

# MINUTES

## MEETING OF THE BOARD OF EXAMINERS

October 12, 2010

The Board of Examiners met on October 12, 2010, in the Annex on the second floor of the Capitol Building, 101 N. Carson St., Carson City, Nevada, at 9:00 a.m. Present were:

### **Members:**

Governor Jim Gibbons  
Attorney General Catherine Cortez Masto  
Secretary of State Ross Miller  
Clerk Andrew K. Clinger

### **Others Present:**

Susan Stewart, Attorney General's Office  
Gus Nunez, State Public Works Board  
B.J. Sullivan, Clark and Sullivan Constructor's Inc.  
Peggy Martin, Department of Health and Human Services, Division of Health Care Financing and Policy  
Justin Luna, Department of Health and Human Services, Division of Health Care Financing and Policy  
Lisa Young, Department of Public Safety, Records and Technology Division  
Patrick Conmay, Department of Public Safety, Records and Technology Division  
Catherine Kraus, Department of Public Safety, Records and Technology Division  
Jason Holm, Department of Health and Human Services, Division of Welfare and Supportive Services  
Mike Worman, Department of Health and Human Services, Division of Welfare and Supportive Services  
Keith Wells, Department of Administration, Motor Pool Division  
Tammy Moffitt, Department of Employment, Training and Rehabilitation  
Mechelle Merrill, Department of Employment, Training and Rehabilitation  
Lori Myer, Department of Business and Industry, Division of Industrial Relations  
Caren Jenkins, Commission on Ethics  
Donna Rivers, Public Employee Benefits Program  
Bill Anderson, Department of Employment, Training and Rehabilitation  
Tamara Nash, Department of Employment, Training and Rehabilitation  
Brenda Ford, Department of Employment, Training and Rehabilitation  
Miles Celio, Office of the Military  
Katie Armstrong, Attorney General's Office  
Jim Spencer, Attorney General's Office  
Evan Dale, Department of Administration, Administrative Services Division

### **Press:**

Cy Ryan, Las Vegas Sun  
Ed Vogel, Las Vegas Review Journal

**\*1. APPROVAL OF THE SEPTEMBER 9, 2010 BOARD OF EXAMINERS' MEETING MINUTES**

**Clerk's Recommendation: I recommend approval.**

**Motion By: Secretary of State                      Seconded By: Attorney General                      Vote: 3-0**

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**Comments:**

**Governor:** Good morning everyone. The Board of Examiners meeting scheduled for today, October 12, 2010 at 10:00 a.m. will come to order. Mr. Clerk for the record note the presence of the Secretary of State, the Attorney General in Las Vegas, and the Governor by phone, so all members are present. We have a very brief agenda this morning; we will begin with agenda item number 1 which is approval of the September 9, 2010 special Board of Examiners' meeting minutes. Any corrections or comments for the record?

**Secretary of State:** Move for approval.

**Attorney General:** Second.

**Governor:** It has been moved for approval by the Secretary of State and seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that the September 9, 2010 Board of Examiners meeting minutes passed unanimously.

**\*2. REQUEST FOR GENERAL FUND ALLOCATION FROM THE INTERIM FINANCE COMMITTEE (IFC) CONTINGENCY FUND**

Pursuant to NRS 353.268, an agency or officer shall submit a request to the State Board of Examiners for an allocation by the Interim Finance Committee from the Contingency Fund.

**A. Office of the Governor – Ethics Commission – \$4,300.00**

The Ethics Commission is requesting an allocation from the Interim Finance Committee Contingency Fund in the amount of \$4,300 to provide funding for the costs for filing a petition for *writ of certiorari* associated with an appeal to the US Supreme Court.

**Clerk's Recommendation: I recommend approval.**

**Motion By: Secretary of State                      Seconded By: Attorney General                      Vote: 3-0**

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**Comments:**

**Governor:** We move on to agenda item number 2 which is the request for general fund allocation from the Interim Finance Committee Contingency Fund. 2A is for the Office of the Governor in the amount of \$4,300. Mr. Clerk.

**Clerk:** Thank you Governor. Item 2A on the agenda is a request from the Ethics Commission for an allocation in the amount of \$4,300 from the IFC Contingency Fund. The Nevada

Commission on Ethics wishes to appeal the recent Supreme Court opinion in Carrigan v. Commission on Ethics. The request before the Board today will provide funding for the costs for filing a petition for *writ of certiorari* associated with an appeal to the US Supreme Court. The University of Virginia has agreed to litigate the case *pro bono*, so all the Commission is asking for is funding for costs associated with printing and filing the petition.

**Governor:** Are there any comments or questions with regard to agenda item 2?

**Secretary of State:** Move for approval.

**Attorney General:** Second the motion.

**Governor:** It has been moved for approval by the Secretary of State and seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item number 2 passed unanimously.

### **\*3. REQUEST TO WRITE OFF BAD DEBT**

**NRS 353C.220** allows agencies, with approval of the Board of Examiners, to write off bad debts deemed uncollectible.

#### **A. Public Employee Benefits Program – \$384.41**

Public Employees' Benefits Program (PEBP) is requesting authority to write off debt that totals \$384.41. The reported debt is specifically related to participant health insurance premiums. One account represents a deceased participant and three accounts represent collection fees deducted from amounts collected from the Controller's Office.

**Clerk's Recommendation: I recommend approval.**

**Motion By: Secretary of State                      Seconded By: Attorney General                      Vote: 3-0**

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**Comments:**

**Governor:** Move on now to agenda item number 3 which is a request to write off bad debt, Mr. Clerk.

**Clerk:** Thank you Governor. This is a request to write off bad debt for the Public Employee Benefits Program in the amount of \$384.41. The reported debt is specifically related to participant health insurance premiums. One account represents a deceased participant and three accounts represent collection fees deducted from amounts collected from the Controller's Office.

**Governor:** Are we going to do both 3A and 3B together or separately?

**Clerk:** We can do those together Governor if you would like.

**Governor:** Are there any objections to doing both of these items together?

**Secretary of State:** Governor, I do have some questions with regards to 3B.

**Governor:** Okay. Are there any comments or questions in regard to agenda item 3A?

**Secretary of State:** I move for approval of agenda item 3A.

**Attorney General:** I will second the motion.

**Governor:** It has been moved for approval by the Secretary of State and seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 3A passed unanimously.

**B. Department of Public Safety – Records and Technology Division – \$3,197.50**

The Division is requesting approval to write-off outstanding debts owed by past due vendors which exceed \$50.00. The total amount of this request is \$3,197.50.

**Clerk's Recommendation:** I recommend approval.

**Motion By: Governor**

**Seconded By: Attorney General**

**Vote: 3-0**

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**Comments:**

**Governor:** We will move on now to agenda item 3B, Mr. Clerk.

**Clerk:** Thank you Governor. Item 3B is for the Department of Public Safety, Records and Technology Division with the request to write off bad debt in the amount of \$3,197.50. The Division is requesting approval to write-off outstanding debts owed by past due vendors which exceed \$50.00. This write off is pertaining to outstanding Civil Applicant Background Checks and Brady Point of Sale Accounts and the Department of Public Safety has determined that the debt is impractical to collect.

**Governor:** Are there any questions with regard to agenda item 3B?

**Secretary of State:** Yes I have a few comments Governor. It looks like we have a few of these accounts pending on file in our office. Two of them are actually in active status. The Ayala Bay Corporation and the Our Home Adult Living are in good standing and have paid the appropriate fees. We have different contact information than what is reflected in the packet. I am concerned that all of the evidence is not exhausted even though it is not a lot of money. I would ask that you go back and try to collect the money using the contacts that we have in our office. I would further ask, we haven't had a chance to ask the Attorney General's Office, but what we would like to know is if an entity has defaulted or is delinquent with a balance that they owe to the State, is there any basis to put a notation in our records or is there any way to revoke their charter or could detect that their status is in good standing in our office?

**Governor:** Maybe we could ask that this be brought before the next Board of Examiners meeting.

**Secretary of State:** I know that a somewhat in-depth legal analysis will need to be done in order to go through that. I don't expect them to get back to us by tomorrow, but maybe by the next Board of Examiners meeting they could get back to us with some responses to these questions.

**Katie Armstrong:** We can do that.

**Governor:** At this point in time I would like to make a motion to withdraw agenda item 3B and put it on the agenda for the next Board of Examiners meeting.

**Attorney General:** I will second the motion.

**Governor:** Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item 3B has been withdrawn.

#### **\*4. STATE VEHICLE PURCHASE**

**Pursuant to NRS 334.010**, no automobile may be purchased by any department, office, bureau, officer or employee of the State without prior written consent of the State Board of Examiners.

##### **A. Department of Administration – Motor Pool Division – \$840,000.00**

The Motor Pool Division is requesting approval to purchase 35 vehicles, not to exceed \$840,000. This request replaces motor pool vehicles assigned to various agencies on a long-term basis and was approved by the 2009 Legislature.

**Clerk's Recommendation:** I recommend approval.

**Motion By:** Secretary of State                      **Seconded By:** Attorney General                      **Vote:** 3-0

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**Comments:**

**Governor:** We move on now to agenda item number 4 which is state vehicle purchases, Mr. Clerk.

**Clerk:** Thank you Governor. Item 4A is a request from the Department of Administration, Motor Pool Division not to exceed \$840,000. The Motor Pool Division is requesting approval to purchase 35 vehicles. This request replaces motor pool vehicles assigned to various agencies on a long-term basis. The funding for this was approved by the 2009 Legislature. The second item on the list is for the Commission on Mineral Resources. They are requesting permission to purchase a vehicle is the amount of \$35,173. The Division of Minerals is requesting the ability to purchase a ¾ ton, 4 wheel-drive pickup. The Division was legislatively approved to replace one vehicle and the vehicle that will be replaced is a 2002 ¾ ton, 4 wheel-drive pickup with 104,000 miles.

**Governor:** Any comments or questions in regard to either of the items?

**Secretary of State:** I move for approval of both agenda items 4A and 4B.

**Attorney General:** I second the motion.

**Governor:** Both agenda items 4A and 4B have been moved for approval by the Secretary of State and seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item number 4 has passed unanimously.

**B. Commission on Mineral Resources – Division of Minerals – \$35,173.00**

The Division of Minerals is requesting permission to purchase one ¾ ton, 4 wheel-drive pickup at approximately \$35,173. The division is legislatively approved to replace one vehicle in FY 11. The requested vehicle will replace an existing 2002 ¾ ton, 4 wheel-drive pickup with 104,000 miles.

**Clerk's Recommendation: I recommend approval.**

**Motion By:** \_\_\_\_\_ **Seconded By:** \_\_\_\_\_ **Vote:** \_\_\_\_\_

**Comments:**

**\*5. VICTIMS OF CRIME PROGRAM (VOCP) APPEAL**

Pursuant to NRS 217.117 Section 3, the Board may review the case and either render a decision within 15 days of the Board meeting; or, if they would like to hear the case with the appellant present, they can schedule the case to be heard at their next meeting.

**A. Fidel Mesa**

Mr. Mesa is appealing the denial of his application for VOCP assistance due to a late filed application and a confirmation of legal residency.

**Clerk's Recommendation: The report recommended denial of the appeal.**

**Motion By:** Secretary of State **Seconded By:** Attorney General **Vote:** 3-0

**Comments:**

**Governor:** We move on now to agenda item number 5 which is a Victims of Crime Program appeal, Mr. Clerk.

**Clerk:** Thank you Governor. This is an appeal by Mr. Fidel Mesa. Mr. Mesa is appealing the denial of his application for VOCP assistance. His application was denied for two reasons. First, his application was submitted two years after the date of the crime. Secondly, Mr. Mesa has not provided sufficient proof of his legal status.

**Governor:** Are there any questions or comments with regard to agenda item number 5?

**Secretary of State:** I move to deny the appeal and uphold the findings of the Victims of Crime Program.

**Governor:** There is a motion before the Board, is there a second?

**Attorney General:** I will second the motion.

**Governor:** Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that the motion to deny the appeal and uphold the VOCP recommendation was passed unanimously.

**\*6. LEASES**

Three statewide leases were submitted to the Board for review and approval.

**Clerk's Recommendation:** I recommend approval.

**Motion By: Secretary of State                      Seconded By: Attorney General                      Vote: 3-0**

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**Comments:**

**Governor:** Moving on to agenda item number 6 which are leases, Mr. Clerk.

**Clerk:** Thank you Governor. There are three leases before the Board this morning for review and approval.

**Governor:** Any comments or questions with regard to any of the leases?

**Secretary of State:** Move for approval of the three leases.

**Attorney General:** Second the motion.

**Governor:** It has been moved for approval by the Secretary of State and seconded by the Attorney General. Any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item number 6 passed unanimously. I have submitted my written disclosures for the record.

**\*7. CONTRACTS**

Sixty-seven independent contracts were submitted to the Board for review and approval.

**Clerk's Recommendation:** I recommend approval.

**Motion By: Secretary of State                      Seconded By: Attorney General                      Vote: 3-0**

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**Comments:**

**Governor:** We move now to agenda item number 7 which are contracts, Mr. Clerk.

**Clerk:** Thank you Governor. There are sixty-seven independent contracts on the agenda this morning for the Board's consideration. The Public Works Board has requested that contract number 17 be withdrawn from the agenda.

**Governor:** Number 17 is Public Works Board for the JBA Consulting Engineers contract?

**Clerk:** That is correct.

**Governor:** Are there any comments or questions on any of the contracts other than number 17?

**Secretary of State:** I am concerned about contract number 11. The contractor's name is TNS, we could not locate this name anywhere in our system. I understand that this is an amendment to the original contract, but I still believe that they need to be in good standing with our office. I do not have a problem approving it as we have done previously. I just ask that this is brought back as an information item to show compliance. I would also add that maybe an easier way of doing this in the future is to have these individual contractors or entities provide their Nevada Business ID. That is now issued by our office. The Department of Taxation is also using the Nevada Business ID. That will be a unique identifier to identify all entities. Sometimes they file with different entity names such as "doing business as" or legal entity with our office and by providing that number will help determine if they are compliant. I think that is going to be the easiest way for us Governor that is just my request.

**Clerk:** I have a question Governor. If you look on item number 11 in the detailed packet, I just want to clarify. If you look at the contract summary form there is a field at the top right hand corner for the Nevada Business ID. I am not sure if the Secretary of State was referring to a different entity number, but they are on the contract summary.

**Governor:** I do see now that they have what appears to be a Nevada Business ID. If this is the case, unless there are any other questions, we can either move on or did you still want this as an information item on the next meetings agenda?

**Secretary of State:** No, that seems to be the case Governor. We will move on, thank you.

**Governor:** Are there any other questions with regard to the contracts?

**Secretary of State:** I move for approval of the sixty-seven contracts with the exception of number 17.

**Governor:** The Secretary of State moved for the approval of the sixty-seven contracts under agenda item number 7 with the exception of number 17. Is there a second?

**Attorney General:** I will second the motion.

**Governor:** Attorney General seconded the motion. Are there any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item number 7 passed unanimously.

## **\*8. MASTER SERVICE AGREEMENTS**

Five master service agreements were submitted to the Board for review and approval.

**Clerk's Recommendation: I recommend approval.**

**Motion By: Secretary of State**

**Seconded By: Attorney General**

**Vote: 3-0**

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**Comments:**

**Governor:** We move now to agenda item number 8 which are master service agreements, Mr. Clerk.

**Clerk:** Thank you Governor. There are five master service agreements that were submitted to the Board for review and approval.

**Governor:** Is there any member of the Board wishing to make a comment or question in regard to any of the master service agreements?

**Secretary of State:** Move for approval.

**Governor:** There is a motion for approval is there a second?

**Attorney General:** I second the motion.

**Governor:** Seconded by the Attorney General. Are there any comments or questions with regard to the motion? Hearing none, all those in favor signify by saying aye. Let the record reflect that agenda item number 8 has passed unanimously.

## 9. INFORMATION ITEM

### A. Status of Contracts Pending Nevada State Business Licenses' as of September 9, 2010 Board of Examiners' meeting

BOE MTG DATE	DEPT #	STATE AGENCY	CONTRACTOR	FUNDING SOURCE	AMOUNT	*STATUS
9/9/10	051	TREASURER'S OFFICE - COLLEGE SAVINGS TRUST	PUTNAM INVESTMENT MANAGEMENT, LLC	OTHER: FEES FROM ACCOUNT REVENUES	\$5,450,000	<b>Compliant</b>
		<b>Contract Description:</b> This is a new contract and the vendor will service as program manager and investment manager for an advisor-sold 529 savings plan. Term of Contract: Upon Approval - 09/30/2015 Consultant: NO Contract # 11510				
9/9/10	406	DEPARTMENT OF HEALTH AND HUMAN SERVICES - HEALTH - WIC FOOD SUPPLEMENT	OPEN DOMAIN, INC.	FEDERAL	\$242,825	<b>Compliant</b>
		<b>Contract Description:</b> This is an amendment to the original contract, which provides technological support to the Women, Infants and Children (WIC) Program. This amendment increases the maximum amount of the contract from \$677,975 to \$920,800 due to additional programming hours and an enhanced server system. Term of Contract: 10/01/2007 - 09/30/2011 Consultant: NO Contract # CONV4811				
BOE MTG	DEPT #	STATE AGENCY	CONTRACTOR	FUNDING	AMOUNT	

DATE				SOURCE		
9/9/10	408	DEPARTMENT OF HEALTH AND HUMAN SERVICES - MENTAL HEALTH AND DEVELOPMENTAL SERVICES - ADMINISTRATION	INTERACTIVE VOICE APPLICATIONS, INC.	OTHER: COST ALLOCATION PLAN REIMBURSEMENTS	\$29,558	<b>Compliant</b>
	<b>Contract Description:</b>	The contractor will provide implementation, training and yearly hosting for a random moment sample (RMS) system which will enable the automated generation, delivery, collection, and analysis of random moment samples. This includes generation of reports required by federal funding regulations. It should be noted that MHDS recently implemented a Center for Medicaid/Medicare Services (CMS) required cost allocation plan (CAP). This RMS system is part of the implementation of the CAP.				
		Term of Contract:	Upon Approval - 04/14/2013	Consultant: NO	Contract # 11509	
9/9/10	704	DEPARTMENT OF CONSERVATION & NATURAL RESOURCES - PARKS - MAINTENANCE OF STATE PARKS-Non-Exec	4-D PLUMBING & BUILDERS' SUPPLY, INC.	OTHER: UTILITY SURCHARGE	\$74,700	<b>Compliant</b>
	<b>Contract Description:</b>	This is a new contract to provide on-call services for emergency well problems at state parks in the southern region of Nevada.				
		Term of Contract:	Upon Approval - 06/30/2013	Consultant: NO	Contract # 11489	

**\*Status must be – Compliant, Withdrawn, or Unresolved**

**Governor:** We move to agenda item number 9 which is an informational item. It is in regards to the status of contracts pending Nevada State Business Licenses' as of September 9, 2010 Board of Examiners' meeting, Mr. Clerk.

**Clerk:** Thank you Governor. This is an item that was requested by the Secretary of State. These are contracts that were approved contingent on these entities receiving their Nevada Business Licenses from the Secretary of State's Office. All of these entities are now in compliance.

**Governor:** Any comments or questions from any member of the Board about this item?

**Secretary of State:** Yes Governor, two of these entities are not in good standing with our office. Open Domain, Inc. does not have a business license yet, so I would ask that this comes back again for an informational item. 4-D Plumbing and Builder's Supply sent us a letter indicating that they have applied twice and it was rejected twice due to errors in filing, obviously on their end, not on ours. They obtained a business license on September 27. They had filed their paperwork as a foreign corporation but still did not file the paper work for the business license and so they will need to do that.

**Governor:** Mr. Clerk, please note for the record that we will have an information item showing the status of these contractor's on the agenda of the next Board of Examiners' meeting.

## 10. BOARD MEMBERS' COMMENTS/PUBLIC COMMENT

**Governor:** We move on now to Board member comments. Is there any member of the Board wishing to make a comment at this time? Hearing none, is there any member of the public wishing to make a comment before the Board of Examiners at this time?

**\*11. ADJOURNMENT**

**Motion By: Secretary of State                      Seconded By: Attorney General                      Vote: 3-0**

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**Comments:**

**Governor:** Hearing none, we move on to agenda item number 11 which is the adjournment. Is there a motion to adjourn?

**Secretary of State:** So moved.

**Attorney General:** Second.

**Governor:** Moved by the Secretary of State, seconded by the Attorney General. All those in favor signify by saying aye. Let the record reflect that the Board of Examiners is now adjourned.

**Respectfully submitted,**

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ANDREW K. CLINGER, CLERK

**APPROVED:**

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GOVERNOR JIM GIBBONS, CHAIRMAN

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ATTORNEY GENERAL CATHERINE CORTEZ MASTO

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SECRETARY OF STATE ROSS MILLER