.

5. A member of a local legislative body shall not, either individually or through any business entity in which the member has a significant pecuniary interest, sell goods or services to the local agency governed by his or her local legislative body unless:

(a) The member, or the business entity in which the member has a significant pecuniary interest, offers the sole source of supply of the goods or services within the territorial jurisdiction of the local agency governed by his or her local legislative body;

(b) The local legislative body includes in the public notice and agenda for the meeting at which it will consider the purchase of such goods or services a clear and conspicuous statement that it is considering purchasing such goods or services from one of its members, or from a business entity in which the member has a significant pecuniary interest;

(c) At the meeting, the member discloses his or her significant pecuniary interest in the purchase of such goods or services and does not vote upon or advocate the approval of the matter pursuant to the requirements of NRS 281A.420; and

(d) The local legislative body approves the purchase of such goods or services in accordance with all other applicable provisions of law.

6. The Commission may relieve a public officer or employee from the strict application of the provisions of this section if:

(a) The public officer or employee files a request for an advisory opinion from the Commission pursuant to NRS 281A.675; and

(b) The Commission determines that such relief is not contrary to:

(1) The best interests of the public;

(2) The continued ethical integrity of each agency affected by the matter;

and

(3) The provisions of this chapter.

III. CONCLUSIONS OF LAW

A. In his capacity as a County Commissioner, Cassinelli is a public officer as defined by NRS 281A.160.

B. Pursuant to NRS 281A.675, the Commission has jurisdiction to render an advisory opinion in this matter.

C. Cassinelli has a significant pecuniary interest in his private business and employer, CLC, and any contracts or agreements between CLC and any government entity.

D. Pursuant to NRS 281A.065(4) and (5), Cassinelli has a commitment in a private capacity to CLC and its business associates.

E. As Cassinelli has a significant pecuniary interest in CLC, NRS 281A.430(1) prohibits CLC from entering into contracts with any state or local government agencies unless the Commission finds an exception to the prohibition applies or grants relief from the prohibition.

F. Based upon the circumstances presented by Cassinelli, CLC qualifies for NRS 281A.430(4)'s exception to the contracting prohibition, but only for contracts obtained through a competitive bidding process and which require certifications or qualifications that are unique to CLC and where there are three or fewer competitors in the in the Northwestern Nevada region with the qualifications to be awarded the contract at issue.

G. CLC is also granted relief pursuant to NRS 281A.430(6) only for contracts with government agencies other than Lyon County and that are not under the jurisdiction of the Lyon County Commission due to CLC's unique qualifications and experience regarding public projects.

H. The Commission considered the request for an advisory opinion, a list of proposed facts that were affirmed as true by Cassinelli and publicly available information.

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- I. For the purposes of the conclusions offered in this Opinion, the Commission's findings of fact are accepted as true. Facts and circumstances that differ from those presented to and relied upon by the Commission may result in different findings and conclusions than those expressed in this opinion.²
- J. If in the future additional facts are obtained that relate to the application of the Ethics Law to his circumstances, Cassinelli may return to the Commission for education and guidance on the application of the Ethics Law by filing a new advisory request.
- K. An advisory opinion does not protect a public officer or employee from an investigation or adjudication based on an ethics complaint submitted pursuant to NRS 281A.710(b)(2) regarding past conduct addressed in the advisory opinion.
- L. Pursuant to NAC 281A.352, a quorum of the Commission considered this matter by submission, without holding an advisory opinion hearing.³

Any Finding of Fact hereafter construed to constitute a Conclusion of Law, or any Conclusion of Law hereafter construed to constitute a Finding of Fact, is hereby adopted, and incorporated as such to the same extent as if originally so designated.

IV. COMMISSION DECISION

Nevada's Ethics Law mandates that public officers and employees hold public office for the public benefit and must avoid conflicts of interest. NRS 281A.020.

A. CASSINELLI'S PECUNIARY INTEREST AND COMMITMENT IN A PRIVATE CAPACITY TO CLC

1. Cassinelli Has a Significant Pecuniary Interest in CLC

Cassinelli has an ownership interest in CLC and has associated significant pecuniary interests in the company including receiving payments for work performed for government entities. Cassinelli therefore has a significant pecuniary interest in CLC as defined by the Ethics Law. See NRS 281A.139.

2. Cassinelli Has a Commitment in a Private Capacity to CLC

NRS 281A.065 establishes certain relationships constituting commitments in a private capacity, which relationships are used to identify conflicts of interest. Pursuant to NRS 281A.065(4) and (5), Cassinelli has a private commitment to his private business, CLC, and its partners, employees, and associates ("business relationships"). The Commission has confirmed that "[p]ursuant to NRS 281A.065, [a] public officer has both a significant pecuniary interest in maintaining private employment and a commitment in

² The Commission reserves its statutory authority should an ethics complaint be filed presenting contrary circumstances. See *In re Howard*, Comm'n Op. No. 01-36 (2002) (notwithstanding this advisory opinion, a member of the public is not precluded from bringing an ethics complaint); *In re Rock*, Comm'n Op. No. 94-53 (1995) (Commission reservation of right to review until time issue is raised).

³ The following Commissioners participated in this opinion: Chair Scherer, Vice Chair Wallin and Commissioners Langton, Lowry, Miller, Reynolds and Smith.

a private capacity to the interests of the employer, including associated clients and business interests.” *In re Public Officer*, Comm’n Op. No. 15-74A (2018), at p. 8.

The Commission has instructed in cases involving a statutory private commitment under NRS 281A.065 that the interests of the person to whom there is a private commitment—in this case CLC and its business affiliates and clients—are statutorily attributed to the public officer based on the presumption that a person lacks independent judgment toward the interests of those persons to whom the public officer has such commitments. See *id.*; *In re Public Officer*, Comm’n Op. No. 13-71A (2014). This means that the interests of CLC and CLC’s business associates are statutorily attributed to Cassinelli for purposes of complying with the Ethics Law. See *In re Public Officer*, Comm’n Op. No. 17-10A (2017), at p. 6.

B. NRS 281A.430 – CONTRACTING PROHIBITION AND EXCEPTIONS

NRS 281A.430(1) establishes a broad restriction prohibiting “a public officer or employee, personally or through a business entity in which the public officer or employee has a significant pecuniary interest, from bidding on or entering into a contract with a public agency.” *In re Public Employee*, Comm’n Op. No. 16-61A (2016). Agency is defined in NRS 281A.035 to include any state or local agency.⁴

The Commission found in *In re Public Employee*, Comm’n Op. No. 13-78A (2014) that NRS 281A.430 generally prohibits a public officer or employee from engaging in government contracts in which the public officer or employee has a significant pecuniary interest, unless the contract is exempted by the statute. NRS 281A.430 has important public policy considerations when contracting with public agencies given the perception, if not the reality, of tax-payer money expended on contracts between government agencies and entities owned or operated by public officers or employees that work for governmental agencies. Such contracts do not appear to be transparent or fair to the public unless certain circumstances are present.

CLC, in which Cassinelli has a significant pecuniary interest, is therefore prohibited from entering into contracts with any state or local government agency by NRS 281A.430(1) while Cassinelli serves on the Lyon County Commission unless the contract falls within one of the contracting exceptions set forth in NRS 281A.430.

NRS 281A.430(2), (3), (4) and (5) provide various circumstances under which certain government contracts with a public officer or employee may be appropriate. NRS 281A.430(2) establishes an exception for members of boards, commissions or similar bodies that regulate the profession in which they are a member. NRS 281A.430(3) applies to full or part-time members or employees of the Nevada System of Higher Education, and NRS 281A.430(5) applies to members of local legislative bodies selling goods or services to a local agency governed by his or her local legislative body. None of these exceptions apply to contracts between CLC and any local or state public agencies.

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⁴ The requirements of NRS 281A.430 are separately enforceable from the public purchasing laws or other laws established in various chapters of the Nevada Revised Statutes.

From the facts provided, it appears that the exception in NRS 281A.430(4) may apply to contracts between CLC and government agencies, however. NRS 281A.430(4) provides that a public officer or employee may bid on or enter into a contract with an agency if:

- (a) The contracting process is controlled by the rules of open competitive bidding, or the rules of open competitive bidding are not employed as a result of the applicability of NRS 332.112 or 332.148;
- (b) The sources of supply are limited;
- (c) The public officer or employee has not taken part in developing the contract plans or specifications; and
- (d) The public officer or employee will not be personally involved in opening, considering or accepting offers.

The requirements of NRS 281A.430(4) are in the conjunctive and all must be present for the exception to apply.

1. Open, Competitive Bidding Process

Central to NRS 281A.430(4)'s exemption is the requirement that the proposed contract is either subject to public bidding or an open, competitive process in which any other interested person/business was authorized to provide the services or products. NRS 281A.430(4)(a). In addition, the public officer or employee must not have a role in developing the contract specifications or considering the offers. See *In re Public Employee*, Comm'n Op. No. 23-047A (2023), at p. 6.

Cassinelli indicates that the majority of the contracts CLC has entered into with Carson City and Storey County were obtained through an open and competitive process. So long as CLC continues to obtain contracts with public entities through open and competitive bidding processes, this requirement will be met. For example, in *In re Johnson*, Comm'n Op. No. 12-68A (2013), the Commission determined that a local fair board's process for engaging the mayor for certain maintenance needs on an as-needed basis met the requirements of an open, competitive process because any similar vendor was welcome to seek contracts with the public entity. *In re Johnson*, at p. 9.

2. Sources of Supply are Limited

Another requirement of NRS 281A.430(4)'s exception is that the sources of the supply for the services required under the contract must be limited. NRS 281A.430(4)(b). Unless the facts are clear on their face that professional services are of limited supply, the Commission has declined to determine that professional services are of limited or unique supply for purposes of this exception, even when the Commission recognizes that the services may be difficult to locate at a desired price in a geographic area. See *In re Public Employee*, Comm'n Op. No. 15-28A (2016), at p. 9.

Cassinelli has indicated that CLC is the only general engineering and landscape contracting company in Northwestern Nevada that has the specific combination of experience, certifications, qualifications and bonding capacity that makes it uniquely suited to provide services to cities and counties. However, many of the services provided by CLC are not in limited supply as there are many landscaping and contracting companies in Northwestern Nevada. Cassinelli does note that CLC has a higher bonding capacity than most at \$250,000, however.

CLC therefore meets this prong of NRS 281A.430(4)'s exemption, but only for contracts that require certifications or qualifications that are unique to CLC, including its higher bonding capacity, and where there are three or fewer competitors in the region with the qualifications or bonding capacity to be awarded the contract at issue. While Cassinelli's certifications are a signal of good work and excellent marketing tools, in order to qualify for the exemption, the specific certifications he possesses and/or CLC's higher bonding capacity must be required for the public contract at issue.

3. Contract Development and Acceptance

The final two prongs of NRS 281A.430(4) relate to the public officer or employee's role in developing contract plans and the opening, consideration, or accepting of contract offers. NRS 281A.430(4)(c) and (d). Since Cassinelli does not have a role in designing or creating contracting plans or specifications for Carson City or Storey County and will not be involved in the opening, consideration, or accepting of contract offers in those jurisdictions, CLC meets both of the final two prongs of NRS 281A.430(4)'s exception for contracts with Carson City and Storey County.⁵ See NRS 281A.430(4)(c) and (d).

C. RELIEF FROM CONTRACTING PROHIBITION – NRS 281A.430(6)

The contracting prohibition of NRS 281A.430(1) applies to any contracts CLC seeks to enter with government agencies that do not fall under NRS 281A.430(4)'s exception. Cassinelli therefore seeks relief from the prohibition under NRS 281A.430(6) for those contracts not allowed under NRS 281A.430(4), which permits the Commission to relieve a public officer or employee from the contracting prohibition if they file a request for an advisory opinion from the Commission and the Commission determines that such relief is not contrary to:

1. The best interests of the public;
2. The continued ethical integrity of each agency affected by the matter;
and
3. The provisions of the Ethics Law.

1. Best Interests of the Public

Services related to public safety have been found to be in the best interest of the public for the purpose of granting relief from NRS 281A.430(1)'s contracting prohibition. See *In re Public Employee*, Comm'n Op. No. 24-011A (2024); *In re Horton, et al.*, Comm'n Op. No. 22-017A et al. (2022). In his request for relief, Cassinelli notes that CLC provides specialized services to cities and counties, particularly related to public parks and green areas, for which CLC has unique qualifications and experience, including performing work in road rights-of-way. The Center for Disease Control notes that community health can be positively affected by parks, trails, recreation areas, and green spaces.⁶ Allowing CLC

⁵ Although Cassinelli has indicated that CLC does not currently, and has no plans to, enter into contracts with Lyon County or any government agencies under the jurisdiction of the Lyon County Commission, if it were to do so Cassinelli would be required to have no role in designing or creating contracts plans or specifications or in opening, considering or accepting contract offers for NRS 281A.430(4)'s exception to apply to CLC. Cassinelli is cautioned that if CLC were to seek to contract with Lyon County or any agency under the jurisdiction of the Lyon County Commission, he must be careful to comply with all the requirements of NRS 281A.400 and NRS 281A.420.

⁶<https://www.cdc.gov/physicalactivity/activepeoplehealthnation/everyone-can-be-involved/parks-recreation-and-green-spaces.html> (accessed 2/3/2025)

to contract with cities and counties in Northwestern Nevada is therefore in the best interests of the public.

2. Continued Ethical Integrity

The more challenging analysis is in determining if permitting CLC to contract with government agencies is “not contrary to the continued ethical integrity of each agency affected by the matter.” The Commission will separately consider (1) contracts with government entities other than Lyon County, and (2) contracts with Lyon County or any government agencies under the jurisdiction of the Lyon County Commission.

a. Contracts with government agencies other than Lyon County

The Commission has previously granted relief under NRS 281A.400(6) when the request for relief was coupled with an assurance not to contract with the public employee or officer’s employing government entity. See *In re Horton*, at pp. 17-18. In this case, CLC seeks relief for contracts with government agencies outside of Lyon County and over which the Lyon County Commission has no jurisdiction or oversight.

Based upon the specific circumstances and affirmations made by Cassinelli, the Commission does not perceive that CLC’s potential contracts with government entities other than Lyon County would be contrary to the continued ethical integrity of such government agencies.

b. Contracts with Lyon County or any government agencies under the jurisdiction of the Lyon County Commission

When the Commission has granted relief in prior decisions, a key factual finding or assertion from the public officer or employee seeking relief is that no contract will be sought between their private company and the government entity or agency for which they currently serve. See *In re Horton*, at pp. 17-18. The Commission has stated:

[U]nless proper separation is maintained between the public duties and private business endeavors and compliance is maintained with the Ethics Law and agency directives, relief would not be appropriate. With these caveats, the Commission perceives Requesters will comply with the Ethics Law and directives from the Commission and those imposed by Carson City or the CCFD, and therefore, finds that H&H’s contracts for training would not be contrary to the integrity of other governmental agencies, **except for Carson City or the CCFD.**

Id., at p. 18 (emphasis added). Consistent with the Commission’s prior opinions, a contract between CLC and Lyon County, or any other government agencies under the jurisdiction of the Lyon County Commission, would be contrary to the continuing ethical integrity of Lyon County or the government agencies under the jurisdiction of the Lyon County Commission.

3. Compliance with Other Provisions of the Ethics Law

The standard for granting relief also requires that the conduct in obtaining the contract is consistent with other provisions of the Ethics Law. There are no facts presented that Cassinelli or CLC has violated the Ethics Law in regards to government

agencies in Northwestern Nevada. Relief from the strict requirements of the contracting prohibitions in NRS 281A.430(1) is therefore granted with respect to contracts between CLC and government entities other than Lyon County that are not otherwise subject to the exemption in NRS 281A.430(4).

Dated this ____ day of February, 2025

NEVADA COMMISSION ON ETHICS

By: /s/ Scott Scherer
Scott Scherer, Esq.
Chair

By: ABSENT
John T. Moran, III, Esq.
Commissioner

By: /s/ Kim Wallin
Kim Wallin, CPA, CMA, CFM
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By: /s/ Teresa Lowry
Teresa Lowry, Esq.
Commissioner

By: /s/ Brianna Smith
Brianna Smith, Esq.
Commissioner