

Governor Steve Sisolak
Chairman

Susan Brown
Clerk of the Board



Attorney General Aaron D. Ford
Member

Secretary of State Barbara K. Cegavske
Member

STATE OF NEVADA BOARD OF EXAMINERS

209 E. Musser Street, Room 200 / Carson City, NV 89701-4298
Phone: (775) 684-0222 / Fax: (775) 684-0260
<http://budget.nv.gov/Meetings>

MINUTES

Date and Time: August 11, 2020, 10:00 AM

Location:

Pursuant to the Governor's Emergency Directive 006, as extended, there will be no physical location for this meeting. This meeting can be viewed on YouTube. The link will not go live until 10:00 am

https://www.youtube.com/channel/UCF8zpKli9VhMDNVq_GsEYuQ/live

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MEMBERS PRESENT:

Governor Steve Sisolak – Present in Las Vegas
Secretary of State Barbara Cegavske – on the phone
Attorney General Ford – on the phone

STAFF PRESENT:

Susan Brown, Clerk of the Board
Rosalie Bordelove, Board Counsel, Deputy Attorney General
Dale Ann Luzzi, Board Secretary

OTHERS PRESENT:

Amelia Green, the Law Firm of Neufeld, Scheck and Brustin

1. Call to Order / Roll Call

Governor: I would like to call today's meeting to order for the State of Nevada Board of Examiners for Tuesday, August 11, 2020 to order. Could I ask the Clerk to take the roll, please?

Board Secretary: Governor Sisolak?

Governor: Here.

Board Secretary: Secretary of State Cegavske?

Secretary of State: Here.

Board Secretary: Attorney General Ford?

Attorney General: Here.

Board Secretary: Let the record reflect we do have a quorum.

Governor: We do have a quorum. Thank you.

2. Public Comment (The first public comment is limited to comments on items on the agenda. No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board will impose a time limit of three minutes).

Governor: Item number two, Public Comment. This is the first time set aside for public comment. Anyone wishing to address the board on any item on today's agenda, items on the agenda, please identify yourself for the record and comments will be limited to three minutes. Do we have anybody on the phone or any written comments?

Board Secretary: We did not receive any written comments and I do not know if there's any public on the phone.

Governor: Who can tell if we have any on the phone?

Board Secretary: Not hearing any.

Amelia Green: My name is Amelia Green. I'm a lawyer for DeMarlo Barry. I'm from the law firm of Neufeld Scheck & Brustin. I am on the phone though I do not have a public comment.

Governor: I'm sorry. You do not have a public comment or what?

Amelia Green: I do not have a specific public comment but I just wanted to let you know I'm on the phone.

Governor: Great. Thank you. Anybody else?

3. Approval of the June 30, 2020 Minutes (For possible action)

Governor: Item number three, Approval of the June 30th, 2020 minutes. Do we have a motion on the approval of the minutes?

Attorney General: General Ford with approval.

Governor: We have a motion on the floor from General Ford. Any discussion on that motion? Hearing and seeing none, all in favor signify by saying aye. [Ayes around]. Motion passes. Item number four, Authorization to Contract with a Current and/or Former State Employee.

4. Authorization to Contract with a Current and/or a Former State Employee (For possible action)

Board action under this item only grants permission to the employing agency. Current and former employees are still subject to all ethical requirements of NRS Chapter 281A, specifically including subsection 550 which restricts certain former employees and state agencies.

Department of Administration – Purchasing Division

Pursuant to NRS 333.705, subsection 1, the Department of Administration, Purchasing Division requests authority to contract with former employee Evan Dale to perform fiscal duties for the Department of Administration, Administrative Services Division through Master Service Agreement #18404 with HAT Limited Partnership, dba Manpower.

Pursuant to NRS 333.705, subsection 1, the Department of Administration, Purchasing Division requests authority to contract with former employee Timothy Maguire to perform uniformed security guard duties for various agencies through Master Service Agreement #19049 with Universal Protection Service LLP, dba Allied Universal Security.

Pursuant to NRS 333.705, subsection 1, the Department of Administration, Purchasing Division requests authority to contract with former employee Kelli Baratti to perform resource and incident management coordination duties for the Department of Public Safety, Division of Emergency Management (DEM) through Master Service Agreement # 18406 with Talent Framework LLC.

Clerk of the Board: Item four includes three requests to contract with former employees pursuant to NRS 333.705 subsection 1. All three of these requests are from the Department of Administration, Purchasing Division. The first is to contract with a former employee to perform fiscal duties for the Department of Administration, Administrative Services Division through Master Services Agreement 18404 with Manpower. The second is for a former employee to perform uniformed security guard duties for various agencies through Master Service Agreement 19049, doing business as Allied Universal Security and the third is to contract with a former employee to perform resource and incident management coordination duties for the Department of Public Safety, Division of Emergency Management. This individual will be employed through Talent Framework, LLC, with Master Service Agreement 18406. Are there any questions on any of these items?

Governor: I do not have any questions on those. General Ford or Secretary Cegavske, do you have any questions?

Attorney General: None here.

Secretary of State: None.

Governor: Do I have a motion on item number four?

Attorney General: Move approval.

Governor: I have a motion for approval. Any discussion on that motion? Hearing and seeing none, all in favor signify by saying aye. [Ayes around]. Motion passes. Item number five, Authorization for An Emergency Contract with a Current and/or Former State Employee.

5. Authorization for an Emergency Contract with a Current and/or Former State Employee *(For possible action)*

Pursuant to NRS 333.705, subsection 4, the Department of Administration seeks on behalf of the Employment, Training and Rehabilitation a favorable recommendation regarding the Department's determination to use the emergency provision to contract with former employee Brian Bracken to perform administrative duties through Master Service Agreement #18404 between Department of Administration, Purchasing Division and HAT Limited Partnership, dba Manpower.

Clerk of the Board: Pursuant to subsection 4 of NRS 333.705, an agency may contract with a former employee, without first obtaining Board of Examiners approval if the term of the contract is for less than four months and the head of the agent-using agency determines that an emergency exists. If a using agency contracts with an individual pursuant to this exception, they must submit a copy of the contract and a

description of the emergency to the Board of Examiners who shall review the contract and description of the emergency and notify the agency whether or not they would have approved the contract had it not been entered into under the emergency provision. There's one item under this, or one request under this item for the Department of Employment, Training and Rehabilitation and they are seeking favorable recommendation from the Board on their use of the emergency provisions to contract with a former employee. The Department contracted through Manpower with a former employee from May 25, 2020 through September 25, 2020 to assist with unemployment insurance programs. This individual will assist with the development and implementation of the federally mandated Pandemic Unemployment Assistance Program. Are there any questions on this item?

Governor: Do we have any questions on item number five?

Attorney General: None here.

Governor: Do we have a motion on item number five?

Attorney General: I move approval.

Governor: We have a motion for approval. Any discussion on that motion? Hearing none. All in favor signify by saying aye. [Ayes around]. Motion passes. Item number six, Requests for a Recommendation of Approval to the Interim Finance Committee for an Allocation Amount from the Contingency Account.

6. Request for a recommendation of Approval to the Interim Finance Committee for an Allocation Amount from the Contingency Account (For possible action)

A. Office of the Attorney General

Pursuant to NRS 353.268, the Office of the Attorney General requests the Board's recommendation to the Interim Finance Committee for an allocation of \$3,551 from Interim Finance Committee Contingency Account to cover a projected shortfall.

B. Governor's Finance Office

Pursuant to NRS 353.268, the Governors Finance Office requests the Board's recommendation to the Interim Finance Committee for an allocation of \$3,467,578 from Interim Finance Committee Contingency Account to cover a projected shortfall.

Clerk of the Board: This item includes two requests for a positive recommendation to the Interim Finance Committee Pursuant to NRS 353.268. The General Fund contingency account has an approximate balance of \$16.4 million to cover

unanticipated costs for the remainder of the 19-21 biennium. If these items are approved the remaining balance in the account will be approximately \$12.9 million. The first request is from the Office of the Attorney General for an allocation of \$3,551 to cover a projected shortfall in the Crime Prevention account, which is due to lower than projected license plate revenues. The second request is from the Governor's Finance Office for an allocation of \$3,467,578 to cover a projected shortfall in the Statutory Contingency account. With the passage of Assembly Bill 267 of the 2019 legislative session, which provides for the compensation of certain persons who were wrongfully convicted, it is anticipated that this account will be exhausted before the October IFC meeting due to pending claims. Are there any questions on either of these items?

Governor: Do Secretary Cegavske or General Ford have a question?

Attorney General: I do not.

Secretary of State: None.

Governor: Okay. Do I have a motion?

Attorney General: Move approval.

Governor: We have a motion for approval. Any discussion on that motion? All in favor signify by saying aye. [Ayes around]. Motion passes. Item number seven, Request for Approval of the Tort Claim Pursuant to NRS 41.036.

7. Request for Approval to Pay a Tort Claim Pursuant to NRS 41.036

(For possible action)

Pursuant to NRS 41.036, the Office of the Attorney General submits the following Tort Claim request for approval:

Claimant: Daniel Vargas/ Christiansen Law Offices
Claim No: TC17846
Settlement Amount: \$175,000
Date of Loss: November 30, 2013

Clerk of the Board: This item is a claim for \$175,000 for which the Office of the Attorney General recommends approval of this payment from the Tort Claims fund to Christensen Law Offices, in the matter of Daniel Vargas, for attorney fees and costs. Are there any questions on this item?

Governor: No. And, I appreciate it. I just want to acknowledge, Susan, that you did a great job answering all my questions leading up to this meeting so thank you

very much. Do we have any questions on this item? Seeing none. Do I have a motion on item number seven?

Attorney General: Move approval.

Governor: We have a motion for approval. Any discussion on that motion? All in favor signify by saying aye. [Ayes around]. Motion passes. Item number eight, request for Approval of Payment from the Statutory Contingency Account.

8. Request for Approval of Payment from the Statutory Contingency Account (For possible action)

Pursuant to NRS 41.950 and NRS 41.970, the Governor's Finance Office requests the Board of Examiners to approve a payment of \$2,275,000 from the Statutory Contingency Account, to DeMarlo Berry representing compensation for his wrongful conviction.

Clerk of the Board: Pursuant to NRS 41.950 and NRS 41.970, the Governor's Finance Office is requesting the Board of Examiners to approve a payment of \$2,275,000 from the statutory contingency account to DeMarlo Barry representing compensation for his wrongful conviction. As I said earlier, the 2019 Legislature approved Assembly Bill 267 which provides for the compensation and other properly related matters to certain persons who were wrongfully convicted. The legislation requires a court order to enter a Certification of Innocence and determine the proper amount of the award. A Certificate of Innocence and a stipulation of relief were granted to Mr. Barry by the Eighth Judicial Court. Pursuant to NRS 41.950 the amount of the award is \$2,250,000 plus \$25,000 for attorney's fees. I would just note that the current balance in the statutory contingency account is \$4,447,000. If this item is approved the remaining amount in the account would be \$2.1 million. Are there any questions on this item?

Governor: The question I had is the same and I want to put it on the record. Is there anything that we are doing to provide Mr. Barry with some financial consulting or advising after he gets this check so that he can get the benefit of living off this money? Does the state provide that or is that not part of this?

Attorney General: Mr. Governor, Aaron Ford here. I don't recall the statute actually requiring that type of provision, although, I'm pretty confident that he's been advised by probably his own lawyers but certainly those of us engaged with him as I have been over the course of time of the importance of trying to engage someone to help with the financial advice perspective.

Governor: We've got his attorney on the phone. Has he been advised as it relates to this money?

Amelia Green: Hi. This is Amelia Green. I'm DeMarlo Barry's lawyer. He does have a private financial advisor. I don't think anything has been provided by the state but, yes, he has retained a private financial advisor.

Governor: Okay. Thank you. I appreciate that, because obviously, well deserving of the money and I want to make sure that it lasts for him. Do we have any questions on item number eight?

Attorney General: I have no questions, Mr. Governor, but I would like to comment after the motion.

Governor: Sure. Secretary Cegavske? Questions?

Secretary of State: Nothing, no.

Governor: Okay. Go ahead, General Ford.

Attorney General: I move approval.

Governor: Okay. Do you want to make a comment before we vote?

Attorney General: Yes, sir. I'd like to say I've been looking forward to voting in favor of this for a long time now. A few years back, I suggested to Steve Wilson that he create a conviction integrity unit. He did that and I had no clue, obviously, at that time that the first person to go through that conviction integrity unit and to be exonerated would be Mr. DeMarlo Barry. I also had no clue that I'd walk up during the middle of a press conference at my building and see him there on the day he had been released and that I'd shake his hand, hug him and congratulate him on being exonerated. And, then fast-forward to last year when the passage of this bill came about and I was able to testify and sit next to him in support of this. I'm so proud of this state for actually stepping up and doing the right thing and that's paying this man for time that obviously he can never get back but of recognizing the exoneration, the importance of this exoneration and the payment of monies to him I think is well past due. I just wanted to say to Mr. Barry, thank you again for being so kind and generous during this time period and I want to apologize again on the behalf of the state for your wrongful conviction.

Governor: Very well said. Thank you, General Ford. We have a motion on the floor for approval. Any discussion? All in favor signify by saying aye. [Ayes around]. Did we get you, Secretary Cegavske?

Secretary of State: You should have. I said yes.

Governor: I'm sorry. Motion passes. Item number nine.

9. [Approval of Proposed Contracts](#) (For possible action)

Clerk of the Board: There are 25 contracts in agenda item nine for approval by the Board this morning. Are there any questions on any of these items?

Governor: Does anyone have any questions on the contracts that are before us?

Attorney General: None here.

Governor: Okay. Do I have a motion?

Attorney General: Move approval.

Governor: Okay. We have a motion for approval. Any comments? Seeing none. All in favor signify by saying aye. [Ayes around]. Motion passes. Item number 10, the approval of Work Plan.

10. [Approval of Work Plan](#) (For possible action)

Clerk of the Board: There are three Work Plan Summaries in agenda item 10 for approval by the Board this morning. Are there any questions on any of these items?

Governor: I do not have any questions on these items. Anybody else, General Ford, Secretary Cegavske?

Attorney General: None here.

Secretary of State: None.

Governor: Do I have a motion on item number 10?

Attorney General: I move approval.

Governor: We have a motion for approval. Any discussion on the motion? Seeing none. All in favor signify by saying aye. [Ayes around]. Motion passes. Item number 11, Approval of Proposed Master Service Agreements.

11. [Approval of Proposed Master Service Agreements](#) (For possible action)

Clerk of the Board: There are four Master Service Agreements in agenda item 11 for approval by this Board this morning. Are there any questions on any of these items?

Governor: I do not have any questions on these items. Again, thank you for the briefing. Any questions?

Attorney General: None here.

Governor: Do I have a motion?

Attorney General: Move approval.

Governor: We have a motion for approval. Any discussion? Seeing none. All in favor signify by saying aye. [Ayes around]. Motion passes. Item number 12, Information Item - Clerk of the Board Contracts.

12. Information Item – Clerk of the Board Contracts

Pursuant to NRS 333.700, the Clerk of the Board may approve all contract transactions for amounts less than \$50,000. Per direction from the August 13, 2013 meeting of the Board of Examiners, the Board wished to receive an informational item listing all approvals applicable to the new threshold (\$10,000 - \$49,999). Attached is a list of all applicable approvals for contracts and amendments approved from June 23, 2020 through July 20, 2020.

Clerk of the Board: There were 52 contracts under the \$50,000 threshold approved by the Clerk between June 23, 2020 and July 20, 2020. Are there any questions on any of these items?

Governor: I do not have any questions on those. Does anybody have any questions on these contracts?

Attorney General: Not I.

Secretary of State: None.

Governor: Okay. That's an information item. Item number 13, Information Item Reports. Department of Conservation and Natural Resources, State Lands.

13. Information Item Reports

A. Department of Conservation and Natural Resources – Division of State Lands

Pursuant to NRS 321.5954, Subsection 4, the State Land Registrar is required to provide the Board of Examiners quarterly reports regarding lands or interests in lands transferred, sold, exchanged, or leased under the Tahoe

Basin Act program. Pursuant to Chapter 355, Statutes of Nevada, 1993, on page 1153, the agency is to report quarterly on the status of real property or interests in real property transferred under the Lake Tahoe Mitigation Program. This submittal reports on program activities for the 4th quarter of Fiscal Year 2020.

B. Department of Motor Vehicles – Complete Streets

Pursuant to NRS 482.1825, Subsection 2, the Department of Motor Vehicles shall certify to the State Board of Examiners the amount of the voluntary contributions collected for each county by the department and its agents and that the money has been distributed as provided in statute. This is the third quarter of State Fiscal Year 2020 report for the period beginning January 1, 2020 and ending March 31, 2020.

Pursuant to NRS 482.1825, Subsection 2, the Department of Motor Vehicles shall certify to the State Board of Examiners the amount of the voluntary contributions collected for each county by the department and its agent, and that the money has been distributed as provided in statute. This is the fourth quarter of State Fiscal Year 2020 report for the period beginning April 1, 2020 and ending June 30, 2020.

Clerk of the Board: There are two informational reports under this item. The first is an informational report regarding lands or interests in lands transferred, sold, exchanged or leased under the Tahoe Basin Act Program as well as a quarterly report on the status of real property or interests in real property transferred under the Lake Tahoe Mitigation Program which are required pursuant to NRS 321.5954 and Chapter 355, Statutes of Nevada, 1993 respectively. This report is for the quarter ending June 30, 2020. There were no acquisitions of land during this quarter. There were two transactions under the Lake Tahoe Mitigation Program resulting in 1,436 square feet of restored land coverage and an increase of \$6,042 for the Nevada Land Bank. Are there any questions on that?

Governor: No questions on the Division of State Lands.

Clerk of the Board: Okay.

Governor: Department of Motor Vehicles, Complete Streets.

Clerk of the Board: The second item is a report from the Department of Motor Vehicles on the voluntary contributions collected by a county pursuant to NRS 482.480 or the Complete Streets program, for the period January 1, 2020 through March 31, 2020.

During the 3rd quarter, the Department collected \$86,108.51 compared to \$89,186 in the same period last year and \$78,314 in the previous quarter. Of the amount collected, approximately 78.6% was from Clark County, 15.73% from Washoe County, 3% from Carson City and about 2.6% from Douglas County. After

deducting the 1% to administer the collection and distribution of contributions, the department distributed \$85,247.42 for this quarter. Approximately 12.2% of those registering a vehicle during the quarter contributed to the Complete Streets Program ranging from 9.78% in Douglas County to 15.28% in Clark County. Are there any questions on this item?

Governor: Any questions on Complete Streets?

Attorney General: None here.

Governor: None here. Thank you. That's another information item. Moving on, item number 14 is public comments the second time.

14. Public Comment (This public comment period is for any matter that is within the jurisdiction of the public body. No action may be taken upon a matter raised under public comment period unless the matter itself has been specifically included on an agenda as an action item. The Chair of the Board will impose a time limit of three minutes.)

Governor: Is there anyone wishing to address the Board on any item, either on the phone or in writing? Do we have anyone up north?

Clerk of the Board: We do not.

Governor: Nobody on the phone? Do we have anybody on the phone? You guys are all muted, I think. I'm assuming you have nobody for public comment then.

Clerk of the Board: We don't have anybody for public comment.

Governor: Okay. Now I hear you. Thank you. Okay.

15. Adjournment (For possible action)

Governor: Item number 15 is adjournment. Do I have a motion to adjourn?

Attorney General: So moved.

Governor: We have a motion on the floor. Any discussion? All in favor signify by saying aye. [Ayes around]. Motion passes. We are adjourned. Thank you all.

Attorney General: Thanks, everybody.