

NEVADA TAX COMMISSION MEETING
MINUTES

Nevada Legislative Building
401 S. Carson Street, Room 2135
Carson City, Nevada 89701

Video Conference

Legislative Counsel Bureau
Grant Sawyer State Office Building
555 E. Washington Ave., Room 4412
Las Vegas, Nevada 89101

January 27, 2020
9:00 a.m.

Members Present:

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

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

I. Public Comment.

Neil Jones submitted a written statement and read it into the record:

I sit before you this morning to ask for your assistance because this Commission is the head of the Department of Taxation and is designed to supervise all of the overall administration and operations of the Department of Taxation.

At issue here are the tax revenue collection distribution and accounting practices of Nye County, the use of restricted funds to balance the general fund, and over \$300,000 unaccounted-for revenue collected by Nye County from taxes related to marijuana.

On October 15th, 2019, the county treasurer, who was appointed to the position to clean up the county finances, was told by a county commissioner in a public meeting to engage in plug accounting, to just plug numbers in so its required reports to be submitted to the State because this is the way his predecessors did the job.

Defendant's unplugging has been described as indicative of dysfunctional finance and accounting systems. When this was brought to the attention of the Committee of Local Government Finance, their response was quote, "It isn't the practice of the Department of Taxation and Local Government Finance to comment on the board of county commissioner meetings. The auditor for Nye County is very good, and we review the

audits annually once completed so as to ensure compliance and determine any corrective actions, if deemed necessary at that time," unquote.

A Nye County resident, Mr. John Bosta, has made repeated requests for documentation from Nye County regarding these marijuana tax funds and why they have not been distributed in accordance with NRS 453(d) and NRS 269, as the laws were written and established.

The Legislative Council Bureau issued an interpretation clarifying how revenue from marijuana was to be distributed according to NRS 269. The revenue belonged to the unincorporated towns, not the county.

Nye County Commissioners Wickman and Koenig have stated that the LCB's ruling was incorrect and that the county would do what they wanted with these funds not what the laws stated.

The county comptroller has not been able to provide clarity as to where the funds have gone or fund account numbers for these restricted funds. The auditor for the county has refused to address these issues. Mr. Bosta has provided the CLGF with supporting documentation and requested a response to his concerns though phone calls, email, and the U.S. mail. The CLGF so far has refused to respond or even acknowledge receipt of the information.

So, when working through the chain of command, this request is now down to the Tax Commission as a whole. We ask this Commission to investigate or direct the CLGF to investigate and response to citizens' concerns regarding the accounting practices of Nye County and the possible misallocation and disappearance of these tax revenues by Nye County.

Mr. Jones thanked the Commission for its anticipated interest and actions to these concerns.

Chairman DeVold thanked Mr. Jones and stated the matter will be looked into.

Melanie Young, Executive Director, administered an oath to all parties testifying at today's meeting.

II. Meeting Minutes:

A. Consideration for Approval of the December 9, 2019 Nevada Tax Commission Meeting Minutes.

Commissioner Witt made a motion to approve the minutes of the December 9, 2019 Nevada Tax Commission meeting. Commissioner Rigby seconded the motion. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
 - a) Babbo Enterprises LLC
 - b) Bam Hop LLC
 - c) D&J Fast Food LLC
 - d) Elite at Wildhorse Golf Club LLC
 - e) Molon Labe LLC
 - f) Patricia M. Warnstedt
 - g) PJ Las Vegas LLC

- h) Vegas Singhs Inc.
- B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax, Modified Business Tax and/or Commerce Tax):
 - 1) CenterPoint Marketing, Inc.
 - 2) CHP Sparks NV Tenant Corp. dba MorningStar of Sparks
 - 3) Hi-Def Audio LLC
 - 4) Hygiena, LLC
 - 5) Neenah Foundry Company
 - 6) Parcel Pending, Inc.
 - 7) Pelican Finance, LLC
 - 8) PopSockets, LLC
 - 9) Digital Grapes, LLC dba ReminderMedia
- C. Waiver of Penalty and/or Interest Pursuant to NRS 360.419 that exceeds \$10,000:
 - 1) Rich Linn Inc. dba Mark Rich's N.Y. Pizza & Pasta II
 - 2) Martin Harris Construction LLC
 - 3) Tryke Companies SO NV, LLC
 - 4) Jewelry & Minerals of Las Vegas
- D. Approval of Refund/Credit Request in Excess of \$250,000:
 - 1) Frontier Technology LLC dba MicroAge
 - 2) Target Corporation
- E. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (Sales/Use Tax, Modified Business Tax and/or Commerce Tax)
 - 1) Syus L.L.C. dba Grape Vine Wine Bar & Grill

Commissioner Rigby pulled Item III. B. 2) CHP Sparks NV Tenant Corp. dba MorningStar of Sparks for further discussion.

Commissioner Brown made a motion to approve the Consent Calendar as a whole, excluding Item III. B. 2). Commissioner Witt seconded the motion. All in favor. Motion carries.

Item III. B. 2) CHP Sparks NV Tenant Corp. dba MorningStar of Sparks:
Commissioner Rigby questioned what was taxable and asked if a voluntary disclosure is automatically accepted as correct, or if an audit or review is done.

Melissa Gardner, Audit Manager, was present on behalf of the Department of Taxation. Ms. Gardner stated it is dependent on if there are a lot of questions. With this particular matter, the returns were received and accepted.

Commissioner Rigby moved to approved Item III. B. 2). Commissioner Lipman seconded the motion. All in favor. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

- A. Local Government Services:
 - 1) Consideration for Approval of a Reappointment to the Appraiser Certification Board:
 - a) Shannon Silva

Jeffrey Mitchell, Deputy Executive Director, was present on behalf of the Department of Taxation. Shannon Silva has served on the Appraiser Certification Board since 2008 and has asked to continue her appointment. Mr. Mitchell thanked Shannon Silva for her service.

Shannon Silva was present.

Commissioner Lipman moved to approve the reappointment of Shannon Silva to the Appraiser Certification Board. Commissioner Bersi seconded the motion. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

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

1) Kurtis W. Johnson

Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

Kurtis W. Johnson was present.

Commissioner Lipman moved to approve the denial of the offer-in-compromise of Kurtis W. Johnson. Commissioner Rigby seconded the motion. All in favor. Motion carries.

2) William W. Naylor

Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

William W. Naylor was present.

Commissioner Brown moved to deny the offer-in-compromise of William W. Naylor. Commissioner Lipman seconded the motion. 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) Robert and Melissa Kingston

Lizette Arceo, Tax Manager, was present on behalf of the Department of Taxation.

Robert and Melissa Kingston were not present.

Commissioner Rigby moved to approve the offer-in-compromise of Robert and Melissa Kingston. Commissioner Lipman seconded the motion. All in favor. Motion carries.

2) Shad Williams

Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Department of Taxation.

Shad Williams was present.

Commissioner Brown made a motion to approve the offer-in-compromise of Shad Williams. Commissioner Lipman seconded the motion. All in favor. Motion carries.

C. Department's Motion to Dismiss the Taxpayer's Appeal of the Administrative Law Judge's Findings of Fact, Conclusions of Law and Final Decision:

1) Red Rock Tents & Events

Robert Werbicky, Deputy Attorney General, was present on behalf of the Department of Taxation.

The taxpayer was not present.

Commissioner Lipman made a motion to dismiss the taxpayer's appeal of the Administrative Law Judge's Findings of Fact, Conclusion of Law and Final Decision for Red Rock Tents & Events. Commissioner Bersi seconded the motion. All in favor. Motion carries.

D. Department's Motion to Dismiss the Taxpayer's Appeal of Advisory Opinion No. 16-041:

1) Ahern Rentals, Inc.

Robert Werbicky, Deputy Attorney General, was present on behalf of the Department of Taxation.

The taxpayer was not present.

Commissioner Rigby moved to dismiss the taxpayer's appeal of Advisory Opinion No. 16-041. Commissioner Wren seconded the motion. All in favor. Motion carries.

E. Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:

1) Arnold I. Creinin

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

Arnold I. Creinin was present telephonically.

Commissioner Rigby made a motion to approve the Administrative Law Judge's decision.

Commissioner Rigby restated her motion to uphold the Administrative Law Judge's decision. Commissioner Wren seconded the motion.

Roll Call Vote: Commissioner Lipman – Aye; Commissioner Bersi – Aye; Commissioner Kelesis - No

Commissioner Kelesis stated the only mistake that this gentleman made, was that he did not have an attorney to represent him during the hearings and through the course of this. I don't find anywhere near that this is clear cut and dry as my fellow commissioners.

Commissioner Wren – Aye; Commissioner Brown – Aye; Commissioner Witt – No; Commissioner Rigby – Aye; Chairman votes – Aye. Motion carries.

2) Gamblers Trading Company

Dennis Belcourt, Deputy Attorney General, was present on behalf of the Department of Taxation. Jennifer Hampton, Auditor II, was present on behalf of the Nevada Department of Taxation.

Suzanne Warren, Esq., with Silver Law PLC, was present on behalf of the Taxpayer.

Mr. Silberstang and Jenny Brooks were present.

Commissioner Kelesis made a motion to continue this matter for sixty (60) days. Commissioner Witt seconded the motion.

Mr. Belcourt clarified that the Department did not look at one account due to it being wholesale only, if there is going to be a remand.

Commissioner Kelesis restated his motion: The only part of the Administrative Law Judge’s ruling that we are overturning is the final calculation of tax; and to continue the matter for sixty (60) days. Commissioner Wren seconded the motion. All in favor. Motion carries.

3) CVSM LLC dba Centerfolds Cabaret

Louis Csoka, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Brad Slighting, Esq. was present on behalf of CVSM LLC dba Centerfolds Cabaret.

Commissioner Lipman made a motion to uphold the Administrative Law Judge’s decision. Commissioner Bersi seconded the motion. Commissioner Brown and Commissioner Rigby vote - No. Motion carries.

F. 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) Expertise Inc.

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

Leonard Smith, Esq. was present on behalf of Expertise Inc.

The Petitioner, Expertise Inc., withdrew their Petition for Reconsideration of the Department’s Denial of Exemption Status for Organization Created for Religious, Charitable or Educational Purposes.

VI. INFORMATIONAL ITEMS:

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

There were no comments.

VII. BRIEFING:

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

Executive Director Young: Tasha Couste was appointed to the position of Deputy Director over Administration. She has been working for the Department for the last fourteen (14) years in IT, and we are pleased to have her lead our administration team. Currently the executive team is fully staffed.

The Department has kicked off a modernization project and has received some funding to study and replace our tax system. Director Young stated that she is looking at this project as being an overall Department modernization to become more efficient. The project name is Project Mynt (“Modernize Your Nevada Tax”). We are reaching out to all stakeholders and we would like to hear information back from the Tax Commission on any suggestions or ideas to help the Department to become more modern and effective in our resources.

The Department is continuing to transition the Marijuana Enforcement Division to the Cannabis Compliance Board. Tyler Klimas has been named the Executive Director as of January 2nd. Mike Miles has been named the Deputy Director for the Cannabis Compliance Board. Most all executive functions have been transferred and Director Young stated she is currently working in an advisory role.

The Department has developed some regulations and frequently asked questions for marketplace facilitators. We will be getting this information to the Commission soon.

VIII. Next Meeting Date: March 9, 2020

IX. Public Comment.

Commissioner Rigby stated there was a case on the December 9th Nevada Tax Commission agenda pertaining to Alta Gold. Peter Keegan wrote a brief in this case, and it was absolutely brilliant. Mr. Keegan researched the matter back to the 1800's. White Pine County received much needed revenue.

X. Items for Future Agendas.

Chairman DeVold stated that he will be contacting each commissioner regarding upcoming regulation workshops. Each one of the workshops relating to current regulations will be assigned to a commissioner.

XI. Meeting adjourned at 12:25 p.m.