

CARSON CITY ETHICS ORDINANCE REVIEW COMMITTEE
Minutes of the September 12, 2013 Meeting

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A meeting of the Carson City Ethics Ordinance Review Committee was scheduled for 1:30 p.m. on Thursday, September 12, 2013, in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Member Janette Bloom
Member Caren Cafferata-Jenkins
Member Ande Engleman
Member Dawn Ellerbrock
Member Angela Miles

STAFF: Larry Werner, City Manager
Tina Russom, Deputy District Attorney
Tamar Warren, Deputy Clerk/Recording Secretary

NOTE: A recording of these proceedings, the Ethics Ordinance Review Committee's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are part of the public record. These materials are available for review, in the Clerk's Office, during regular business hours.

- 1. CALL TO ORDER** (1:37:44) – Ms. Russom called the meeting to order at 1:37 p.m.
- 2. ROLL CALL** (1:37:54) – Roll was called; a quorum was present. Member Cafferata-Jenkins participated via telephone.
- 3. PUBLIC COMMENT** (1:38:12) – Ms. Russom entertained public comments; however, none were forthcoming.
- 4. ADOPTION AGENDA** (1:38:30) – Ms. Russom introduced the item. **Member Engleman moved to adopt the agenda as presented. The motion was seconded by Member Miles. Motion carried 5-0.**
- 5. INTRODUCTION OF ETHICS ORDINANCE REVIEW COMMITTEE MEMBERS.** (1:38:56) – Staff and Committee members introduced themselves.
- 6. FOR POSSIBLE ACTION: TO TAKE NOMINATIONS AND ELECT A CHAIR AND VICE CHAIR OF THE COMMITTEE.** (1:39:47) – Ms. Russom introduced the item and entertained nominations for the position of Chair. **Member Engleman nominated Member Cafferata-Jenkins for the position of Chair; however, Ms. Cafferata-Jenkins declined the nomination due to a conflict of interest as she is the Executive Director of the State Ethics Commission.** At the request of Member Engleman, Mr. Werner described the duties of the Chairperson. **Member Cafferata-Jenkins moved to nominate Member Engleman for the position of Chair. The motion was seconded by Member Bloom. Member Cafferata-Jenkins Moved to close the nominations for the position of Chair. The motion was seconded by Member Bloom. Motion carried 5-0.** Ms. Russom called for the vote to elect Member Engleman to the position of Chair. **Motion Carried 5-0.** Ms. Russom entertained a motion for the position of Vice Chair. Member Bloom volunteered to serve as Vice Chair. **Member Ellerbrock moved to nominate Member Bloom for the position of Vice Chair. The motion was seconded by Member Miles. Member Miles moved to close the nominations for the position of Vice Chair. The motion was seconded by Member Ellerbrock. Motion carried 5-0.** Ms. Russom called for the vote to elect Member Bloom to the position of Vice Chair. **Motion carried 5-0.**
- 7. TO ADOPT THE CARSON CITY ETHICS ORDINANCE REVIEW COMMITTEE BYLAWS.** (1:43:36) – Chairperson Engleman introduced the agenda materials and requested clarification on “discretion” in Section I, Subsection B.2. Mr. Werner clarified that it described the members’ “discretion on how you react outside the Committee”. **Member Miles moved to adopt the Carson City Ethics Ordinance Review Committee Bylaws. The motion was seconded by Vice Chairperson Bloom. Motion carried 5-0.**

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8. REVIEW AND DISCUSSION OF THE NEVADA OPEN MEETING LAW. (1:47:26) – Ms. Russom delivered a PowerPoint presentation, incorporated into the record, on the Nevada Open Meeting Law. Chairperson Engleman entertained member and public comments; however, none were forthcoming.

9. FOR POSSIBLE ACTION: PRESENTATION AND REVIEW OF THE CARSON CITY MUNICIPAL CODE CHAPTER 2.34 CODE OF ETHICS AND STATE ETHICS CODE NRS CHAPTERS 281 AND 281A AND POSSIBLE ACTION TO PROVIDE DIRECTION REGARDING STAFF WORK AND/OR FUTURE AGENDA ITEMS. (2:04:14) – Chairperson Engleman introduced the item. Mr. Werner reviewed the agenda materials and presented the Carson City Municipal code Chapter 2.34 Code of Ethics and State Ethics Code NRS Chapter 281 and 281A, including a detailed analysis by the District Attorney’s Office regarding “some of the pitfalls that relate to the Carson City Municipal Code”, all of which are incorporated into the record. Chairperson Engleman indicated that she would be interested in hearing Member Cafferrata-Jenkins’ input on the item. Member Cafferrata-Jenkins explained that as the Executive Director of the State Ethics Commission, she was “intimately familiar” with NRS Chapter 281A, which gives the Nevada Commission on Ethics jurisdiction, and the prohibitive acts and the requirements for abstention, disclosure and conflict of interest, which is covered in Chapter 2.34 of the Carson City Municipal Code. Member Cafferrata-Jenkins added that with the exception of two or three sections, the Municipal Code was less restrictive than the State Law, in which case, should a conflict arise, the State Law would prevail. She added that in the case of a conflict, and if the State Law “is already considered superseded, there’s no reason to have it in the law” to avoid confusion. Member Cafferrata-Jenkins also stated that “as a general observation, I see no need to have this in the Municipal Code”, clarifying that the State Ethics Commission, as an administrative body, could only impose financial sanctions and not criminal sanctions. Ms. Russom elaborated on a Memorandum from the Carson City District Attorney’s Office, noting that the City may establish a local Ethics Committee; however, it would be limited in scope, as it would only “establish a code of ethical standards suitable for particular ethical problems encountered in that jurisdiction”, calling the two codes redundant. She also agreed that the State Code would preempt the City Code.

Member Bloom inquired about the origin of this Committee and was informed by Chairperson Engleman that it was the result of “a number of scandals and ethics violations going on in the State” in 1989 and 1991, calling it a “major issue in the media at the time”, and attributed it to the creation of an Ethics Ordinance and Review Committee by then Mayor Marv Teixeira, and to the absence of a State Ethics Law at the time. Chairperson Engleman also noted that she had discovered that the City Clerk’s Office was not collecting the necessary disclosure forms, and had requested addressing the issue. Mr. Werner clarified that the City chose to utilize a public process to address the elimination of the City’s Ethics Code from the Municipal Code and rely on the State Code. In response to a question, Mr. Werner stated that he was not aware of any conflicts or violations during his tenure; however, Chairperson Engleman recounted a few earlier incidents involving the use of public materials, such as use of stationary and e-mails in campaigns. Member Cafferrata-Jenkins confirmed that the State Ethics Law would apply to City employees. She also defined the State Law regarding gifts, and cited the difference between qualitative and quantitative gifts. Chairperson Engleman requested a copy of the City’s employee handbook from Mr. Werner; however, Member Cafferrata-Jenkins wasn’t clear whether it would be within the authority of this Committee to review the handbook, and suggested clarifying the ordinance, having it adopted by the Board of Supervisors, and incorporating the results into the employee handbook. At Chairperson Engleman’s request, Mr. Werner informed the Committee of the “hotline”, a new Fraud, Waste, and Abuse Program, undertaken by the City and administered by a third party clearing house, that will receive calls, send them to the City’s internal auditor to be vetted and forward them to the appropriate personnel. He also clarified that this program would target more specific situations. In response to an inquiry about current ethics violations and their consequences, Mr. Werner stated that they would be forwarded to the District Attorney’s Office or the State Ethics Commission. Member Cafferrata-Jenkins disclosed that local governments, including Carson City, contributed to the State Ethics Commission’s operational budget and stated that in case of a sanction imposed as a result of a violation, “the individual pays the sanction while the government pays the defense”. Ms. Russom clarified that in such cases, a “conflict counselor” would be hired by the City, and Mr. Werner responded to a question indicating that the City was self-insured. Chairperson Engleman requested Ethics Codes from other cities and Mr. Werner agreed to provide them.

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10. PUBLIC COMMENT (2:38:44) – Chairperson Engleman entertained public comments; however, none were forthcoming.

11. FOR POSSIBLE ACTION: TO ADJOURN. (2:38:55) – Chairperson Engleman entertained a motion. **Member Miles moved to adjourn. The motion was seconded by Member Ellerbrock. The meeting was adjourned at 2:39 p.m.**

The Minutes of the September 12, 2013 Carson City Ethics Ordinance Review Committee meeting are so approved this 10th day of October, 2013.

ANDE ENGLEMAN, Chair