

NEVADA TAX COMMISSION MEETING
MINUTES

June 25, 2021
9:00 a.m.

Chairman DeVolld calls the meeting to order at 9:00 a.m.

Members Present:

Jim DeVolld, Chairman
Craig Witt, Commissioner
Tony Wren, Commissioner
Sharon Byram, Commissioner
Randy Brown, Commissioner
Ann Bersi, Commissioner
Francine Lipman, Commissioner
H. Stan Johnson, Commissioner

I. Public Comment

Neil Jones provided both oral and written public comment. The of copy of Mr. Jones's statement is attached hereto. Chairman DeVolld stated the matter will be deferred to Local Government Services; and also deferred if this matter will be added it to the next Tax Commission agenda.

Director Young administered an oath to all parties testifying.

II. Meeting Minutes:

- A. Consideration for Approval of the May 3, 2021 Nevada Tax Commission Meeting Minutes.

Commissioner Brown motioned to approve the meeting minutes for the May 3, 2021 Nevada Tax Commission Meeting. Commissioner Wren seconded the motion. All in favor. Motion carried.

III. CONSENT CALENDAR:

A. Matters of General Concern:

- 1) Bonds Administratively Waived (dates as indicated) (Sales/Use Tax):
 - a) ABC Automotive Investments Inc.
 - b) Ezmayo LLC
 - c) FKENS LLC
 - d) FT Pub V LLC
 - e) Global Harmony LLC
 - f) Green 320 LLC
 - g) Mena LLC
 - h) Miles Dixon LLC
 - i) Oldenburg Tools LLC
 - j) Snowed Inn LLC

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) Mission Pets Inc.
- 2) Prosegur Security Integration LLC
- 3) Quinn Company
- 4) Running Wild Raw Food

- 5) The Week Publications Inc.
- 6) Trupet LLC
- 7) Universal Dynamics Inc.
- 8) Lifting Gear Hire Corporation
- 9) Lights Online
- 10) Metal-Era LLC
- 11) National Water Services Inc.
- 12) Parks Project LLC
- 13) In Motion Design
- 14) Kiplinger Washington Editors Inc.
- 15) Groupware Technology Inc.
- 16) Guntersville Breathables Inc.
- 17) Confirm Biosciences Inc.
- 18) Design Public Group
- 19) Empire Southwest LLC
- 20) Filters Now LLC
- 21) Fobia DOO
- 22) Girlfriend Collective LLC
- 23) AOB Products Company
- 24) CareOf
- 25) Clayton Kendall

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

- 1) Wellness Orchards of Nevada
- 2) Henderson Organic Remedies LLC
- 3) Las Vegas Arena Owner LLC
- 4) Century Communities of Nevada LLC
- 5) Taylor Metal Inc.
- 6) ZKFusion Inc.
- 7) Sierra Lumber Inc.
- 8) Findlay Automotive of Nevada LLC
- 9) Overstock.com Inc.
- 10) Academy Mortgage Corporation
- 11) BIE Smoothies LLC
- 12) Las Vegas Resort Holdings LLC

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

- 1) Windship Trading LLC
- 2) Sierra Health and Life Insurance Company
- 3) CSAA General Insurance Company
- 4) American Zurich Insurance Company
- 5) OS Operations Abate
- 6) Mirage Resorts LLC
- 7) Zurich American Insurance Company

E. Consideration for Approval of the Recommended Settlement Agreements and Stipulations (Sales/Use Tax, Modified Business Tax, Excise Tax and/or Commerce Tax)

- 1) Buddha Entertainment dba TAO Night Club
- 2) Cox Advanced Systems Nevada LLC
- 3) Your Perfect Auto, LLC
- 4) Nextel Systems Corp.

- F. Department's Recommendation to the Commission for Approval of an Offer-In-Compromise pursuant to NRS 360.263:
- 1) Mark Baraga
 - 2) James and Nicole Bean
 - 3) Eduardo Gonzalez
 - 4) Michael and Michelle Hanson
 - 5) Ken Henderson
 - 6) Tommy Kirma
 - 7) Robert Legaspi
 - 8) Neal Salvino Jr.
 - 9) Sonny and Lynda Yi

Commissioner Brown pulled Item III. B. 15) Groupware Technology Inc. for further discussion.

Commissioner Wren pulled Item III. F. 2) James and Nicole Bean for further discussion.

Chairman DeVolld pulled Items III. D. 1) through 7) for further discussion.

Commissioner Witt motioned to approve the Consent Calendar, minus items III. B. 15, Item III. F. 2) and Items III D. 1) through 7). Commissioner Wren seconded the motion. All in favor. Motion carried.

Item III. B. 15) Groupware Technology Inc.: Commissioner Brown pointed out a discrepancy on the amount paid on page 112 of the package. Melissa Gardner was present on behalf of the Department. Ms. Gardner stated that the taxpayer will be refunded any overpayment. Commissioner Brown motioned to approve Item III. B 15) Groupware Technology Inc. Commissioner Lipman seconded the motion. All in favor. Motion carried.

Item III. F. 2) James and Nicole Bean: Lizette Arceo was present on behalf of the Department. Commissioner Wren shared concern regarding the taxpayers' purchase of a new vehicle and other expenses. Ms. Arceo stated that the offer-in-compromise could be renegotiated. Commissioner Wren motioned to deny the offer-in-compromise of James and Nicole Bean. Commissioner Bersi seconded the motion. Commissioner Brown and Commissioner Byram voted No. Motion carried.

Items III. D. 1) through 7) - Approval of Refund/Credit Requests in Excess of \$250,000: Brandy Delaney, Brandon Mackie, Jennifer Roebuck and Laura Dorobantu were present on behalf of the Department. Chairman DeVolld asked if there is anything that can be done that would help stop these constant overpayments and refunds. Director Young asked staff to look at the Department's processes and to determine if there is an alternative solution. She also asked that this be presented at a future Tax Commission meeting. Commissioner Brown motioned to approve Items III. D. 1) through 7). Commissioner Lipman seconded the motion. All in favor. Motion carried.

IV. DIVISION OF LOCAL GOVERNMENT SERVICES:

A. Local Government Services:

- 1) Certification of Ad Valorem Tax Rates for Fiscal Year 2021-2022 pursuant to NRS 361.4547

Kelly Langley was present on behalf of the Nevada Department of Taxation. Ms. Langley presented a copy of the proposed tax rates for the Nevada local governments for fiscal year 2021 and 2022, also known as the Red Book. The Department of Taxation has reviewed the proposed tax rates and can recommend that they are all within statutory limitations. The school gets about 38.8 percent and the State receives approximately 5.3 percent. The residential tax cap is set at three percent, but for all

other properties, the tax cap depends on the county in which the property is located. The statewide average for the general cap this year was 6.7 percent, up from last year's 5.8 percent.

Commissioner Brown motioned to approve the Certification of Ad Valorem Tax Rates for Fiscal Year 2021-2022. Commissioner Lipman seconded the motion. Commissioner Byram abstained from voting. All in favor. Motion carried.

V. COMPLIANCE DIVISION:

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

Adriane Roberts-Larson was present on behalf of the Nevada Department of Taxation. Ms. Roberts-Larson recommended that the Commission deny the offer.

Commissioner Brown motioned to deny the offer-in-compromise of Joann Reckling. Commissioner Lipman seconded the motion. All in favor. Motion carried.

- 2) Allan Silberstang

The matter of Allan Silberstang was continued to a future meeting of the Commission.

- B. Taxpayer's Appeal of Administrative Law Judge's Decision pursuant to NRS 360.245 and NAC 360.175:
 - 1) Spring Mountain Driving School LLC

Chase Whittemore, Esq., John Morris and Dave Petrie were present on behalf of Spring Mountain Driving School LLC. Mr. Whittemore presented the taxpayer's appeal to the Commission. Mr. Whittemore stated Spring Mountain Driving School LLC is a dealership under NRS 482.020. He provided information on various models of Chevrolet Corvettes, options available for the vehicles, and the proper test drive of these vehicles. Mr. Whittemore stated that the Administrative Law Judge and the Department recast the business and say that it is not a dealership. Spring Mountain Driving School is a unique dealership, but the core part of the business is to sell cars. There is no better way to sell a Corvette than to get someone behind the wheel at a racetrack. NAC 372.305 applies specifically to vehicle dealers. The business is a dealership under their license and under the law.

Vivienne Rakowsky, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation. Deputy Rakowsky stated Spring Mountain Driving LLC is not a dealership, it is a driving school. They are not a Chevrolet dealership. The approximate 300 cars that were at issue, every one of them after the use in the driving school with more than 6,000 miles and an average of 240 days were shipped to one dealership, DC Motors in Los Angeles. There was not one retail sale of a Chevrolet Corvette. Deputy Rakowsky mentioned that other driving schools in the state do pay a use tax.

Commissioner Byram stated that the Administrative Law Judge's decision includes three issues, one of which is the fuel tax, which was withdrawn after the hearing took place. It appears that the decision is holding up the previous assessments.

Commissioner Byram motioned to uphold the Administrative Law Judge's decision, with the removal of the fuel assessment. Commissioner Lipman seconded the motion. Motion was rescinded.

Commissioner Bersi motioned to uphold the Administrative Law Judge's decision, with the exclusion of the fuel tax assessment. Commissioner Lipman seconded the motion. Roll Call: Commissioner Bersi – Aye,

Commissioner Byram – Aye, Commissioner Brown – No, Commissioner Lipman – Aye, Commissioner Witt – Aye, Commissioner Wren - Aye, Commissioner Johnson – Aye. Motion carried.

2) American First Investment Group dba Las Vegas Auto Auction/Super Auto Sales

Ken McCarthy, CPA and Thomas Michaelides, Esq. were present on behalf of American First Investment Group dba Las Vegas Auto Auction/Super Auto Sales. Mr. McCarthy stated that this relates to an audit of a local use tax on used car sales. The taxpayer filed for a refund claiming approximately \$10,000 as a refund. Once that refund was filed the state audited him, the state then came back and made adjustments to that audit, some of which the taxpayer agreed to. The main issue is interest that is being charged on these loans. The state is not allowing the recording of interest on these loans.

Vivienne Rakowsky, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation. Deputy Rakowsky stated that the purpose of the benefit statute is only to allow the taxpayer to recoup the sales tax that was remitted to the department on the uncollected sales price. Sales tax which they included in some of that bad debt is not part of the sales price nor is interest, nor is the retailer's cost to recoup and refurbish the vehicle after repossession which they also included in their bad debt deduction. In addition, the price achieved when the car is resold must also be deducted from the bad debt claim because bad debt is limited to the uncollected sales price. Nevada Tax Notes 2013 is a part of the exhibits and explains the deduction.

Daniel Chappell, Auditor, was present on behalf of the Nevada Department of Taxation.

Commissioner Johnson motioned to uphold the Administrative Law Judge's decision. Commissioner Lipman seconded the motion. Roll Call: Commissioner Bersi – Aye; Commissioner Byram – Nay; Commissioner Brown – Nay; Commissioner Witt – Aye; Commissioner Wren – Aye; Commissioner Johnson – Aye; and Commissioner Lipman – Aye. Motion carried.

3) Eagle Gas

Mohammad Ahmad was present on behalf of Eagle Gas. Mr. Ahmad stated that he did not have the technology to attend the ALJ hearing.

Natasha Gebrael, Deputy Attorney General, was present on behalf of the Nevada Department of Taxation. Deputy Gebrael stated that the parties participated in a telephonic hearing in May of 2020. The parties then participated in an ALJ conference via Zoom with no objections. The hearing was set for September 29, 2020. Judge Hansen issued her order and it included the Zoom instructions. In August of 2020, Mr. Ahmad stated that he could not attend the hearing because he was leaving the country. February 23, 2021 was then chosen by the parties. There were no indications that Mr. Ahmad did not have the equipment to use Zoom. Judge Hansen's notices include instructions for joining via webinar, via Zoom, or via telephone.

Commissioner Witt motioned to uphold the Administrative Law Judge's decision. Commissioner Brown seconded the motion. All in favor. Motion carried.

C. 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) Miss Rodeo America

The matter of Miss Rodeo America was continued to a future meeting of the Commission.

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.

VII. BRIEFING:

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

Director Young reported that the Department of Taxation is open to the public and maintaining appointments. The department has been working on processing the modified business tax refunds to taxpayers. We have had weekly communications with the Treasurer's Office, Controller's Office and the Governor's Finance Office. Director Young thanked Deputy Director Upton who has been working on this plan to be able to refund the money to the taxpayers. Currently we have assigned revenue officers to work with every taxpayer account to make sure that their tax records are current. We have also authorized our call center to work seven days a week for a two-week period for taxpayer outreach. We are looking at about 37,000 taxpayers that will have refunds equaling approximately \$75,000,000 to \$80,000,000. With that we are working with our IT programming staff. We will likely be able to initiate those refunds within the next six weeks.

Legislative update - The department had approximately 35 bills in budget implementations that affected the department in some way or another. The executive team spent most of the day yesterday working on a strategic plan on how to implement the bills and what we received budgetarily. Some high-level items: SB389 implemented the period of tax which is similar to the short-term rental tax. This is a ten percent excise tax with a two percent extra tax for both Washoe and Clark counties on vehicles that are rented on a platform. These are private individuals that rent their vehicles through certain businesses that have a platform. AB495 is a new mining tax on gold and silver. SB440 provides a sales tax holiday for National Guard members on Nevada Day weekend. We are looking at anywhere from about 4,400 to approximately 7,000 initial exemptions that staff will have to monitor and process to make sure that our National Guard members are able to access that. The department received two items of significance that I would like to point out budgetarily and that is the office consolidation for the Las Vegas area. Terri Upton and the group have been working on trying to identify the location, and we will be consolidating our Grant Sawyer building office with our Henderson office. There's a couple of options that we are looking at right now. We will be consolidating with the Cannabis Compliance Board and we are looking for space that can utilize open meetings. We received funding to be able to move forward with the modernizing our tax system which we are very pleased about. Over the next few years, we will move forward with implementing a provision to purchase a COT solution which is an off-the-shelf solution.

VIII. Next Meeting Date: August 16, 2021

IX. Public Comment

There was no public comment.

X. Items for Future Agendas. (for discussion only)

No items were discussed.

XI. Meeting adjourned.

PUBLIC COMMENT FOR JUNE 25, 2021 TAX COMMISSION MEETING

I ask that this statement be included in the minutes of this meeting.

The Tax Commission is the head of the Department of Taxation and is designed to supervise the overall administration and operations of the Department of Taxation.

My public comment is to address the questionable financial practices of Nye County government and specifically to a non-existent local government of the Town of Belmont within Nye County.

Nye County allows this phantom entity to act with impunity with respect to violating the laws of the State of Nevada..

For eight years Nye County Commissioners claimed to be the governing body of the Unincorporated Town of Belmont, even though **Belmont has never been an unincorporated town**, in the eyes of Nye County or the State of Nevada.

The Town of Belmont is not a legitimate "local government" as defined in the NRS ([NRS 354.474](#)).

The Town of Belmont does not conform to the definition of "town or unincorporated town" as defined in the NRS ([NRS 269.520](#)).

The illegitimate entity of the Town of Belmont owns several parcels of land in Nye County. They did not pay transfer taxes on the purchase of the properties, and they do not pay property taxes on these parcels. They are considered by Nye County to be tax-exempt.

Since this entity of the Town of Belmont is not a legitimate governmental entity or local government as defined by statute, any properties owned by this entity are subject to taxation ([NRS 361.045](#)). These parcels owned by the Town of Belmont do not show up on the official secured tax roll compiled by the Nye County Assessor, as is mandated by statute.

Fraudulent conveyance of lands ([NRS 205.330](#)) and false representation concerning titles ([NRS 205.395](#)) are serious issues and should be investigated and addressed by the proper authorities.

The County adamantly maintains that Belmont does not and never has had a budget.

The County Comptroller states that it is the responsibility of the Department of Taxation to come up with a tax rate for this town before the town can even create a preliminary budget.

In an admission that it is not a town, the Belmont Town Advisory Board, has now changed its name to just the Belmont Advisory Board and is a separate entity from the Town of Belmont.

The secretary for the Belmont Advisory Board has stated in a County Commissioners meeting that these properties were purchased by the Advisory Board with monies from the budget that Nye County gave them to do as they see fit with. Nye County refuses to provide any documentation of this approval of a budget for Belmont.

This advisory board has no records of ever putting on an agenda, discussing or voting for approval of expenditures or purchasing any property at any time.

These purchases were coordinated by a private citizen, in the name of a non-existent entity and was accomplished with the full knowledge and backing of Nye County government.

Nye County cannot or will not provide any information as to who makes up the phantom governmental entity of the Town of Belmont and who would then be accountable and responsible for the actions of this entity.

The acts of malfeasance and nonfeasance by Nye County and Belmont need to be properly addressed; openly and honestly.

Documentation regarding these activities has been previously provided to the Department of Taxation, with a request to investigate, but no follow up, discussion or even acknowledgement to this request has ever been received.

I am asking for honesty, clarity, and transparency in my request for the Tax Commission to initiate a complete and thorough investigation of the financial activities of Belmont and Nye County and to provide a written report of their findings for the public's review and knowledge.

Thank you.

Respectfully,

A handwritten signature in blue ink, appearing to be 'Neal Jones', written in a cursive style.

Neal Jones



Attachments

June 1, 2021

Via Certified Mail / Return Receipt Requested:

7020 0090 0002 1106 5030

James C. DeVolld, Chairman Nevada Tax Commission
STATE OF NEVADA DEPARTMENT OF TAXATION
1550 College Parkway Suite 115
Carson City, Nevada 89706

Re: Belmont, Nye County, Nevada

Dear Mr. DeVolld:

I am writing to request that the State of Nevada Department of Taxation and its affiliated Boards investigate the financial improprieties that occur in Nye County associated with the Town of Belmont, et al. I am a property owner in Belmont and a taxpayer to the County on those properties.

I have attempted to address my concerns and issues with Nye County, but they seem to ignore the concerns of their tax paying citizens or attempt to deflect any attempts to gain answers through denial or obfuscation. The County Commissioner for our district refuses to even respond to requests to have the issues related to Belmont placed on their agenda so that we may have open discussions in their meetings. The County Manager has stated that I am required to have a commissioner sponsor my requests to have an item placed on the agenda for the Nye County Board of County Commissioners (BoCC) meetings.

For the past eight years, the Nye County BoCC has stated on every one of their agendas that they were the governing body of the Unincorporated Town of Belmont. This was amazing in the fact that **Belmont is not an unincorporated town**, never has been. Finally, they have removed this reference from their agenda since it was a false statement that they were claiming. The many other underlying issues related to Belmont still exist.

The Nye County District Attorney's Office, in an attempt to justify Nye County's actions in Belmont, stated in a public meeting, that Belmont had been created as a town in 1844, under United States Congressional authority. As had to be pointed out to the County, that in 1844 these lands still belonged to the Republic of Mexico, so the U.S. Congress did not have any authority to create the town.

In response to a public records request, the Department of Taxation acknowledged that they have no records associated with the Town of Belmont.

NRS 269.520 defines "Town or Unincorporated Town". Nye County has stated that the Town of Belmont does not have a budget, because they do not have a tax rate associated with the town. The Town of Belmont has no means to generate any revenue for the town to use. Somehow, the Town of Belmont has paid for and owns property in Nye County. Additionally, the Town of Belmont is considered to be a tax-exempt entity, so they do not pay transfer or property taxes. When asked through public records requests for records of how these properties were acquired and paid for, the County's response is "We have no records responsive to your request".

Nye County District Attorney's Office solution to this issue was to tell the BoCC that the DA's Office would just write a resolution to change the name on the deeds for these properties into the County's name. We are still waiting for this action to take place and the legal justification the County uses for these actions and their communications with the legal owners of these properties when the legal owners do not exist.

Requests for answers from the Nye County Treasures Office have also been futile.

The outside auditor for the County replied that there were answers to these questions but would not provide these answers in writing.

At the November 10, 2020, BoCC meeting, the secretary for the Belmont Town Advisory Board (BTAB) stated in that meeting that the BTAB had paid for these properties from the budget that the County had given the Town of Belmont, to use as they saw fit. The County cannot provide any records of when these expenditures were discussed, voted on or approved. The County has repeatedly stated that Belmont does not have a budget, because they have no tax rate, because DTax has not assigned a tax rate for Belmont. The BTAB has no records of ever approving or authorizing anyone to expend funds, that they do not have, to acquire any properties.

The NRS allows for a local government to make application to be able to acquire properties for public use and public good. No application to acquire these properties by the Town of Belmont was ever made, according to Nye County. Since the Town of Belmont is not a legitimate local governmental entity, how is it they are allowed to act as one, with no transparency and without being responsible and accountable to the public?

How is a non-existent entity allowed to take these actions? How does a phantom entity get authorized to act as if they are legitimate? Why, when the tax paying public requests answers to these questions, the County ignores those requests? Nye County cannot claim ignorance to the activities of the Town of Belmont. Nye County maintains and monitors a post office box for this nonexistent entity of the Town of Belmont. The County Manager, Tim Sutton, claims to be the contact person for this phantom Town of Belmont governmental entity. Nye County cannot, or will not, provide any records of who the Town of Belmont governmental entity is made up of. Nye County claims the Belmont Town Advisory Board is a separate governmental body and is not overseen by Nye County. Nye County condones and enables these irresponsible, and possibly illegal, actions of the Town of Belmont.

These issues have been previously brought to the attention of Mr. Jeffrey Mitchell of DTax, in an email of May 19, 2020. Mr. Mitchell had promised to investigate other financial irregularities in Nye County, I added my concerns on Belmont at that time. This investigation seems to have fallen by the wayside.

So, I am again asking the Department of Taxation to investigate these fraudulent financial activities of Nye County and the Town of Belmont and provide a written response so the public can be assured that our tax monies are being handled properly, transparently and in accordance with the laws of this State.

The tax paying public does not seem to be able to get honest answers out of Nye County government. Whether it is the BoCC or the County Administration.

- The County allows nonexistent entities to act with impunity.
- \$300,000 of marijuana tax revenue is unaccounted for (brought to DTax's attention at the January 2020 Tax Commission meeting).
- We are required to pay taxes for the Nye County Water District Governing Board, in accordance with NRS 542, according to the County Treasurer. But, NRS 542 has never been codified and does not exist. So why are we required to pay for something according to a statute that does not exist?
- Recent tax delinquent auctions for properties in Nye County have been held. Properties in Belmont were sold for prices far in excess of the delinquent taxes. These surplus revenues are supposed to be earmarked for that specific community. But, once again, the monies for Belmont do not seem to be traceable. Maybe it's that way in the rest of the County as well.

Nye County acts and continues to act as if they are not required to abide by the laws of this State. Nye County needs to clean up its financial house, but does not seem willing, or capable, of doing this.

This is why I am asking the State of Nevada Department of Taxation to investigate, report and take the necessary actions to address these issues.

If there is any questions or information that I can provide, please feel free to contact me at the address below.

Thank you in advance for your anticipated attention to these matters. I look forward to a written response from you or your office regarding these issues.

Respectfully,

Neal Jones



Cc: Melanie Young, Executive Director, Nevada Department of Taxation
Marvin Leavitt, Committee on Local Government Finance, Chair