

NEVADA TAX COMMISSION MEETING
MINUTES

Office of the Attorney General
100 North Carson Street, Mock Court Room
Carson City, NV 89701

Office of the Attorney General
Grant Sawyer Building
555 E. Washington Avenue, Room 4500
Las Vegas, NV 89101

May 6, 2019
9:00 a.m.

MEMBERS PRESENT IN LAS VEGAS:

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

MEMBERS PRESENT IN CARSON CITY:

Randy Brown, Commissioner

Chairman DeVold called the meeting to order.

I. PUBLIC COMMENT.

Nick Spiritos. A few months ago we were promised a hearing regarding the marijuana application process. Since then, we have not had a hearing and it has not been agendaized. Dr. Spiritos asked that the Commission please keep their word and add this to an agenda. Dr. Spiritos stated he spent many years in undergraduate level statistics, and the scoring of the applications is terribly flawed. Either someone manipulated the statistics or they took one set of numbers and applied them to multiple applications. There is no way that it is statistically possible to have identical results to the second decimal place without manipulation of statistics. It is incumbent upon you, when both republicans and democrats are criticizing our President for lack of transparency and obstruction of letting information out, for this body to not address this in a very public way. Thank you.

Chairman DeVold – There are multiple lawsuits regarding this issue and rather than us make a decision, we will let the court do it. If you have a complaint, we suggest that you join one of those several options that are for a judge at this point. There are multiple lawsuits that address every single one of the issues that you brought up in the past meetings. We will abide by whatever the court system says.

Melanie Young, Executive Director of the Nevada Department of Taxation, administered an oath to all meeting participants.

II. MEETING MINUTES:

- A. Consideration for Approval of the March 4, 2019 Nevada Tax Commission Meeting Minutes.

Commissioner Kelesis made a motion to approve the minutes of the March 4, 2019 Nevada Tax Commission Meeting. The motion was seconded by Commissioner Wren. All in favor. Motion carries.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
 - a) D&K Corp.
 - b) HT2 Franchising Store 2 LLC
 - c) Intimate Designs Floral LLC
 - d) Jea Peters Inc.
 - e) Jockey International Global Inc.
 - f) Masm LLC
 - g) Pietros Famiglia Co.

B. Waiver of Penalty and Interest Pursuant to a Request on a Voluntary Disclosure (Sales/Use Tax):

- 1) Catalyst Learning Company
- 2) Cambridge University Press
- 3) Bushwacker Inc.
- 4) Boulder Construction
- 5) VYV Corporation
- 6) Veritiv Publishing and Print Management Inc.
- 7) vCore Limited Partners LLC
- 8) United Methodist Publishing House
- 9) Spontaneous Games Inc.
- 10) RevSpring, Inc.
- 11) Panda Planner Inc.
- 12) Pacon Corporation
- 13) Onnit Labs LLC
- 14) More Than Strings
- 15) MIHI LLC
- 16) Macquarie Energy LLC
- 17) Macquarie Capital USA Inc.
- 18) Macquarie Capital Funding LLC
- 19) Lund Motion Products Inc.
- 20) Leotek Electronics USA LLC
- 21) Las Ventanas Retirement Community
- 22) Isonas Inc.
- 23) Garage Experts of Las Vegas
- 24) Fred Hecht & Associates
- 25) Fernley Ministorage Center
- 26) East Penn Manufacturing Co.
- 27) Craig Allen Scott
- 28) Lund Inc.

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

- 1) Coca Cola Oasis Inc.
- 2) Allianz Life Insurance Company of North America
- 3) Health Care Service Corporation
- 4) Entisys Solutions Inc.

D. Consideration for Approval of Payment Plan Request (Sales/Use and/or Modified Business Tax):

- 1) Vas Sar Inc.
 - 2) English Garden Florist LLC
- E. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (Sales/Use and/or Modified Business Tax)
- 1) Laudan, LLC dba Fedvan
 - 2) Grosz Live Productions, LLC
 - 3) D'Pinoy Joint
- F. Consideration for Approval of the Recommended Settlement Agreement and Stipulations (Commerce Tax)
- 1) Allied Flooring Services

Commissioner Kelesis moved to approve Items 3A through F. The motion was seconded by Commissioner Bersi. All in favor. Motion carries.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

A. LOCAL GOVERNMENT SERVICES:

- 1) Discussion and Consideration for Approval of the 2020 – 2021 Improvement Factor Study, pursuant to NRS 361.261(2).

Cheryl Erskine, Coordinator – Assessment Standards for Local Government Services, was present on behalf of the Nevada Department of Taxation.

Commissioner Kelesis made a motion to approve the 2020 – 2021 Improvement Factor Study. The motion was seconded by Commissioner Bersi. All in favor. Motion carries.

- 2) Review and Consideration for Adoption of Bulletin 209, 2020 - 2021 Agricultural Land Values and Open Space Property Procedures as authorized under NRS 361A.140 and NRS 361.325(1)(b)

Cheryl Erskine, Coordinator – Assessment Standards for Local Government Services, was present on behalf of the Nevada Department of Taxation.

Commissioner Rigby suggested including an executive summary in the future. Ms. Erskine agreed.

Commissioner Witt made a motion to adopt Bulletin 209, 2020 – 2021 Agricultural Land Values and Open Space Property Procedures. Motion was seconded by Commissioner Lipman. All in favor. Motion carries

- 3) Consideration for Approval and Adoption of the 2019 - 2020 Ratio Study, pursuant to NRS 361.333.

Shannon Silva, Supervisor – Local Assessed Properties, was present on behalf of the Nevada Department of Taxation.

Commissioner Kelesis made a motion to adopt the 2019-2020 Ratio Study. Motion was seconded by Commissioner Bersi. All in favor. Motion carries.

- 4) Review and Consideration of Approval of the Renewal of the Residential Construction Tax.

a) Lincoln County School District

Kelly Langley, Supervisor – Local Government Finance, was present on behalf of the Nevada Department of Taxation.

Commissioner Wren made a motion to approve the renewal of the Residential Construction Tax for Lincoln County School District. The motion was seconded by Commissioner Rigby. All in favor. Motion carries.

5) Consideration for Approval of a Reappointment to the Appraiser Certification Board

a) Sorin Popa

Jeff Mitchell, Deputy Executive Director, was present on behalf of the Nevada Department of Taxation.

Commissioner Rigby made a motion to reappoint Sorin Popa to the Appraiser Certification Board. The motion was seconded by Commissioner Witt. All in favor. Motion carries.

6) Discussion and Consideration for Approval for the 2020-2021 Personal Property Manual as authorized under NRS 361.227 and NAC 361.1365.

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

Commissioner Brown made a disclosure with regard to equipment that was mentioned on pages 32 and 34 of the Personal Property Manual. Commissioner Brown stated this does not affect his employer.

Commissioner Wren motioned to approve the 2020-2021 Personal Property Manual. The motion was seconded by Commissioner Bersi. All in favor. Motion carries.

7) Consideration for Approval to Order a Rehearing to reconsider the Waiver for Lander County to remain on Guaranteed Status for Supplemental City-County Relief Tax

Jeff Mitchell, Deputy Executive Director, was present on behalf of the Nevada Department of Taxation.

Keith Westengard, County Manager, was present on behalf of Lander County.

Commissioner Kelesis made a motion to order a rehearing. Commissioner Bersi seconds. All in favor. Motion carries.

8) Petition for Reconsideration of the Nevada Tax Commission's Findings of Fact, Conclusion of Law and Decision dated April 1, 2019 denying the Waiver for the County to remain on Guaranteed Status for Supplemental City-County Relief Tax pursuant to NRS 377.057(2).

a) Lander County

Jeff Mitchell, Deputy Executive Director, was present on behalf of the Department.

Keith Westengard, County Manager, was present on behalf of Lander County.

Commissioner Kelesis made a motion that this matter be continued for (60) sixty days; and requested that this matter be sent to the Attorney General's office for an opinion. The motion was seconded by Commissioner Witt. All in favor. Motion carries.

V. COMPLIANCE DIVISION:

- A. Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175
1) Arjun Inc. dba Royal Distributing

Hillary Bunker, Senior Supervising Deputy Attorney General, was present on behalf of the Nevada Department of Taxation.

Jasvinder Singh was present.

Commissioner Lipman made a motion to approve the Taxpayer's appeal and stated that the Taxpayer must be compliant on a going forward basis. The motion was seconded by Commissioner Kelesis. Commissioner Rigby voted - No. Motion carries by majority.

Hillary Bunker stated that the ALJ held that if there were any missed steps within the next twelve (12) months, the Department could immediately suspend the license for sixty (60) days and they would not need to go back to hearing. Ms. Bunker asked if this is now moot; and if there is another error, would the Department need to go back to hearing.

Chairman DeVold stated the Taxpayer's license will be suspended for sixty (60) days without further notice if the Taxpayer is not in compliance with everything included in the decision.

Commissioner Lipman stated we are waiving the failure to comply with the January issue, saying this was misinformation or miscommunication. On an ongoing basis, the Commission agrees with the ALJ's position.

Chairman DeVold confirmed that the Taxpayer understands. Mr. Singh stated - yes.

- 2) Ryan A. Keller for Corporate Debts of Keller and Sons, Inc. dba Meineke Super Center

Melissa Flatley, Deputy Attorney General, appeared on behalf of the Nevada Department of Taxation.

Rick Campbell appeared on behalf of Ryan Keller. Mr. Campbell informed the Commission that Ryan Keller withdrew his appeal.

- 3) Michael Keller for Corporate Debts of Keller and Sons, Inc. dba Meineke Super Center

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

Rick Campbell appeared on behalf of Michael Keller.

Commissioner Lipman moved to uphold the Administrative Law Judge's decision. The motion was seconded by Commissioner Rigby. Commissioner Kelesis and Commissioner Brown vote - No. Motion carries by majority.

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

- 2) Brett Anderson
- 3) James Cooper
- 4) Cesar Salmoran
- 5) Gaya L. Guymon
- 6) Dustin M. Acker
- 7) Jose S. Landa
- 8) Robert Young
- 9) Sefana Boles
- 10) Susan Rispoli
- 11) Toni P. Puente

Item B. 11) Toni P. Puente (this item was taken out of order): Toni Puente was present on the telephone. Adriane Roberts-Larson, Tax Program Supervisor II, was present on behalf of the Nevada Department of Taxation.

Commissioner Kelesis made a motion to approve the offer and compromise (“OIC”) of Toni P. Puente. The motion was seconded by Commissioner Rigby. All in favor. Motion carries.

Chairman DeVold stated there has been a suggestion to hear items B. 1-10 as a group. Chairman DeVold asked if there were any questions relating to these items and stated he would be willing to hear a motion to approve these matters.

Commissioner Kelesis made a motion to approve Items B. 1-10. The motion was seconded by Commissioner Wren. 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) Robin R. Rood

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

Robin R. Rood was present.

Commissioner Lipman moved to approve the denial of Mr. Rood’s offer in compromise. The motion was seconded by Commissioner Kelesis. All in favor. Motion Carries.

- 2) Adam Schwartz

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

Adam Schwartz was present.

Commissioner Kelesis made a motion to continue this matter. The motion was seconded by Commissioner Lipman. All in favor. Motion carries.

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

- 1) Nevada Bighorns Unlimited – Reno Chapter

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

Brad Johnston was present on behalf of Nevada Bighorns Unlimited (NBU).

Commissioner Kelesis made a motion to reinstate the Nevada Bighorns Unlimited exemption. The motion was seconded by Commissioner Bersi. Chairman DeVold asked for a roll call vote: Commissioner Wren – Yes; Commissioner Brown-Yes; Commissioner Witt-Yes; Commissioner Rigby-Yes; Commissioner Kelesis-Yes; Commissioner Bersi-Yes; Commissioner Lipman-Yes. All in favor. Motion carries.

Commissioner Kelesis requested that the Department explain the word/meaning of “substantial”.

- E. Request for Closed Hearing pursuant to NRS 360.247 (2-4); Consideration for Approval to Include Additional Evidence into the Record; and Taxpayer’s Appeal of Administrative Law Judge’s Decision pursuant to NRS 360.245 and NAC 360.175.
 - 1) Bob Kingston Productions, Inc. dba Saddle N Spurs Saloon

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

Bob and Melissa Kingston were present.

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

Commissioner Lipman made a motion to deny the request for a closed hearing. The motion was seconded by Commissioner Wren. All in favor. Motion carries.

Commissioner Lipman moved to approve the inclusion of additional evidence into the record, including the transcript of the oral testimony with the indication that it was paid for and provided by the Taxpayer. The motion was seconded by Commissioner Kelesis. All in favor. Motion carries.

Commissioner Kelesis made a motion to continue this matter for (90) ninety days to allow the Taxpayer to provide reliable information and to meet with an auditor. The motion was seconded by Commissioner Wren. All in favor. Motion carries.

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 questions relating to the informational items.

VII. BRIEFING:

- A. Briefing to/from the Commission and the Executive Director. (for discussion only)

Melanie Young, Executive Director, reviewed the bills that are being reviewed by the Legislature.

Senate Bill 32 is a Department bill which allows the Department to increase its confidentiality. This was brought about for marijuana licensing issues. The Department’s plan is to release the licensing information and application information. This is very important to the Department and to the Governor’s Office.

Senate Bill 344 relates to a Commerce Tax efficiency measure that the Department has proposed. Any taxpayer under the \$4M threshold will no longer have to file a Commerce Tax return.

Senate Bill 81 is a policy bill that the Department proposed.

Senate Bill 447 will create the statutory regulation where we exempt durable medical equipment.

We have been working with Senator Ratti on Senate Bill 263 which is a tax bill that will charge a 30 percent hotel tax.

Assembly Bill 445 is a marketplace facilitator bill that was produced out of Assembly Taxation to create and require a marketplace facility to collect tax on behalf of the sales and use tax.

We have been meeting with Assembly Taxation on Assembly Bill 447 which is digital download tax.

Senate Bill 310 will require the Department to work on recycling. This would create a tax much like you would see for bottles and cans. The Department would administer the fund for the recycling.

Senate Bill 510 is a proposal that will study our tax system for the next two years and look for a replacement. Right now the Department has over 50 separate systems that we use that marry into one another. Any time there is any change to statutes or new tax guides, it is a big initiative to get it implemented.

There are two pending bills relating to background investigations of employees. The Department will background check employees every five years.

Another pending bill is relating to tobacco licensing fees which will propose to create a licensing structure for tobacco.

There is a bill expected relating to the creation of a cannabis compliance board. This is an initiative from the Governor's Office. This bill is proposing the marijuana endorsement division into its own agency.

The Department's budget closings were postponed.

Chairman DeVold asked that we allocate a budget for rooms for these meetings. Please see if this can be wedged into the budget.

Commissioner Rigby requested there be a presentation of the net proceeds of minerals.

Director Young informed the Commission that there will be an increase of offer in compromise matters on the agendas and acknowledged the administrative law judges for helping with the backlog. Director Young mentioned it is employee appreciation week and thanked the Department staff for all of their hard work.

VIII. ITEMS FOR FUTURE AGENDAS.

Commissioner Kelesis requested that the Department provide an explanation of the word/meaning of "substantial" in NRS 372.3261.5(c).

The Commission requested that the Department ask for an Attorney General Opinion regarding if a county can reapply to be on guaranteed status for supplemental city-county relief tax pursuant to NRS 377.057(2) after they have been removed.

Commissioner Rigby requested there be a presentation of the net proceeds of minerals.

IX. NEXT MEETING DATE: June 25, 2019

X. PUBLIC COMMENT. There was no public comment.

I. Meeting adjourned.