

NEVADA TAX COMMISSION MEETING  
MEETING MINUTES

Nevada Legislative Building  
401 S. Carson Street, Room 2135  
Carson City, Nevada

Legislative Counsel Bureau  
Grant Sawyer State Office Building  
555 E. Washington Ave., Room 4412  
Las Vegas, Nevada

December 4, 2017  
9:00 a.m.

Members Present:

James DeVold, Chairman  
Ann Bersi, Commissioner  
Craig Witt, Commissioner  
Tony Wren, Commissioner  
George Kelesis, Commissioner  
Francine Lipman, Commissioner  
Sharon Rigby, Commissioner  
Randy Brown, Commissioner

Chairman DeVold called the meeting to order at 9:00 a.m.

Chairman DeVold welcomed Sharon Rigby and Randy Brown to the Commission. Both new members were appointed by Governor Sandoval in November of 2017.

Sharon Rigby is an attorney-at-law and she will be the mining industry member. Commissioner Rigby has over 30 years of experience in taxation in the mining industry and she will replace John Marvel.

Randy Brown is the Director of external and regulatory affairs for AT&T. Commissioner Brown has more than twenty years of experience in the telecommunications industry and he will be replacing Thom Sheets.

Chairman DeVold thanked and recognized two friends that are now former commissioners. John Marvel and Thom Sheets have served on the Nevada Tax Commission tirelessly for decades. Both are one hundred percent class gentlemen and carried the true service of public service. On a personal note, Chairman DeVold thanked them both for helping to educate him as a new commissioner; and stated that they were among the first to help him understand complicated issues associated with the Tax Commission. They are true leaders and will be friends for life. It has been said that the true measure of character is doing something for others that can never be repaid. Commissioner Sheets and Commissioner Marvel exemplify this. The citizens of Nevada, the Department staff, and I believe I speak for my fellow commissioners, we will forever be in your debt.

I. Public Comment.

There was no public comment.

Director Contine administered an oath to all parties testifying at the meeting today.

II. Consideration for Approval of the October 2, 2017 and November 1, 2017 Nevada Tax Commission Meeting Minutes.

A motion was made by Commissioner Wren to approve the minutes of the October 2, 2017 and November 1, 2017 Nevada Tax Commission meetings. Commissioner Witt seconds the motion. Commissioner Brown and Commissioner Rigby abstained from the vote. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):

- a) The Appliance Store LLC
- b) High Desert Oil NV Inc.
- c) Desert Venture LLC
- d) Marzieh Mehrvarz Inc.
- e) Sun Homes Services Inc.
- f) Kildare LLC
- g) MyFit LLC
- h) Heidi Kang LLC
- i) MJSK Agency LLC
- j) FT Pub IV LLC
- k) FT Pub III LLC
- l) Bus Stop Service Center Inc.
- m) Drake Software LLC
- n) Alanddon LLC
- o) John D. Sherwood
- p) Fortune Star Cuisine
- q) Reid Corp
- r) Sushi Pier LLC
- s) SD&W LLC
- t) Busch Summit LLC
- u) Donny Holtzer

B. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:

- 1) Arch Insurance Company
- 2) John Hancock Life Insurance Company (USA)
- 3) Integral Associates LLC
- 4) Garlock Printing & Converting West
- 5) Amazon Services LLC
- 6) Amazon.Com LLC
- 7) Arrow Enterprise Computing Solutions, Inc.
- 8) Auto Brake & Clutch
- 9) Nevada Cement Company
- 10) Vega Enterprise, Inc.
- 11) Count's Kustoms LLC
- 12) Logical Industries Corp.
- 13) A Creative Charity Solution
- 14) Tricon Wear Solutions LLC
- 15) Nevada AK, Inc.

C. Approval of Refund/Credit Request in Excess of \$250,000:

- 1) Aurora Diagnostics DBAs Laboratory Medicine Consultants and Western Pathology
- 2) Customink LLC

3) CMC Steel Fabricators, Inc.

D. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (sales/use and/or modified business tax)

1) Napa Valley Pottery & Floral

A motion was made by Commissioner Kelesis to approve the consent calendar agenda items. Commissioner Lipman seconds the motion. All in favor. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

A. Local Government Services:

1) Consideration for Adoption of Permanent Regulation on Improvement to or Change in Actual Use of Property, to amend NAC 361.610465, NAC 361.610485 and NAC 361.61049 to bring these provisions in line with the calculation of the abatement for remainder parcels in NAC 361.61038. LCB File NO. R018-17

Jeffrey Mitchell, Deputy Director, was present on behalf of the Department of Taxation. Mr. Mitchell reviewed Section 1 of LCB File NO. R018-17 which amends NAC 361.610465 to reference assessed value rather than the term property taxes to be excluded from each partial abatement; and adds to the tax roll for the current fiscal year. Section 2 amends NAC 361.610485 by removing the base-year calculation and utilizing an effective tax rate calculation to determine the amount of assessed new value to be added for an improvement to or change in actual or authorized use. Section 2 also provides for a definition of the effective tax rate that is to be used in the calculations. Mr. Mitchell recommended changing the word “and” to “divide by” on Page 7 under Section 4 of the Regulation. Section 3 is a language change and amends NAC 631.61049 to replace the word taxes by the assessed value.

Commissioner Rigby suggested changing the word “determining” to “determined” on Page 5 Paragraph 4.

Mr. Mitchell agreed with Commissioner Rigby’s suggestion.

Commissioner Lipman asked if there has been any positive or negative feedback.

Mr. Mitchell stated there has been no negative response. There have been positive responses from various county assessors.

Public Comment:

Mary Ann Weidner with the Clark County Assessor’s Office stated they attended the workshops and the Assessor’s Office is in full approval.

Regal Lopez with the Washoe County Assessor’s Office stated they also attended the workshops and agree with the recommended changes.

Commissioner Kelesis made a motion to adopt LCB File NO. R018-17, including the grammatical corrections as stated. Commissioner Bersi seconds the motion. All in favor. Motion carries.

B. Locally Assessed Properties Section:

1) Taxpayer's Objection to Hearing Officer's Recommended Decision regarding Property Tax Abatement:

1) Gerhard J. Nock Trust (Clark County) (APN 138-16-218-001) (NTC 17-101)

Gerhard J. Nock, Taxpayer, was present in Las Vegas.

Jeffrey Mitchell, Deputy Director, was present on behalf of the Department of Taxation.

Mary Ann Weidner with the Clark County Assessor's Office was present.

Commissioner Kelesis motioned to uphold the Department of Taxation's findings. Commissioner Bersi seconds the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

A. Taxpayer's Appeal of Administrative Law Judge Decision pursuant to NRS 372.145:

1) 4 Z's Enterprises LLC

Leslee L. Zeiler, Managing Member, and Elaine Jardine, Bookkeeper, were on the telephone for 4 Z's Enterprises LLC.

Andrea Nichols, Senior Deputy Attorney General, Debra Toombs, Tax Program Supervisor III, Lizette Arceo, Tax Manager were present on behalf of the Department of Taxation.

Commissioner Kelesis expressed concern regarding a payment plan that was sent to the Taxpayer for signature on November 30, 2017. Commissioner Kelesis stated the Commission was not made aware of the payment plan in the document packet.

Commissioner Rigby asked, since the business is currently for sale, do we have a lien and is the Department on a priority list to collect the debt.

Debra Toombs stated the Department does have current liens for the total amount due and they were amended recently.

Commissioner Lipman asked if the payment plan had been signed and returned to the Department of Taxation with a payment.

Ms. Nichols stated the payment plan has not been sent to the Department.

Commissioner Kelesis made a motion to continue the action to stay for ninety (90) days. The Taxpayer must, by the end of this week, submit the signed agreement, all payments that are due related to this signed agreement, and all taxes presently due. The Tax Commission will review this matter in ninety (90) days. If on the ninetieth day, the Department comes back and says you are late on either the back taxes or the present taxes, I can assure you, I will make the motion to revoke your licenses. Commissioner Wren seconds the motion.

Debra Toombs stated the correct amount of the monthly payment is \$1,457.74.

Commissioner Kelesis amended his original motion to include the monthly payment of \$1,457.74, as stated in the payment plan dated November 30, 2017. Commissioner Wren seconds the amended motion.

Chairman DeVold asked the Taxpayer if they fully understand and agree to the terms.

The Taxpayer stated that they do fully understand and agree.

All in favor. Motion carries.

B. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:

- 1) Maxine Lee

Maxine Lee, Taxpayer, was present.

Diedra Armstrong, Revenue Officer III, was present on behalf of the Department of Taxation.

A motion to approve the offer-in-compromise of Maxine Lee was made by Commissioner Kelesis. Commissioner Witt seconds the motion. All in favor. Motion carries.

- 2) Michael Gutierrez

Adriane Roberts-Larson was present on behalf of the Department of Taxation.

Michael Gutierrez, Taxpayer, was present.

Commissioner Wren made a motion to approve the offer-in-compromise of Michael Gutierrez. Commissioner Kelesis seconds the motion. All in favor. Motion carries.

C. Department's Recommendation to the Commission for Denial of an Offer-In-Compromise pursuant to NRS 360.263:

- 1) Robert R. Susnar III

Adriane Roberts-Larson was present on behalf of the Department of Taxation.

Robert R. Susnar III was present on the telephone.

Commissioner Kelesis motioned to uphold the Department's denial of the offer-in-compromise of Robert R. Susnar III. Commissioner Lipman seconds the motion. All in favor. Motion carries.

- 2) Arlene and William Moskowitz

Adriane Roberts-Larson was present on behalf of the Department of Taxation.

The Taxpayer was not present.

Commissioner Kelesis motioned to uphold the Department's denial of the offer-in-compromise of Arlene and William Moskowitz. Commissioner Lipman seconds the motion. All in favor. Motion carries.

D. Petition for Reconsideration of Department's Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes pursuant to NRS 372.3261 (Sales/Use Tax):

- 1) James 1:27 Ministries

Pursuant to the request of James 1:27 Ministries this matter was removed from the agenda.

2) Dr. Miriam and Sheldon G. Adelson - Campus for Jewish Life, Inc.

Andrea Nichols, Senior Deputy Attorney General, was present on behalf of the Department of Taxation.

Crane Pomerantz, Esq. was present on behalf of Dr. Miriam and Sheldon G. Adelson - Campus for Jewish Life, Inc.

Commissioner Kelesis brought attention to when the Commission found a way to approve the tax exemption for the Nevada Cancer Institute and stated this is the exact same issue. We also found a way of giving the exemption to the contractors of the Monorail for the trains as well as the buildings.

Ms. Nichols stated both the Cancer Institute and Monorail are government entities and this is not. The exemption being applied for is educational not charitable.

Commissioner Kelesis motioned, in light of his earlier comments, being involved in the Nevada Cancer Institute hearing and Monorail hearing, to approve the charitable exemption of Dr. Miriam and Sheldon G. Adelson - Campus for Jewish Life, Inc., especially since the charitable organization itself is doing the buying. Commissioner Bersi seconds the motion and believes that since the Adelsons will be purchasing the materials themselves, it distinguishes the case from the Attorney General Opinion of 1961.

Roll Call: Commissioner Kelesis – Aye; Commissioner Bersi – Aye; Commissioner Lipman – Nay; Commissioner Brown – Aye; Commissioner Rigby – Nay; Commissioner Witt – Nay; Commissioner Wren – Nay; Chairman DeVolld – Aye

Chairman DeVolld asked each commissioner to expand on their vote.

Commissioner Lipman voted no and stated she believes a nay vote is consistent with the Attorney General's Brief and the long history of denying materials for construction as an exemption. But she is open to ways we can achieve Nevada's goals in having a lot of educational institutes that provide a variety of resources. Once they are engaging in the activity, Commissioner Lipman believes they would qualify for an exemption.

Ms. Nichols referred to NRS 372.340. In prior cases the contractors were found to be a constituent part of a government entity. As far back as 1961 the Attorney General has advised that building materials are not exempt from sales tax, even in one case to build a Washoe County School.

Commissioner Brown agrees with the applicant that no buildings would be built free of sales tax application. It is the cart and the horse argument, if you will. I agree with the applicant.

Commissioner Rigby believes this would qualify as an educational exemption in a couple of years from now when it is operating, but it is not quite ripe yet.

Commissioner Witt stated drip irrigation technology and procedure in Israel is absolutely outstanding. We in the agricultural business could learn a tremendous amount if there were efforts to share that. But, in reading this brief, I did not see any specific examples of education.

Commissioner Wren stated we are putting the cart before the horse. They are asking for exemption on the building materials. They could buy the building materials with the exemption and the material could sit there for 50 years.

Chairman DeVolld called for a re-vote. Commissioner Kelesis – Aye; Commissioner Lipman – Nay; Commissioner Bersi – Aye; Commissioner Brown – Aye; Commissioner Rigby – Nay; Commissioner Witt – Aye; Commissioner Wren – Nay; Chairman DeVolld – Aye. The motion carries.

3) Maccabee Task Force Foundation (“MTF”)

Melissa Flatley, Deputy Attorney General, was present on behalf of the Department of Taxation.

Johnathon Fayeghi, Esq. and David Brog, Executive Director, were present on behalf of MTF.

Commissioner Kelesis made a motion to deny the exemption. Commissioner Bersi seconds the motion. Commissioner Kelesis – Aye; Commissioner Lipman – Nay; Commissioner Bersi – Aye; Commissioner Brown – Nay; Commissioner Rigby – Nay; Commissioner Witt – Aye; Commissioner Wren – Aye; Chairman DeVolld – Aye. Motion carries.

4) Legacy Law & Finance Group, LLC

Melissa Flatley appeared on behalf of the Department of Taxation. There was an issue with the certified mail reaching the Taxpayer.

Chairman DeVolld asked to continue this matter to the next meeting.

5) American Bankruptcy Institute

Melissa Flatley appeared on behalf of the Department of Taxation.

Commissioner Bersi moved to deny American Bankruptcy Institute’s petition for reconsideration. Commissioner Kelesis seconds the motion. All in favor. No opposed. Motion carries.

- E. Pursuant to NRS 360.265, consideration for approval of the removal of the names of certain debtors, including the amount of tax, penalty and interest, from the records of the Department for debts exceeding 5 years due and collection being impossible or impracticable

Dalia Andrade, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

Commissioner Brown made a motion to approve Item V. E. Commissioner Bersi seconds the motion. All in favor. Motion carries.

VI. Informational Items:

- 1) Penalty and Interest Waivers granted by the Department for Sales/Use Tax, Modified Business Tax and Excise Tax (dates as indicated).
- 2) Approval and Denial Status Report Log for Organizations Created for Religious, Charitable or Educational Purposes (dates as indicated) (Sales/Use Tax Exemption).

VII. BRIEFING:

A. Briefing to/from the Commission and the Executive Director.

Director Contine updated the Commission on the adoption of the permanent marijuana regulations. It is possible the proposed regulation will be ready for the January 16, 2018 Tax Commission meeting. As soon as we have the regulations back from LCB, we will have a better idea of a timeframe for adoption.

VIII. Next Meeting Date: January 16, 2017

IX. Public Comment.

There was no public comment.

X. Items for Future Agendas.

No items were discussed.

XI. Meeting adjourned at 11:54 a.m.