

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING
DECEMBER 3, 2013
GAMING CONTROL MEETING ROOM
555 E. WASHINGTON AVENUE, ROOM 2450
LAS VEGAS, NEVADA 89101**

**VIDEO CONFERENCED TO:
GAMING CONTROL MEETING ROOM
1919 COLLEGE PARKWAY
CARSON CITY, NEVADA 89706**

DECEMBER 3, 2013

9:00 A.M.

1-A) Introduction of Commissioners in attendance.

Gary Lein, Robert Frank, Jonathan Friedrich, Scott Sibley, Randolph Watkins and Senior Deputy Attorney General Henna Rasul acting as Commission Counsel.

Commissioner Robert Schwenk and Commissioner Barry Breslow were not present.

1-B) Introduction of Division staff in attendance.

In Las Vegas: Gail Anderson, Administrator; Charles Newell, Compliance Investigator; Al Sotelo, Compliance Investigator; Cheryl Fleming, Compliance Investigator; Christina Pitch, Compliance Investigator; Jennifer Oerding, Education Officer; Ken Richardson, Program Training Officer; Sonya Meriweather, Administrative Program Officer; Marisu Abellar, Program Legal Secretary; Teralyn Thompson, Commission Coordinator; Senior Deputy Attorney General Michelle Briggs, Division Counsel.

In Carson City: Christopher Cooke, Compliance Investigator.

1-C) Introduction of Ombudsman for owners in common-interest communities.

Gail Anderson introduced Sharon Jackson as the new Ombudsman.

2) Public Comment

In Las Vegas: Mike Randolph, manager of Homeowner Association Services and thirteen year board member, commented. Mr. Randolph submitted a document titled "Joint Editorial Board for Uniform Real Property Acts" dated August 22, 2013. Mr. Randolph stated that the Joint Editorial Board for Uniform Real Property Acts provides guidance to the Uniform Law Commission who is the author of the Uniform Common Interest Owner Act. Mr. Randolph stated that earlier this year the Joint Editorial Board reviewed the limited priority lien statute. Mr. Randolph stated that the document submitted to the Commission is the Joint Editorial Board's findings and is an excellent read. Mr. Randolph stated on page two of the report, the Joint Editorial Board suggest changing NRS 116.3116 to add reasonable attorney's fees and costs incurred by the association in foreclosing lien.

In Las Vegas: Robert Robey stated that he would like to present an example of what he consider to be a persistent and constant problem with getting complaints processed by Division investigators. Mr. Robey gave an outline of the faulty process which allows respondents to unnecessarily delay prompt resolutions of complaints. Mr. Robey stated that an attorney for an association was able to delay an investigation from September 4, 2012 until sometime after the filing of the complaint for disciplinary action and notice of hearing which was supposed to take place March 19-21. Mr. Robey stated that this is unconscionable and such tactics should not be tolerated. Mr. Robey stated that the administrative complaint should have continued so that the Commission would have the opportunity to put an end to obvious attempts to obstruct justice.

In Las Vegas: Tim Stebbins, Henderson resident, commented on agenda item 8-M. Mr. Stebbins stated that he is pleased that the Commission will discuss the jurisdiction of the Commission over violations. Mr. Stebbins stated that this is a very important responsibility of the Commission that affects all homeowners in common-interest communities. Mr. Stebbins provided the Commission with written public comment dated December 3, 2013.

In Las Vegas: Rana Goodman, chair of the Nevada Homeowner Alliance, commented. Ms. Goodman stated that her organization is concerned with the continuing down slide of services and assistance homeowners are receiving when seeking help from the Ombudsman's Office. Ms. Goodman stated that many homeowners are of the opinion that the system is broken. Ms. Goodman provided the Commission with written public comment dated December 1, 2013.

In Las Vegas: John Radocha, homeowner, commented. Mr. Radocha stated that he is a victim. Mr. Radocha stated that he wants the Commission to know that the Division is not doing its job. Mr. Radocha stated that he will let Channel 8's HOA Hall of Shame know that the Division is not doing its job.

In Las Vegas: Norman McCullough commented on Unassigned File #116-31085. Mr. McCullough stated he appeared before the Commission over a year ago because his rights to due process were being violated by his association. Mr. McCullough stated that he was ignored by the Commission. Mr. McCullough provided the Commission with written public comment dated December 3, 2013

In Las Vegas: Paul Hazell, resident of Quail Summit in Henderson, commented. Mr. Hazell stated that on June 2013, his rights for due process were violated during a hearing for a website that Mr. Hazell was accused of creating. Mr. Hazell stated that there is nothing in Quail Summit's CC&Rs or rules and regulations that prohibit or acknowledge freedom of speech under the United States Constitution. Mr. Hazell stated that Quail Summit's board violated his rights to due process when the board refused to provide him with the required evidence for such a hearing. Mr. Hazell urged the Commission to be in favor of legislation that stops this kind of conduct and harassment by rogue board members and their predatory attorneys who continue to conduct hearings without due process. Mr. Hazell stated that the judication of HOA disputes by the office of administration hearings in Arizona was a landmark advance in due process protection for homeowners and should be adopted in Nevada.

In Las Vegas: George Crocco, resident of Canyon Willow Pecos, commented. Mr. Crocco stated that he has been fighting his board since 2009 and violations continue and have gotten worse. Mr. Crocco stated that he feels that he should go to Channel 13 regarding his issue but he is before the Commission begging the Commission for justice.

In Las Vegas: Bruce Fisher, resident of Quail Summit in Henderson, commented. Mr. Fisher stated that he received a letter from his association regarding plants not being applicable to the association's desires. Mr. Fisher stated that when he went to the meeting the board stated that they were talking about the dirt that was showing. Mr. Fisher stated that he was told that he would be fined one hundred dollars per day unless he put in dark mulch. Mr. Fisher stated that the issue was dropped after he replaced the mulch. Mr. Fisher stated that homeowner associations are like kangaroo courts that do whatever they want.

3-3) NRED v. Diane Wild for possible action

Case No. CIS 13-09-19-075

Type of Respondent: CAM.0000164 (ACTIVE)

Case continued until the next Commission meeting.

8-A) For possible action: Review and decision of Respondent Diane Wild's compliance with Commission's Findings of Fact, Conclusion of Law and Order filed January 10, 2013, as amended for Case Nos. CIS 10-08-04-018, CIS 10-09-08-038, CIS 11-10-30-110, CIS 12-08-35-044 and CIS 11-05-34-311.

Agenda item tabled until the next Commission meeting.

3-1) NRED v. Mary Brailey for possible action

Case No. CIS 12-10-25-087

Type of Respondent: CAM.0001060 (CLOSED-EXPIRED)

Parties Present

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Mary Brailey was not present.

Ms. Briggs requested that the respondent's failure to appear be accepted and the complaint be accepted as true. Ms. Briggs stated that the respondent identified in her answer to the complaint that the respondent received notice and voluntarily chose not to appear.

Ms. Briggs read the complaint into the record.

Commissioner Friedrich moved that all allegations in the complaint are true. Seconded by Commissioner Frank.

Commissioner Friedrich asked if the respondent's license was suspended immediately.

Ms. Briggs stated that the license was not immediately suspended.

Commissioner Friedrich asked why the case took two years to come before the Commission.

Motion carried unanimously.

Commissioner Friedrich moved that violations of NRS 116 as read into the record are true.
Seconded by Commissioner Frank.

Motion carried unanimously.

Division's Recommendation for Discipline

Gail Anderson gave the Division's recommendation.

- Revocation of license for not less than 10 years
- Fine of \$16,200.00
- The respondent has requested a payment arrangement in her answer to the complaint. The Division recommends a payment arrangement of not more than 4 years
- Investigation and hearing cost of \$2,185.00

Commissioner Friedrich moved that the respondent's license be permanently revoked.

Ms. Briggs stated that if the respondent attempted to get back into the industry after ten years, the respondent's license request would be denied and would have to go before the Commission for approval based on the prior revocation.

Commissioner Lein asked the basis for determining the fine of \$16,200.00.

Ms. Anderson stated that there were two hundred and eighty-eight violations. Ms. Anderson stated that the Division looked at some of the fine potentially being paid.

Commissioner Lein stated that the Commission has heard other cases with similar numbers of violations and those fines were substantially higher. Commissioner Lein stated that he is worried that the Commission is uneven in the fining process and the Commission should set a precedent at what the consequences could be versus trying to fit a fine to the respondent's financial worth. Commissioner Lein stated that if the Commission is going to tailor a fine to the respondent's net worth, documents should come forward to the Commission to determine that.

Commissioner Lein moved to accept the Division's recommendation for discipline. Seconded by Commissioner Sibley.

Commissioner Friedrich requested that Commissioner Lein amend his motion to increase the fine amount to \$74,000.00 and \$2,185.00 for the cost of the investigation and hearing.

Commissioner Lein refused to amend his motion. Commissioner Lein stated that there might be facts that the Division has knowledge of that the Commission does not. Commissioner Lein stated that going forward, it is important that the Commission is fair and consistent.

Commissioner Frank asked if the Commission has a purview to make restitution to the members of the association.

Ms. Briggs stated that Terra West has already paid the association back and has been made whole.

Commissioner Sibley stated that Terra West received restitution in the civil case.

Motion carried 4 to 1 with Commissioner Friedrich opposed.

3-2) NRED v. Judith Fenner for possible action

Case No. CIS 13-09-12-068

Type of Respondent: CAM.0006716 (ACTIVE)

Parties Present

Judith Fenner was present.

Melinda Weaver with Patti, Sgro, Lewis & Roger was present representing Ms. Fenner.

Senior Deputy Attorney General Michelle Briggs was present representing the Division.

Preliminary Matters

Ms. Briggs stated that the Commission has received Ms. Fenner's answer to the complaint. Ms. Briggs stated that contained in that answer is an objection to the Commission's ability to hear this case due to a conflict of interest that the respondent is alleging is occurring because of the law suit against the Commission, the Division, the Ombudsman's Office and the investigator and due to a counter claim that was filed against Ms. Fenner for abuse of process. Ms. Briggs stated that she would like for the Commission to address this individually in terms of what the Commission thinks their conflict of interest may or may not be and vote to whether or not to recuse themselves in this matter.

Commissioner Sibley stated that he does not have any conflict of interest in this matter.

Commissioner Lein stated that he has known Ms. Fenner for about twenty years. Commissioner Lein stated that he has not associated with Ms. Fenner personally. Commissioner Lein stated that his firm may have provided audit services to some of her associations about fifteen years ago. Commissioner Lein stated that he does not feel that he has a conflict as it relates to Ms. Fenner. Commissioner Lein stated that he would not recuse himself.

Commissioner Frank stated that he does not have any conflict of interest in this matter.

Commissioner Friedrich stated that he does not have any conflict of interest in this matter.

Chairman Watkins stated that he has never met Ms. Fenner. Chairman Watkins stated that he took over an association that Ms. Fenner was managing. Chairman Watkins stated that he does not have any knowledge of Ms. Fenner or her firm prior to that take over. Chairman Watkins stated that he does not think he has a conflict of interest and will not recuse himself.

Chairman Watkins stated that the Commission does not have a conflict of interest and do not have a reason not to hear the case.

Ms. Weaver stated that Ms. Fenner's law suit as to the Commission and the Division has been dismissed. Ms. Weaver stated that currently the Commission is a plaintiff against Ms. Fenner suing Ms. Fenner. Ms. Weaver stated that there is a pending case which is addressed on the Commission's agenda item 7-H. Ms. Weaver stated that Ms. Fenner is entitled to due process rights in this case to have a fact finding body that can be fair and non-arbitrary. Ms. Weaver stated that it is not a conflict of interest as to how the Commission knows Ms. Fenner but the appearance of impropriety in deciding a case where in Ms. Fenner is being sued by the Commission. Ms. Weaver stated that at this point in time they would either have to seek declaratory relief on whether or not recusal is appropriate. Ms. Weaver requested a stay pending that declaratory relief from the District Court.

Ms. Briggs stated that Ms. Fenner sued the Commission in 2012. Ms. Briggs stated that Ms. Fenner received a TRO to postpone the hearing of those cases. Ms. Briggs stated that subsequently Ms. Fenner amended her complaint and included various causes of action against the Division, the investigator and the Ombudsman's Office. Ms. Briggs stated that she represented the Division and in turn the parties named. Ms. Briggs stated that the reason the Commission was made a party to the suit is because the Commission signs subpoenas and the Division had requested subpoenas of association bank records and of Ms. Fenner's business records. Ms. Briggs stated that the law suit pertaining to the Commission had to do with abuse of process for the authorization to subpoena those records. Ms. Briggs stated that in the course of the litigation, Ms. Briggs filed an answer and counter claim for abuse of process based on the allegation that Ms. Fenner did not have any factual basis to file claims for relief. Ms. Briggs stated that claims for relief filed by Ms. Fenner were dismissed with prejudice recently which left the counter claim. Ms. Briggs stated that she has tried to get Ms. Fenner to dismiss the counter claim. Ms. Briggs stated that she has sent a dismissal without Ms. Fenner having to pay any costs or attorney's fees and Ms. Fenner has refused to sign it. Ms. Briggs stated that although Ms. Fenner is refusing to agree to a dismissal that does not mean that the claim will not be dismissed. Ms. Briggs stated that the State does not have any interest in pursuing a counter claim when the underline claims are gone. Ms. Briggs stated that she will get the court to agree to a dismissal if Mr. Fenner refuses.

Ms. Weaver stated that she and her client have been trying to settle this claim for a very long period of time. Ms. Weaver stated that Ms. Briggs has only recently sent over a document on Wednesday before Thanksgiving weekend. Ms. Weaver stated that previously Ms. Briggs had stated that she wanted ten thousand dollars in attorney's fees. Ms. Weaver stated that she had not been able to speak to her client about the document that she recently received from Ms. Briggs. Ms. Weaver stated that she has not refused to sign the most recent agreement but would like to have time to review the document with her client. Ms. Weaver stated that as it stands right now the Division is a plaintiff against Ms. Fenner in District Court. Ms. Weaver stated that Ms. Fenner has three pending administrative complaints that are not on calendar before the Commission. Ms. Weaver stated that she would like to see a declaratory judgment from the District Court on whether or not this Commission can proceed. Ms. Weaver stated that she has to question the propriety of speaking about this settlement with the actual plaintiffs in the case

and the attorney in open session. Ms. Weaver stated that she believes that the professional rules are being breached on whether or not they can actually go forward and discuss settlement on the record with the plaintiff.

Ms. Briggs stated that there have not been multiple attempts to settle the case. Ms. Briggs stated that there was one attempt to settle the civil case but events occurred that prevented the Division to do so at that time. Ms. Briggs stated that claims were dismissed by the court with prejudice. Ms. Briggs stated that the Division is not pursuing the counter claim and there is nothing to review with Ms. Fenner. Ms. Briggs stated that it is an agreement to dismiss the case where there are no requested payments.

Ms. Weaver stated that she did not know that the dismissal is an outright dismissal. Ms. Weaver stated that she does have to discuss this with her client and this morning was the first time that she has had contact with her client.

Henna Rasul stated that when a civil suit is filed against a body, it cannot be used as a tactic to recuse or have a whole body removed from hearing a case. Ms. Rasul stated that it would happen a lot and there is no precedent that would allow for that. Ms. Rasul stated that the Commission is appointed by the Governor to hear matters before them regarding disciplinary matters against licensees in all capacities. Ms. Rasul stated that a separate civil suit where a Commission is being sued has nothing to do with a disciplinary matter that is before the Commission. Ms. Rasul stated that the Commission has no idea about what has been going on with the civil matter and that civil matter relates to a subpoena. Ms. Rasul stated that she would not recommend that any of the Commission members recuse themselves at this point.

Chairman Watkins stated that based on advice from Commission counsel, the Commission will proceed with the matter.

Ms. Weaver stated that the Commission countersued Ms. Fenner as a plaintiff in this action. Ms. Weaver stated that the counter suit claim is not based on the subpoena but on an abuse of process claim. Ms. Weaver stated that the abuse of process claim, as raised in the civil complaint, states that Ms. Fenner brought a law suit against the Commission falsely and that there was probable cause to investigate Ms. Fenner. Ms. Weaver stated that the fact finding that is going on today has a direct impact on what is going to occur in the civil case.

State's Witness

Cheryl Fleming testified.

Ms. Briggs stated that she wishes to enter exhibits into the record.

Ms. Weaver stated that she objects to the Excel spreadsheets that from Exhibits 3, 4 and 2 on the grounds that they were not authenticated by Ms. Fleming.

Ms. Briggs stated that Ms. Fleming identified the list as a list that she created.

Ms. Weaver stated that she objects to the list of exhibits. Ms. Weaver stated that she objects to the chart identifying each exhibit in terms of number 3 which is labeled “Chart of checks purportedly signed by Nancy Lin, but not signed by Nancy Lin” based on the fact that these exhibits are testifying on behalf of the Division.

Chairman Watkins stated that Ms. Weaver’s objections are noted and overruled. Chairman Watkins admitted State’s Exhibit 1.

Ms. Weaver cross-examined Ms. Fleming.

Redirect examination by Ms. Briggs.

Commissioner Lein questioned Ms. Fleming.

Chairman Watkins questioned Ms. Fleming.

State’s Witness

Daniel Amitin testified.

Ms. Weaver cross-examined Mr. Amitin.

Commissioner Friedrich questioned Mr. Amitin.

Commissioner Lein questioned Mr. Amitin.

Commissioner Frank questioned Mr. Amitin.

Commissioner Friedrich questioned Mr. Amitin.

Chairman Watkins questioned Mr. Amitin.

State’s Witness

Robert Harper testified.

Ms. Weaver cross-examined Mr. Harper.

Commissioner Lein questioned Mr. Harper.

Commissioner Friedrich questioned Mr. Harper.

Respondent’s Witness

Respondent had no witnesses.

Closing Arguments

Ms. Briggs gave her closing argument.

Ms. Weaver gave her closing argument.

Allegations

Commissioner Sibley moved that the Commission accept all allegations as stated in the complaint. Seconded by Commissioner Lein.

Commissioner Friedrich stated that some of allegations are too confusing and it would be easier to go over them on an individual basis.

Motion carried 4 to 1 with Commissioner Friedrich opposed.

Violations of Law

Commissioner Friedrich moved that the Commission review the violations of law one by one. Seconded by Commissioner Frank. Motion carried 4 to 1 with Commissioner Sibley opposed.

The Commission reviewed each violation of law listed in the complaint individually.

Commissioner Lein moved to accept all violations of law in the complaint. Seconded by Commissioner Friedrich. Motion carried unanimously.

Division's Recommendation for Discipline

Michelle Briggs gave the Division's recommendation for discipline.

- Revocation of community manager certificate for no less than ten years.
- Fine of \$67,300.00
- Investigative and hearing cost of \$10,146.50

Commissioner Frank stated that he would like to add that Ms. Fenner cannot be a board member in Nevada for ten years.

Commissioner Lein asked how Ms. Briggs came up with the fine of \$67,300.00.

Ms. Briggs stated that the fine of \$67,300.00 was derived by the two hundred and twelve violations for forgery at two hundred and fifty dollars per violation which equals fifty three thousand dollars. Ms. Briggs stated that the other violations were at fifty dollars which equals fourteen thousand three hundred dollars.

Commissioner Lein stated that the Division should send notices to associations where Ms. Fenner is listed on the annual registration forms that indicate that Ms. Fenner provides bookkeeping services. Commissioner Lein stated that he would like for there to be a notice requirement as part of the discipline.

Chairman Watkins asked how associations where Ms. Fenner is serving as a community manager will unwind.

Ms. Briggs stated that the Commission could give Ms. Fenner a time frame to phase out of the associations that she is currently managing.

Commissioner Friedrich moved to revoke Ms. Fenner's community association certificate for no less than ten years, Ms. Fenner is assessed a \$67,300.00 fine, Ms. Fenner is assessed investigative and hearing cost of \$10,146.50, the Division notify all associations that Ms. Fenner is managing indicating that her community manager certificate has been revoked and the association has sixty days to engage other management companies and Ms. Fenner is prohibited from being a board member for not less than ten years. Seconded by Commissioner Lein.

Commissioner Lein stated that he would like to add "associations that Ms. Fenner is associated with." Commissioner Lein stated that there might be an association that Ms. Fenner is alleging that Ms. Fenner provided bookkeeping services.

Commissioner Lein's amendment was accepted by Commissioner Friedrich.

Motion carried unanimously.

4) Regulation workshop for Unassigned File # 116-405

Introduction of Commissioners in attendance:

Scott Sibley, Gary Lein, Robert Frank, Jonathan Friedrich, Randolph Watkins.

Barry Breslow and Robert Schwenk were not present.

Senior Deputy Attorney General Henna Rasul acting as Commission Counsel

Introduction of Division staff in attendance:

In Las Vegas: Gail Anderson, Administrator; Charles Newell, Compliance Investigator; Al Sotelo, Compliance Investigator; Cheryl Fleming, Compliance Investigator; Christina Pitch, Compliance Investigator; Jennifer Oerding, Education Program Officer; Ken Richardson, Training Program Officer; Sharon Jackson, Ombudsman; Sonya Meriweather, Administrative Program Officer; Marisu Abellar, Program Legal Secretary; Teralyn Thompson, Commission Coordinator

In Carson City: Christopher Cooke, Compliance Investigator.

Workshop began at 2:43 p.m. on December 3, 2013 and ended at 3:07 p.m. on December 3, 2013.

8-B) For possible action: Discussion and decision on proposed changes, additions and deletions to NAC 116, NAC 116A or NAC 116B including but not limited to Unassigned File# 116-405 concerning definition of "material" and to allow the Commission to consider whether the executive board has taken material action on behalf of the association outside of a noticed meeting; including review of public comments from regulation workshop held December 3, 2013.

Commissioner Lein stated that he would like to add additional language by adding a new Section 1(8)(n) that says "Adopting written investment policy and procedures." Commissioner Lein

stated that this is under NRS 116A.630 for community managers but there is not a requirement for a self managed community to adopt an investment policy.

Commissioner Friedrich stated that he disagrees with the statement that NAC 116.405 cannot be violated. Commissioner Friedrich stated that subsection 1 states “acted outside the scope of the authority granted in the governing documents.” Commissioner Friedrich stated that is violated all of the time. Commissioner Friedrich stated that NAC 116.405 can be violated and supports the proposed changes.

Commissioner Friedrich stated that workshops in theory are a great idea but can get carried away which is the problem. Commissioner Friedrich stated that someone said during the legislative session that boards could decide with a wink and a nod and all of the sudden it is a done deal and no one else knows about it.

Chairman Watkins stated that he agrees with Commissioner Lein’s suggestion for a new Section 1(8)(n). Chairman Watkins stated that he is not happy with Sections 1(9) and 1(10). Chairman Watkins stated that he agrees with Pam Scott that material means one thing to a ten unit organization versus material to an organization with ten thousand units.

The Commission agreed to add Commissioner Lein’s addition.

Commissioner Frank moved to send the proposed regulation with additions to the Legislative Counsel Bureau for an assignment of a formal file number. Seconded by Commissioner Friedrich. Motion carried 4 to 1 with Chairman Watkins opposed.

5) Regulation workshop for Unassigned File# 116-31085.

Introduction of Commissioners in attendance:

Scott Sibley, Gary Lein, Robert Frank, Jonathan Friedrich, Randolph Watkins.

Barry Breslow and Robert Schwenk were not present.

Senior Deputy Attorney General Henna Rasul acting as Commission Counsel

Introduction of Division staff in attendance:

In Las Vegas: Gail Anderson, Administrator; Charles Newell, Compliance Investigator; Al Sotelo, Compliance Investigator; Cheryl Fleming, Compliance Investigator; Christina Pitch, Compliance Investigator; Jennifer Oerding, Education Program Officer; Ken Richardson, Training Program Officer; Sharon Jackson, Ombudsman; Sonya Meriweather, Administrative Program Officer; Marisu Abellar, Program Legal Secretary; Teralyn Thompson, Commission Coordinator

In Carson City: Christopher Cooke, Compliance Investigator.

Workshop began at 3:15 p.m. on December 3, 2013 and ended at 4:05 p.m. on December 3, 2013.

8-C) For possible action: Discussion and decision on proposed changes, additions and deletions to NAC 116, NAC 116A and NAC 116B including but not limited to Unassigned File# 116-31085 concerning rights of an alleged violator and content and timing of notice of a hearing to an alleged violator; including review of public comments from regulation workshop held December 3, 2013.

Section 1

Commissioner Friedrich stated that a concern is certified mail. Commissioner Friedrich stated that Summerlin West's bill practices section 8.9 require both regular and certified mail be sent to homeowners who are delinquent in assessments so it is already being done. Commissioner Friedrich stated that as far as the postman at the counter having to stamp each slip, they do it automatically.

Commissioner Friedrich stated that the thirty days can be adjusted.

Commissioner Sibley stated that he supports section 1 and the certified mailing. Commissioner Sibley stated that mailings should be tracked. Commissioner Sibley stated that to give someone a week notice of a hearing is not reasonable notice.

Commissioner Lein stated that thirty days is too long and would like to see it shortened.

Chairman Watkins stated that this section sets out what appears to be some type of compliance policy or procedure and associations should already have compliance and collection policies which are adopted by the board and mailed annually with the budget which is required by statute. Chairman Watkins stated that the language could be changed so that the compliance and collection process of each association should have some leeway and timing.

Chairman Watkins stated that certified mail lets a person know that the association sent something out. Chairman Watkins stated that notices sent by civil or district courts are not sent by certified mail. Chairman Watkins stated that he sends hearing notices out by certified mail and first class mail.

Section 2

Commissioner Lein stated that he agrees with a lot of comments as it relates to the address. Commissioner Lein stated that those addresses can be obtained through the internet and the assessor's office. Commissioner Lein stated that publishing the address encourages the confrontation of this meeting to occur outside of the hearing panel and is not constructive. Commissioner Lein stated that it would discourage a lot of people from participating on a hearing panel. Commissioner Lein stated that he is in favor of removing the address of members of the hearing panel.

Commissioner Frank stated that he agrees with Commissioner Lein.

Commissioner Friedrich stated that he does not have any objection to removing addresses. Commissioner Friedrich stated that names should remain in the regulation so that a homeowner knows who his jury is.

Commissioner Sibley stated that addresses do not need to be in the regulation but names should remain. Commissioner Sibley stated that it ties into the issue regarding conflict. Commissioner Sibley stated that if a homeowner knows who is on the panel a conflict could be alleged.

Chairman Watkins stated that he agrees with Section 2 except for the publishing of addresses. Chairman Watkins stated that names should remain due to conflict. Chairman Watkins stated that the rest of section 2 is already in statute.

Commissioner Friedrich stated that he wanted to gather all of this information into one regulation so that people do not have to go searching through a book.

Commissioner Frank asked if it would be permissible for the hearing panel to have members who are not in the community.

Chairman Watkins stated that he personally had a hearing involving a retired judge who knew nothing about California Civil Code and the result of that hearing was a disastrous.

Section 3

Commissioner Friedrich stated that section 3(3) should state “The alleged violator must be given written notice that they can request in writing that the hearing be held in open session rather than in closed session.”

Commissioner Friedrich stated that section 3(5) is not expensive to the association because the homeowner would pay for the audio. Commissioner Friedrich stated that this applies to the transcript also.

Commissioner Friedrich stated that section 3(13) regarding seven days can be changed to ten days.

Commissioner Friedrich stated that Assembly Bill 370 regarding mediation requires each side to pay their own fees and costs for their own legal counsel if they chose to bring one.

Commissioner Frank stated that section 3(9) should end after NRS 116 because the person at the hearing should be able to challenge individuals before the hearing starts. Commissioner Frank stated that he has seen cases where things are said prior to the start of the hearing that shows bias that was not present five days prior.

Commissioner Frank stated that the last line in section 3(11) confused him.

Commissioner Frank asked how section 3(14) relates to CC&Rs that state you must go to mandatory arbitration.

Commissioner Lein stated that if these are non-board members, he is worried about the officers and directors and liability of the hearing panel.

Commissioner Lein stated that in section 3(3) if there is a written notice to be held in open session versus closed session there should be a number of days inserted. Commissioner Lein stated that there should be five days in advance.

Commissioner Lein stated that what worries him about section 3(9) is what happens if the entire panel is challenged to cause an obstruction. Commissioner Lein stated that they should be allowed one challenge. Commissioner Lein stated that there should be a requirement on the number of members on the hearing panel.

Commissioner Lein asked the consequence if someone does not tell the truth under section 3(12).

Commissioner Lein stated that in section 3(13) seven days is a short window that needs to be ten or more days.

Chairman Watkins stated that he agrees with the community manager who spoke about the cumulative total fines. Chairman Watkins stated that there needs to be more definition on whether it is cumulative and how long it goes on which is in section 3(2).

Chairman Watkins stated that he is in line with Commissioner Lein on the under oath situation. Chairman Watkins stated that the reasonable time at the close of the hearing for the decision needs to have definite time frames.

Commissioner Friedrich stated that in 2009 the legislature inserted a section into NRS 116.31085 requiring the Commission to write and adopt a regulation for due process. Commissioner Friedrich stated that the purpose for this is to guarantee justice for homeowners living in associations that have been accused of an alleged violation of the governing documents. Commissioner Friedrich stated that all of the sections contained in this proposed regulation are predicated upon abuses that have occurred to homeowners who have been denied a fair hearing by their board. Commissioner Friedrich gave examples of how these basic requirements have been denied to homeowners.

The Commission decided to recess this agenda item until December 4, 2013.

11) Public Comment

In Las Vegas: Bob Robey thanked Commissioner Friedrich for the proposed regulation. Mr. Robey stated that an association cannot be required to take an oath under the Bible or affirmation because a homeowner association is not an actor of the State.

In Las Vegas: Tim Stebbins commented on agenda item 8-G. Mr. Stebbins stated that he looks forward to discussion and possible action concerning the authority of the Commission to issue advisory opinions. Mr. Stebbins stated that he contacted the Commission about an inquiry about proper procedure to request an advisory opinion from the Commission. Mr. Stebbins stated that he was told that there was no procedure because the Commission does not have the authority to issue advisory opinions.

In Las Vegas: John Radocha commented. Mr. Radocha stated that it is too bad that the rules and regulations that the Commission has now were not there in 2002 or 2003.

In Las Vegas: Tarra Thompson commented. Ms. Thompson stated that about eighty percent of the people that she has been involved with in the last five years have admitted that they have not read their governing documents and do not know what is involved in living in a homeowner association. Ms. Thompson stated that ten percent are banks who consider the property as a piece of paper monitoring transaction rather than a live investment. Ms. Thompson stated that the other ten percent have met their duties as homeowners and have read their governing documents. Ms. Thompson asked when taking complaints or considering drafting new laws or amendments that the Commission makes sure that both sides are being considered. Ms. Thompson commented on violation fines. Ms. Thompson stated that typically management companies consider these soft costs and not a consideration for any hard cost that may develop with the new laws for the proposal.

13) For possible action: Adjournment

The meeting recessed at 4:45 p.m. on December 3, 2013 until 9:00 a.m. on December 4, 2013.

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING
DECEMBER 4, 2013
DEPARTMENT OF EMPLOYMENT, TRAINING & REHABILITATION
2800 E. SAINT LOUIS AVE.
LAS VEGAS, NEVADA 89104**

**VIDEO CONFERENCED TO:
DEPARTMENT OF EMPLOYMENT, TRAINING & REHABILITATION
500 EAST THIRD STREET
CARSON CITY, NEVADA 89713**

DECEMBER 4, 2013

9:04 A.M.

1-A) Introduction of Commissioners in attendance.

Gary Lein, Robert Frank, Jonathan Friedrich, Scott Sibley, Randolph Watkins and Senior Deputy Attorney General Henna Rasul acting as Commission Counsel.

Commissioner Robert Schwenk and Commissioner Barry Breslow were not present.

1-B) Introduction of Division staff in attendance.

In Las Vegas: Gail Anderson, Administrator; Sharon Jackson, Ombudsman; Jennifer Oerding, Education Program Officer; Ken Richardson, Program Training Officer; Sonya Meriweather, Administrative Program Officer; Teralyn Thompson, Commission Coordinator.

In Carson City: Christopher Cooke, Compliance Investigator.

2) Public Comment

In Las Vegas: William Wright, Wright Law Firm, commented. Mr. Wright stated that yesterday he made a statement that section 3 of the proposed regulation NAC 116.405 could not be violated. Mr. Wright stated there were some people in the audience and on the Commission who did not understand what he was saying. Mr. Wright stated that in order to violate a statute there has to be something one is told to do or something one is told not to do in the statute. Mr. Wright stated that when a statute does not tell you to do something, it cannot be violated. Mr. Wright stated that a list of factors such as NAC 116.405 has nothing that can be violated. Mr. Wright stated that NRS 116.3103 can be violated. Mr. Wright stated that NAC 116.405 cannot be violated and the language in the proposed regulation does not make sense.

In Las Vegas: Tim Stebbins, Henderson resident, commented regarding agenda item 8-K. Mr. Stebbins stated that he is looking forward to the discussion by the Commission concerning complaints by individuals who are not board members in a homeowner association. Mr. Stebbins stated that the Compliance section has a policy or procedure whereby non-members can bring accusations of violations of NRS 116 directly to the Division and receive very prompt attention. Mr. Stebbins stated that this policy or procedure bypasses the requirements and

processes specified in NRS 116.760 and NRS 116.765. Mr. Stebbins stated that no certified letter is required to be sent, a notarized intervention affidavit is not required or filed, a case number is not assigned and an Ombudsman conference is not held. Mr. Stebbins stated that this procedure also eliminates due process and involvement of the Commission as specified in NRS 116.770, NRS 116.775, NRS 116.780, NRS 116.785 and NRS 116.790. Mr. Stebbins stated that no formal complaint from the Division is filed and no hearing is held. Mr. Stebbins stated that the Office of the Ombudsman does not offer any education courses on this highly abbreviated and much more rapid policy or procedure. Mr. Stebbins stated that he is interested in learning more about this policy and the criteria used to decide who may take advantage and who may not. Mr. Stebbins stated that maybe this should be formalized by a Commission or Division regulation to accomplish that task.

In Las Vegas: Pam Scott, Howard Hughes Corporation, commented on the due process regulation regarding the section on bias. Ms. Scott stated that this issue has been before the legislature the last two sessions and has never gotten out of committee. Ms. Scott stated that the way this is written, anyone can walk in and say that their case cannot be heard because there is a bias against them. Ms. Scott stated that there are no requirements for evidence to be produced and the accused person does not get due process to argue the claim of bias. Ms. Scott stated that the Commission is going down a very dangerous path just as the Commission was challenged yesterday by an attorney for conflict of interest. Ms. Scott stated that there is a whole lot left unsaid.

Ms. Scott commented on agenda items 8-N and 8-O regarding creating a special working group of the Commission. Ms. Scott stated that she is not sure that the Commission has the authority to do that. Ms. Scott stated that any meetings would be subject to the open meeting law. Ms. Scott stated that on agenda item 8-O the Commission would not be regulating engineers who might service a homeowner association.

In Las Vegas: Cynthia Anderson commented on agenda item 6 regarding private attorneys, community managers and members of the executive board determining violations of law. Ms. Anderson stated as a community manager she feels that the board, community managers and general practicing attorneys can understand, interpret and read the NRS and association governing documents.

8-C) For possible action: Discussion and decision on proposed changes, additions and deletions to NAC 116, NAC 116A and NAC 116B including but not limited to Unassigned File# 116-31085 concerning rights of an alleged violator and content and timing of notice of a hearing to an alleged violator; including review of public comments from regulation workshop held December 3, 2013.

Section 2

Commissioner Friedrich suggested deleting the last line of section 2 which states “and addresses.”

The Commission agreed.

Commissioner Friedrich commented on the sentence in the middle of section 2 that begins with “The Notice must also set out the maximum fine...” Commissioner Friedrich stated that there was much discussion regarding the maximum fine. Commissioner Friedrich stated that NRS 116 states one hundred dollars per week for a continuing violation. Commissioner Friedrich stated that the minimum that is called for in statute has become the norm of the usual fee that an association can fine someone. Commissioner Friedrich stated that there needs to be more clarification on the maximum fine. Commissioner Friedrich stated that he would like to see “maximum fine” kept in the regulation but is open to suggested changes.

Gail Anderson commented on the maximum fine. Ms. Anderson stated that the concept is not a dollar amount but what does the association’s fine policy say for that particular fine. Ms. Anderson stated that an association can also use language that says “but additional fees may occur if the fine is not paid.”

Chairman Watkins stated that all associations are supposed to have a compliance and collection policy. Chairman Watkins stated that maximum fines are set forth in the compliance and collection policy and in some associations fines are different for different amounts. Chairman Watkins stated that this would be over regulating the same issue that everyone else has. Chairman Watkins stated that this is already set forth and this would repeat what the association already has the responsibility to do.

Commissioner Friedrich suggested deleting the word “maximum” and changing the word “such” to “this” to read “The Notice must also set out the fine for this violation then in effect...”

The Commission agreed to this change.

Section 3(3)

Commissioner Friedrich stated that the language should be changed to “The alleged violator must be given written notice that they can request, in writing, the hearing be held in open session rather than in closed session.”

Commissioner Lein stated that he would like to add that the alleged violator would have to give five days notice. Commissioner Lein stated that he would like that to be added to the end of section 3(3).

Commissioner Friedrich stated five days is too short and suggested fifteen or ten days.

Commissioner Sibley moved to add five days notice at the end of section 3(3). Seconded by Commissioner Lein. Motion carried 4 to 1 with Commissioner Friedrich opposed.

Section 3(9)

Commissioner Frank suggested that a period be added after NRS 116 and eliminate the rest of the sentence.

Commissioner Lein stated that he is concerned that all members of the committee would be challenged. Commissioner Lein stated that this is a way to delay the hearing.

Commissioner Lein moved to eliminate section 3(9). Motion failed for lack of a second.

Commissioner Frank moved to place a period after NRS 116 and eliminate the rest of the sentence. Motion failed for lack of a second.

The Commission left section 3(9) as it is.

Section 3(11)

Commissioner Friedrich stated that the decision has to be made within a reasonable time after the close of the hearing. Commissioner Friedrich stated that this language is too vague.

Commissioner Friedrich suggested changing “a reasonable time” to seven days.

The Commission agreed to ten days instead of seven days.

Section 3(12)

Commissioner Lein moved to remove section 3(12). Motion failed for lack of a second.

Commissioner Sibley moved to remove section 3(12). Seconded by Commissioner Lein. Motion carried 3 to 2 with Commissioners Frank and Friedrich opposed.

Section 3(13)

Commissioner Friedrich suggested changing seven days to ten days.

The Commission agreed to this change.

Commissioner Frank moved to approve the regulation and send the regulation to the Legislative Counsel Bureau with changes. Seconded by Commissioner Friedrich.

Commissioner Lein stated that these changes are significant enough that he would like to see a re-draft of the agency draft before sending the regulation to the Legislative Counsel Bureau. Commissioner Lein stated that he would like the re-draft to be presented at the Commission’s February meeting. Commissioner Lein requested that Commissioner Frank amend his motion.

Commissioner Frank stated that he does not concur with Commissioner Lein.

Motion carried 3 to 2 with Chairman Watkins and Commissioner Lein opposed.

2) Public Comment

In Carson City: Norman Rosensteel, homeowner, commented. Mr. Rosensteel stated that he does not understand what the Commission is trying to accomplish with this regulation.

6) Regulation workshop for Unassigned File# 116-Violation

Introduction of Commissioners in attendance:

Scott Sibley, Gary Lein, Robert Frank, Jonathan Friedrich, Randolph Watkins.

Barry Breslow and Robert Schwenk were not present.

Senior Deputy Attorney General Henna Rasul acting as Commission Counsel

Introduction of Division staff in attendance:

In Las Vegas: Gail Anderson, Administrator; Jennifer Oerding, Education Program Officer; Ken Richardson, Training Program Officer; Sharon Jackson, Ombudsman; Sonya Meriweather, Administrative Program Officer; Teralyn Thompson, Commission Coordinator

In Carson City: Christopher Cooke, Compliance Investigator.

Workshop began at 9:50 a.m. on December 4, 2013 and ended at 10:10 a.m. on December 4, 2013.

8-D) For possible action: Discussion and decision on proposed changes, additions and deletions to NAC 116, NAC 116A or NAC 116B including but not limited to Unassigned File #116-Violation concerning limitation on determination of a violation of law and imposition of disciplinary penalties and filing of an affidavit pursuant to NRS 116.760; including review of public comments from regulation workshop held December 4, 2013.

Commissioner Friedrich commented on sections 1 and 2 addressing Mr. Wright's concerns. Commissioner Friedrich stated that it only refers back to NRS 116.745 which states violation defined as used in NRS 116.745 to 795 inclusive unless the context otherwise requires, violation means a violation of any provision in this chapter except NRS 116.31184 and any regulation adopted pursuant to this chapter or any order of the Commission or hearing panel.

Commissioner Frank stated that determining a violation is an opinion type issue as opposed to an action. Commissioner Frank stated that there should be freedom of reading and explaining by board members and by attorneys to people who may be potentially at risk of violating the statute. Commissioner Frank stated that some individuals go beyond determination and decide to punish, sanction and fine which is the reason that this has been brought to the surface. Commissioner Frank stated that he does not know if the Commission needs a regulation to instruct people that you can advise people but cannot punish them.

Commissioner Lein stated that he is not in favor of the regulation. Commissioner Lein stated that the regulation is not needed and does not think it should move forward.

Commissioner Frank stated that he feels that this is a problem that could be solved by a letter of instruction or a policy statement rather than a new regulation.

Commissioner Sibley moved that the Commission not move forward on the regulation. Seconded by Commissioner Lein.

Commissioner Friedrich stated that the intent is to make it clear who has the authority. Commissioner Friedrich stated that if the Commission kills the regulation there is opportunity for abuse.

Motion carried 4 to 1 with Commissioner Friedrich opposed.

7-A) Ombudsman's Report.

Sharon Jackson presented this report.

Commissioner Lein asked Ms. Jackson to explain the process for withdrawn affidavits.

Ms. Jackson stated that she is not sure why those three would have been withdrawn and has not had an opportunity to do an assessment to determine why three cases would have been withdrawn.

Commissioner Frank asked that in the future the report have an item which shows how many cases were sent to the Commission.

7-B) Program Training Officer's Report

Ken Richardson presented this report.

Commissioner Lein stated that issues with reserve studies are the top five issues on Ms. Meriweather's report. Commissioner Lein stated that the Division needs more courses as it relates to reserve studies. Commissioner Lein stated that he is optimistic that the regulation that the Commission has been working on regarding reserve study will help in that area. Commissioner Lein stated that he has committed to working with Mr. Richardson on the pamphlet.

Commissioner Friedrich stated that at the August Commission meeting Mr. Richardson had indicated that he was trying to broadcast the classes via internet so that people in the north would have an opportunity to participate. Commissioner Friedrich asked if this has been accomplished.

Mr. Richardson stated that he has contacted facilities in the north that have the capability to broadcast. Mr. Richardson stated that he is working on scheduling. Mr. Richardson stated that within the next quarter he hopes to have at least one or two classes via video conference.

Commissioner Frank asked if there is a policy regarding taking the courses and placing them on YouTube.

Mr. Richardson stated that this is something that the Division could look at and explore whether or not that might be an option.

7-C-1) Administrative Program Officer's report on intervention program

Sonya Meriweather presented this report.

Commissioner Frank stated that this report might be useful if he had an idea where the distribution was by type so that he has an idea of where the real complaints are coming from. Commissioner Frank asked Ms. Meriweather when she makes this report, how she thinks the Commission or Division can use this report.

Ms. Meriweather stated that the majority of the information on this report is a result of the Commission's requests. Ms. Meriweather stated that the report has grown over the years. Ms. Meriweather stated that the concept behind the report was to give the Commission an overall summary of what is taking place.

Commissioner Lein stated that he uses this report specifically for violations of NRS 116.31152 regarding study of reserve. Commissioner Lein stated that he interprets that there are thirty-one affidavits that have been filed related to this issue. Commissioner Lein stated that he is trying to figure out what is the basis or underline issue. Commissioner Lein stated that he wants this knowledge from an education stand point in promoting classes.

Ms. Meriweather stated that the majority of reserve study issues were initiated by the Division with the receipt of the registration form the Division has identified that there is a problem with association's performing their reserves.

Commissioner Frank stated that as an appointed representative of homeowners, he has a problem if he cannot see complaints coming from homeowners that are closed and resolved. Commissioner Frank stated that he strongly objects to not being able to see those cases under the confidentiality rules.

7-C-2) Administrative Program Officer's report on number and types of associations registered within the State

Sonya Meriweather presented this report.

7-C-3) Administrative Program Officer's report on homeowner association and compliance audits

Sonya Meriweather presented this report.

Commissioner Lein asked what precludes the Division from naming delinquent associations.

Ms. Meriweather stated that delinquent associations have not come before the Commission and been found in violation and therefore names are not reported.

Commissioner Lein stated that it is already public record because when an association does not pay their fee, the Division notifies the Secretary of State and puts the association in default status. Commissioner Lein stated listing associations on this report would embarrass the association after a year.

Commissioner Friedrich asked why these associations have not come before the Commission.

Chairman Watkins stated that this is an issue that can be placed on the next Commission meeting agenda which will give staff time to sort out any legality.

7-C-4) Administrative Program Officer's report on alternative dispute resolution filings and subsidy claims.

Sonya Meriweather presented this report.

Commissioner Friedrich asked if there have been more cases going to the referee program since October 28, 2013.

Ms. Meriweather stated that from October 31, 2013 until December 3, 2013 thirty-one claims have been filed. Ms. Meriweather stated that out of the thirty-one claims filed thirty claims requested mediation, three requested a referee; two of the referees have responded and selected mediation. Ms. Meriweather stated that there are seven referees and arbitrators and eight mediators. Ms. Meriweather stated that the panel is listed on the Division's website.

7-C-5) Administrative Program Officer's report on notices of sales

Sonya Meriweather presented this report.

9-1) Leach Johnson Song & Gruchow LLP

“How the Manager Can Help the Developer Create a New CIC from Day One”

Request: 3 Hours General Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division recommends approval of this course.

Chairman Watkins abstained from voting because he is one of the instructors for this course.

Commissioner Lein stated that he knows Randolph Watkins and Sara Barry is a client of his. Commissioner Lein stated that he will not abstain from voting.

Commissioner Frank stated that he does not understand why the Division is recommending approval of this course.

Ms. Oerding stated that there are currently no classes that fall under this category.

Commissioner Frank asked what knowing this information has to do with having an effective community manager manage an organization that exists as a current association.

Ms. Oerding stated that if a community manager is involved with the developer when the association goes from developer to declarant to an association, the community manager needs an involvement in that process to have an effective transition.

Commissioner Lein stated that this course is critical. Commissioner Lein stated that there are a lot of things that occur in a community as it is developed. Commissioner Lein stated that as the association moves through the sale process and transitions at seventy-five percent, there are audit and reserve study requirements. Commissioner Lein stated that this is a great class and highly recommends this class.

Commissioner Lein moved to approve this course. Seconded by Commissioner Sibley. Motion carried 3 to 1 with Commissioner Frank opposed.

9-2) Valley Crest Landscape Maintenance

“Manage Your Landscape-Grow Your Business”

Request: 3 Hours General Classroom

Jennifer Oerding presented this course. Ms. Oerding stated that the Division recommends approval of this course.

Commissioner Sibley moved to approve the course. Seconded by Commissioner Lein.

Commissioner Frank asked how many other landscape companies are teaching courses in this category.

Ms. Oerding stated that there is one other company. Ms. Oerding stated that there was a tremendous desire for more landscape courses. Ms. Oerding stated that this is a good course to approve to give community managers a second choice on landscaping classes.

Commissioner Frank stated that he does not like the name of the course.

Commissioner Friedrich asked if non-community managers are allowed to partake and if there is a charge for the course.

Chairman Watkins stated that he is not aware of any continuing education class that he has gone to in the last six years that the sponsor of the class has charged for anything.

Motion carried unanimously.

7-D) Compliance Section’s current caseload report.

Sharon Jackson presented this report.

Ms. Jackson stated that there are two new investigators and an administrative assistant have been added to the staff in Las Vegas.

7-E) Administrative fine report pursuant to NAC 116A.350(4)

No administrative fines to report.

7-F) Licensee and board member discipline report

Teralyn Thompson presented this report.

- Since the last Commission meeting Diane Wild made a two thousand dollar payment on November 19, 2013.
- Since the last Commission meeting Gemma Sladky made a payment on October 23, 2013 of one hundred and ninety-four dollars.
- Additional cases from the August Commission meeting were added to the report which is Pueblo at Santa Fe and Sierra Gardens.

Commissioner Friedrich asked if Mr. Bitsky has paid his fine.

Ms. Thompson stated that Mr. Bitsky has not paid his fine to the Division.

Commissioner Friedrich asked if this case has been turned over to the Controller's Office.

Gail Anderson stated that the Legal Administrative Officer position has been vacant for two months and that position is who turns delinquent cases to the Controller's Office. Ms. Anderson stated that the fiscal section in Carson City in the Director's Office handles these issues.

7-G-1) Administrator's report on personnel

Gail Anderson presented this report.

- One vacancy in the supervisory investigator position
- Four new staff members were authorized as of October 1, 2013 and four new staff members were in place on October 1, 2013.
- Administrative budget account had 8.4 new positions authorized.

7-G-2-a) Administrator's report on status of proposed regulations LCB File No. R099-10 NAC 38: Withdrawn

Gail Anderson presented this report. Ms. Anderson stated that this regulation was withdrawn because a lot of changes would have occurred and the regulation was not relevant after Assembly Bill 370. Ms. Anderson stated that if new regulations are needed in NAC 38 a new file will be opened.

7-G-2-b) Administrator's report on status of proposed regulations LCB File No. R121-10 NAC 116: Withdrawn

Gail Anderson presented this report. Ms. Anderson stated that this regulation was withdrawn because the regulation was too old. Ms. Anderson stated that the Division never got a Legislative Counsel Bureau draft for this regulation. Ms. Anderson stated that it contained provisions for workshops, related to Senate Bill 182 section 18 in 2009. Ms. Anderson stated that it contained a petition for an advisory opinion which might have to be reviewed. Ms. Anderson stated that this regulation had a section regarding restrictions on statements made by community managers. Ms. Anderson stated that she might need to place on the agenda item for the next Commission meeting to see if the Commission wants to revisit any of these items as a new regulation.

7-G-2-c) Administrator's report on status of proposed regulations LCB File No. R125-12 NAC 116: In process

Gail Anderson presented this report. Ms. Anderson stated that this regulation is ongoing and is still in good standing. Ms. Anderson stated that the Commission has until June 28, 2014 to have it before the Legislative Commission. Ms. Anderson stated that the Division has the amended second revised from the Legislative Counsel Bureau dated November 18th. Ms. Anderson stated that this regulation is regarding mediation. Ms. Anderson stated that this regulation can be posted for adoption at the Commission's next meeting.

7-G-2-d) Administrator's report on status of proposed regulations LCB File No. R204-09 NAC 116: Under review

Gail Anderson presented this report. Ms. Anderson stated that this regulation will need to be withdrawn because it is too old. Ms. Anderson stated that this regulation had the definition of financial institution in another state and the service of process regulation which came from Senate Bill 351 out of the 2009 session. Ms. Anderson stated that the Commission will probably need to look at this regulation. Ms. Anderson stated that there were workshops on the regulation but never received a draft from the Legislative Counsel Bureau to do anything further.

7-G-2-e) Administrator's report on status of proposed regulations LCB File No. R049-13 NAC 116A: In process

Gail Anderson presented this report. Ms. Anderson stated the Division has a draft from the Legislative Counsel Bureau that is dated August 26th. Ms. Anderson stated that this regulation is regarding the management agreement. Ms. Anderson stated that a workshop needs to be conducted with the Legislative Counsel Bureau draft. Ms. Anderson stated that a workshop will be scheduled for the Commission's next meeting.

7-G-2-f) Administrator's report on status of proposed regulations LCB File No. R050-13 NAC 116 and NAC 116A: In process

Gail Anderson presented this report. Ms. Anderson stated that the Division received a draft from the Legislative Counsel Bureau dated August 26th. Ms. Anderson stated that this is the reserve study regulation. Ms. Anderson stated that the Commission had a workshop using the draft that Commissioner Lein brought to the workshop with proposed changes. Ms. Anderson stated that the issue is going to be whether to have a workshop using the Legislative Counsel Bureau draft and bring changes to the workshop based on that draft or Ms. Anderson try and figure out what changes to place into the Legislative Counsel Bureau draft and submit that to the Legislative Counsel Bureau for a second revision.

Chairman Watkins stated that his thought on the matter is to have Division staff work with Commissioner Lein so that those changes go back to the Legislative Counsel Bureau and gets back the Commission so that there can be a workshop and move forward without having a double workshop with those changes back and forth.

The Commission agreed.

7-G-2-g) Administrator's report on status of proposed regulations LCB File R052-13 NAC 116: In process

Gail Anderson presented this report. Ms. Anderson stated that this is the rehearing regulation. Ms. Anderson stated that the Division has a Legislative Counsel Bureau draft that is dated August 26th. Ms. Anderson stated that this regulation is ready for a workshop with the Legislative Counsel Bureau draft at the next Commission meeting.

Commissioner Lein stated that at the Attorney General's Conference the Commission was told that these files can be resubmitted for a new number. Commissioner Lein stated that in some cases the regulation still has to go through the process but can be resubmitted.

Commissioner Lein stated that LCB File No. R121-10 is the regulation that Commissioner Lein had brought forward relating to the fifteen dollars as it relates to board members and community managers having to report, the annual registration form and the board potentially with the budget. Commissioner Lein stated that it may have been LCB File No. R099-10. Commissioner Lein stated that the Commission felt very strongly about eliminating that in the regulation so that the regulation would be in tune with NAC 116B as it relates to condominium hotels. Commissioner Lein requested that regulation be located so that it can be moved forward in removing the reporting requirement for the fifteen dollars.

Ms. Anderson stated that she does not see those changes in LCB File No. R121-10 but it does contain the definition of the accounting and audit guide.

Commissioner Lein stated that was because the AICPA CIRA guide was no longer available and NAC 116B adopted the PPC guideline. Commissioner Lein stated that he would forward the regulation to Ms. Anderson because he has an interest in the audit guide and the reporting for the fifteen dollar limit.

7-H-1) Legal Matters Update: Report to Commission on status of Case No. A-12-656878-C; Judith Fenner, Western Bookkeeping/Secretarial, LLC; Old West Realty, Inc. v. State of Nevada, Common-Interest Communities and Condominium Hotels, Real Estate Division, Office of the Ombudsman, and Cheryl Fleming.

Senior Deputy Attorney General Michelle Briggs presented this report. Ms. Briggs stated that she filed a motion for summary judgment on all claims, the motion was granted as to all of Ms. Fenner's claims against the defendants and the sole surviving claim is the State's claim against Ms. Fenner for abuse of process. Ms. Briggs stated that claim will be dismissed probably by the end of the month.

7-H-2) Legal Matters Update: Report to the Commission regarding filing of Case No. A-13-688795-B; State of Nevada, Real Estate Division and Financial Institutions Division v. Account Recovery Solutions, ATC Assessments Collections, Nevada Association Services, and Terra West Collections Group.

Senior Deputy Attorney General Michelle Briggs presented this report. Ms. Briggs stated that she wanted to notice the Commission that the Real Estate Division and the Financial Institutions Division filed a law suit against a number of collection companies. Ms. Briggs stated that the claims for relief are regarding declaratory relief and preliminary injunction. Ms. Briggs stated that the Real Estate Division and the Financial Institutions Division are seeking an interpretation of the super priority lien statute and the limits thereof.

Ms. Briggs stated that the law suit is asserting the Real Estate Division's and the Financial Institutions Division's positions of the advisory opinion that the Division adopted and asking that the court confirm that is how the statute should be interpreted.

Commissioner Sibley stated that the opinion of the Division is completely different than the opinion of the Commission. Commissioner Sibley asked what authority the Division had to file this complaint with the Division's opinion.

Ms. Briggs stated that NRS 116 authorizes the Real Estate Division to interpret NRS 116 and to issue advisory opinions. Ms. Briggs stated that there is not specific authority in NRS 116 for the Commission to issue an advisory opinion. Ms. Briggs stated that NRS 116 also allows for the Division to request a preliminary injunction to the extent that the Division believes that any provision of NRS 116 is being violated. Ms. Briggs stated that based on the Division's interpretation of NRS 116.3116 the Division believes that it is being violated by a number of collection companies. Ms. Briggs stated that this is the basis of the law suit and clarification of the law to determine what the Financial Institutions Division can enforce against collection companies as it relates to their collection of homeowner association assessment liens.

Commissioner Sibley asked if the Division has to get authority from the Commission.

Ms. Briggs answered no.

Commissioner Sibley stated that he thinks that the Commission should be allowed to intervene in this action and do an amicus brief because it is not right that the Division is going to portray to the court that this is the opinion of the Commission.

Ms. Briggs stated that collection companies know of the Commission's advisory and use that as the reason why they charge what they charge.

Commissioner Sibley stated that there are already thirty cases pending in the Supreme Court over this issue. Commissioner Sibley asked why the Division thinks they need to be involved. Commissioner Sibley stated that it seems like a waste of State resources on an issue that is being heard. Commissioner Sibley stated that the Division did not name homeowner associations which are the principles of the law suit.

Ms. Briggs stated that these liens are being asserted by collection companies and it is the collection company's charges that they are asserting as part of a lien on the property. Ms. Briggs stated that stems from the Financial Institutions Division's investigation of what collection companies are doing and what the Financial Institutions Division can do to enforce provisions of NRS 116. Ms. Briggs stated that the Financial Institutions Division had a declaratory order and advisory opinion that was deemed to be a wrongful interpretation of NRS 116. Ms. Briggs stated that the Financial Institutions Division cannot enforce their own advisory and is trying to figure out what to do with complaints that they receive from people who are saying that collection companies are asserting liens that they do not have a right to assert. Ms. Briggs stated that there are seven district court judges who have determined that the super priority lien is limited to nine months of assessments. Ms. Briggs stated that collection companies are placing liens on properties for well over nine months of assessments.

Chairman Watkins stated that he agrees with Commissioner Sibley in which this sounds like a waste of tax payer's dollars. Chairman Watkins asked when the Division filed the case.

Ms. Briggs stated that the complaint was filed on September 17th.

Chairman Watkins asked why the Commission was not informed that a law suit was going to be filed when the Commission met in August.

Gail Anderson stated that the Real Estate Division and the Financial Institutions Division have had communication at the highest level with the direction to assist the Financial Institutions Division in enforcing their law which they cannot interpret.

Chairman Watkins stated that the courts have already said that the Financial Institutions Division has no standing to interpret NRS 116. Chairman Watkins asked why the Real Estate Division enjoined with them in this law suit.

Ms. Briggs stated that if collection companies are violating NRS 116 they are violating the provisions under their own licensing statutes. Ms. Briggs stated that to determine whether or not collection companies are violating NRS 116 there needs to be a legal determination of what it means.

Commissioner Lein stated that at times the Commission is at a need to know basis only. Commissioner Lein stated that the Division was told at a higher level what the Division will do. Commissioner Lein stated that he is disappointed that the Division did not acknowledge the Commission's advisory opinion.

Ms. Briggs stated that the Commission's advisory is considered by the court and has been considered by every district court judge who has decided this case before.

Commissioner Friedrich stated that in August 2013 he introduced an amendment to 199-09 which was voted down. Commissioner Friedrich stated that unbeknownst to him, the Division and Financial Institutions Division had filed the law suit. Commissioner Friedrich stated that the Commission should have been told that this law suit was filed or pending.

Ms. Briggs stated that once the Division tells the Commission, the public knows and that is not how law suits work.

Ms. Briggs stated that the hearing date for all motions is January 9, 2014.

Chairman Watkins asked if the Commission has standing to file an amicus brief.

Ms. Rasul stated that she will find out and get back to Chairman Watkins.

8-E) For possible action: Discussion and decision regarding granting licensed community managers continuing education credits for each hour attended at the Commission for Common-Interest Communities and Condominium Hotels meeting.

Gail Anderson stated that based upon the minutes of the last Commission meeting, the Division drafted a proposed regulation for the Commission. Ms. Anderson stated that what the Commission had proposed is two-sided for two different sections of law. Ms. Anderson stated that NAC 116A.230 is broader than attending the Commission meeting. Ms. Anderson stated that NAC 116A.255 is regarding attending Commission meetings. Ms. Anderson stated that the

Commission's discussion was should a community manager be able to receive less than three hours for attending a Commission meeting.

Ms. Anderson stated that NAC 116A.230 would change what is eligible for continuing education hours.

Chairman Watkins stated that the original intent was only NAC 116A.255 allowing managers to get one full hour because the Commission has had meetings that do not last three hours. Chairman Watkins stated that he is not interested in changing NAC 116A.230.

Commissioner Friedrich stated that one hour should be given in NAC 116A.255 and NAC 116A.230.

The Commission wants to move the regulation change forward.

8-F) For possible action: Discussion and decision regarding review of proposed change to confidentiality of investigative files under NRS 116.757 to allow the Division to disclose documents and other information to administer NRS 116 and to any other governmental agency, including law enforcement agencies.

Gail Anderson stated that this language is in NRS 116A. Ms. Anderson stated that when NRS 116 and NRS 116A were bifurcated some things did not get put into both chapters. Ms. Anderson stated that this change would give specific authority for the Division to share confidential investigative information to another governmental agency including a law enforcement agency.

The Commission supports the Division in moving forward with a bill draft request regarding this issue during legislative session.

8-G) For possible action: Discussion and decision on Commission's authority to issue advisory opinions.

Commissioner Friedrich stated that he had a conversation with Senior Deputy Attorney General Henna Rasul. Commissioner Friedrich stated that in that telephone conversation Ms. Rasul indicated that there is no authority for this Commission to adopt an advisory opinion. Commissioner Friedrich stated that Ms. Rasul directed him to NRS 233B.120. Commissioner Friedrich stated that by doing so the Commission exceeded their authority and therefore there is not force or effect.

Commissioner Friedrich moved that all advisory opinions previously issued and adopted by the Commission be repealed and/or rescinded as they are without force and effect. Commissioner Friedrich stated that this includes Advisory Opinions 2007-1, 2007-2, 2008-1, 2008-3 and 2010-1. Seconded by Commissioner Frank.

Commissioner Sibley asked if NRS 116.623 gives the Commission authority.

Commissioner Friedrich stated that it only gives the Division authority. Commissioner Friedrich read NRS 233B.120 into the record.

Gail Anderson stated that it is her understanding that NRS 233B gives general authority to agencies, which includes boards, to do things. Ms. Anderson stated that NRS 116 gives specific authority granted to the Real Estate Division.

Ms. Rasul stated that it gives authority to create the regulation to do so.

Ms. Rasul stated that the Commission has the option to submit this to the Attorney General's Office for an Attorney General's Opinion.

Commissioner Friedrich stated that he will withdraw his motion and allow it to go forth to the Attorney General's Office. Commissioner Frank stated that he withdraws his second.

Commissioner Friedrich moved that the question as to whether or not the Common-Interest Communities Commission has or has not the authority to create and adopt advisory opinions go to the Attorney General for a formal Attorney General's Opinion. Seconded by Commissioner Frank.

Commissioner Sibley stated that he does not like the conflict issue. Commissioner Sibley stated that the Commission is now going to ask the Attorney General's Office to say whether or not the Commission has authority over an issue that they are actively pursuing in court and in the media. Commissioner Sibley stated that if someone thinks that the Commission does not have authority, let a judge tell the Commission that.

Commissioner Frank stated that it is necessary to resolve this question because the Commission does not want the industry citing the Commission's authority if it is not proper.

Motion carried 3 to 2 with Commissioners Sibley and Lein opposed.

Ms. Anderson stated that the Division will draft the request for the opinion and have the Chairman review the request before it is sent out.

Commissioner Friedrich moved that no further advisory opinions by the Commission be entered into, created, started or adopted until the Commission gets the decision from the Attorney General's Office. Seconded by Commissioner Frank.

Motion carried 3 to 2 with Chairman Watkins and Commissioner Sibley opposed.

8-H) For possible action: Discussion and decision regarding the definition of unit owners and possible Division opinion.

Gail Anderson stated that the Division drafted an advisory at the request of the Commission.

Commissioner Sibley moved that the Division issue the drafted advisory opinion. Seconded by Commissioner Frank. Motion carried 4 to 1 with Commissioner Friedrich opposed.

8-I) Discussion on the subject of clarification of jurisdiction of NRS 116.31184 as amended by Assembly Bill 395.

Commissioner Friedrich stated that in August he raised a question how this bill is going to be implemented, what the mechanics are and where is the complaint filed. Commissioner Friedrich stated that the Commission was informed that this was not in the jurisdiction of NRS 116. Commissioner Friedrich stated that the Legislative Counsel Bureau placed it into NRS 116.31184. Commissioner Friedrich stated that he has the same questions.

Gail Anderson stated that an individual can file an intervention affidavit on any subject relating to NRS 116. Ms. Anderson stated that there will be an attempt to conference with the Ombudsman to attempt to resolve the issue. Ms. Anderson stated that if the issue is not resolved it will not go to compliance for investigation. Ms. Anderson stated that there is no jurisdiction for it to go before the Commission because it is a misdemeanor.

Chairman Watkins stated that if someone is being threatened or harassed and do not want to start with the Ombudsman's Office who will try to resolve the issue, that person needs to go to the local police department.

Commissioner Friedrich stated that he went to Metro and Metro told him that it was out of their jurisdiction.

Chairman Watkins stated that if both parties do not want to have a conference with the Ombudsman to try to resolve the issue, the Division's only other option is to tell a homeowner to file a police report.

Commissioner Friedrich stated that it sounds like this was a worthless piece of legislation.

Commissioner Frank stated that we depend upon the Legislative Counsel Bureau to know and do the right things and they screwed up because they should have never said "guilty of a misdemeanor." Commissioner Frank stated that it does not make any sense for this to be in the law.

Chairman Watkins stated that there is nothing that the Commission can do at this point.

8-J) Discussion regarding collection procedures pursuant to Senate Bill 280.

Chairman Watkins stated that he heard from various sources that when the section of NRS 116 that was affected by Senate Bill 280 on the collection issue is a statute on October 1st, there were some attorneys advising that nothing can be done in the area of collections until the sixty first day has arrived. Chairman Watkins stated that some attorneys were saying that a courtesy letter could be sent as a reminder of late assessments.

Chairman Watkins stated that his management company does not do anything until the sixty first day. Chairman Watkins stated that after the sixty first day they go into their defined compliance and collection policy, sending out the proper notices as called for in section 4 of the statute and then giving homeowners fifteen days to respond. Chairman Watkins stated that it is burdensome but it is statute. Chairman Watkins encouraged everyone to follow the statute.

Senior Deputy Attorney General Michelle Briggs stated that the Division gets the same questions. Ms. Briggs asked if the Commission would like to see an advisory opinion on how the Division would interpret that provision so that everyone knows what the Commission would do in a case where the statute is not being followed.

The Commission agreed to see a Division Advisory Opinion on this issue.

8-K) Discussion regarding the filing of affidavits or Statements of Fact concerning a particular homeowner association by individuals who are not board members or owners in the association and compliance with NRS 116.760 and NRS 116.765.

Commissioner Friedrich stated that it has been alleged that in some cases this process has been expedited to the Division. Commissioner Friedrich asked if this is fact or fiction.

Gail Anderson stated that the Office of the Ombudsman's primary first goal is to attempt to resolve issues. Ms. Anderson stated that the Ombudsman's Office receives hundreds of telephone calls regarding questions. Ms. Anderson stated that anything that comes before the Commission has required procedures for filing either a statement of fact or an intervention affidavit with a certified letter. Ms. Anderson stated that occasionally something comes up where the Ombudsman's Office gets multiple telephone calls from different parties involved in the same issue. Ms. Anderson stated that there is no expedited process to investigate something or to get it to the Commission unless it is an issue with money.

Commissioner Friedrich stated that his concern is that an intervention affidavit is not filed therefore there is no case number and a decision came from the Division.

Ms. Anderson stated that the Division does not make decisions. Ms. Anderson stated that the Commission makes decisions. Ms. Anderson stated that the Division answers questions and tells people what the law says about that subject.

Commissioner Friedrich stated that he has been told that people are being denied the whole process. Commissioner Friedrich stated that he was not given any names of who the people who are being denied spoke to or tried to write letters to at the Division but can find out.

Ms. Anderson stated that no one is denied the process unless they refuse to do the required steps in the process. Ms. Anderson stated that the Division will not investigate a case without the certified mailing and filing of an affidavit.

Sharon Jackson stated that under no circumstances is anyone told that they cannot file an intervention affidavit. Ms. Jackson stated that people are told that they need to file an intervention affidavit if they want the Division to assist.

Commissioner Lein stated that before an agenda item is placed on the agenda, the Commissioner needs to provide facts such as names and the circumstances instead of hypothetical.

Commissioner Lein stated that Commissioner Friedrich is making an allegation against the Division that is unfounded. Commissioner Friedrich stated that a Commission meeting is not the

right place or forum for such a question. Commissioner Lein suggested talking to Division staff directly instead of taking up Commission time with statements that cannot be supported.

8-L) For possible action: Discussion and decision regarding further clarification to the July 31, 2007 definition of retaliatory action to define NRS 116.31183.

Commissioner Friedrich read the 2007 Commission minutes into the record regarding retaliatory action. Commissioner Friedrich stated that he has expanded on the Commission's definition of retaliatory action and provided the Commission with new verbiage. Commissioner Friedrich stated that retaliatory action means taking action that affects the unit owner's rights as a unit owner that has or will cause financial impact or harm or malign the reputation of a unit's owner, their spouse or children including but not limited to sexual orientation, race, religion or disability.

Commissioner Friedrich stated that he would like the Division to sponsor adding this change into a bill draft request for the next legislative session.

Commissioner Frank stated that since 2007 he has been told by investigators at the Division that the language in the minutes is what the Division is using as a definition of retaliatory action. Commissioner Frank stated that since that time he has been told that there has been no punishment against any board for retaliatory action. Commissioner Frank stated that the Division has concluded that there is no way of enforcing the statute for retaliatory action because there is no definition that can be used that is effective.

Gail Anderson stated that the 2007 definition became working definition but did not preclude investigating anything. Ms. Anderson stated that the Division today would, if there were substantiated facts specific; bring a case forward regarding retaliatory action. Ms. Anderson stated that the Division has never had a substantiated fact specific allegation.

Commissioner Frank requested a private meeting with Ms. Anderson to show a specific case where there is compelling evidence of retaliatory action.

Ms. Anderson stated that the Division does not need Commissioner Friedrich's definition to perform its duties.

Commissioner Friedrich moved that further explanation of retaliation be submitted to the Legislative Counsel Bureau for inclusion in an agency bill draft request in 2015. Seconded by Commissioner Frank. Motion carried unanimously.

8-M) For possible action: Discussion and decision regarding the jurisdiction and authority of the Commission concerning matters involving violations of NAC 116 and NRS 116.

Gail Anderson stated that the definition of violation in the Attorney General's opinion was that governing documents issues would not come to the Commission.

Commissioner Frank stated that certain sections of NAC and NRS 116 refer to governing documents in terms of how they are controlling. Commissioner Frank stated that it is difficult to see how it can be said that everything in governing documents is off limits to the Division.

Commissioner Frank stated that some affidavits are being dismissed by the Compliance section based upon the fact that it seems to be focused on the CC&Rs when the CC&Rs have some controlling factor by the NRS.

Commissioner Frank stated that he would like to table this item until Commissioner Frank is prepared to pursue this issue further and see what can come out of this discussion.

Commissioner Frank stated that he is not sure if the Commission can do anything right now until the disconnection can be explained.

8-N) For possible action: Discussion and decision regarding establishing a Commission for Common-Interest Communities and Condominium Hotels Working Group for developing a regulation to smoothly administer cases where alleged violations involve both administrative and criminal statutes.

Commissioner Frank stated that this agenda item is a follow up to his agenda item at the last Commission meeting. Commissioner Frank stated that as a result of his personal research, he found that there is an interest and a common line of authority between administrative functions, law enforcement and judicial function. Commissioner Frank stated that the issue is to find ways to make various agencies more efficient and effective so that people are not complaining so much about not getting satisfaction when a lot of it is communication, ignorance and laziness.

Commissioner Frank stated that whenever something is of a complaining nature to a member of a community, they are referred under NRS 116 to the Division. Commissioner Frank stated that what is occurring is that there are cases which clearly show to a law enforcement person that there was evidence of alleged criminal misconduct that were known at the very beginning. Commissioner Frank stated that for reasons that are not entirely clear, law enforcement does not get involved. Commissioner Frank stated that the way the statute is written does not conclude to a person that finds fault under NRS 116, rules of criminal misconduct because the way a criminal violation is described is different than an administrative violation. Commissioner Frank stated that one of the problems that he has found is that if someone is going to make a complaint about financial misconduct to law enforcement, it has to be described in a way that they understand and can accept as a violation of a criminal statute.

Commissioner Frank stated that he would like a working group sponsored by the Division or the Commission which says that there should be some type of a procedure, training process, a hand out or video to give to people who cannot be helped by the Division giving them guidance on whom to go to for assistance.

Gail Anderson stated that the Division has at least three investigators that are from a law enforcement background. Ms. Anderson stated that the Division does not tell law enforcement what to do. Ms. Anderson stated that the Division has points of contact with Metro, FBI and the Attorney General's criminal section that the Division does refer investigative files to.

Commissioner Frank requested to work as a subcommittee lead to try to facilitate a procedure that could be accomplished between the three members of government. Commissioner Frank stated if given some authority that he could get points of contact between Clark County,

Henderson and North Las Vegas to put together a proposed approach that the Ombudsman would have available.

Senior Deputy Attorney General Henna Rasul stated that the Commission's main function is to enforce NRS 116 and NRS 116A as a Commission with cases brought to them for discipline.

Ms. Rasul stated that subcommittees are created by boards or commissions however they need to meet in accordance with the Open Meeting Law.

Commissioner Friedrich suggested a round table discussion.

Commissioner Frank stated that he would like to sponsor a proposed regulation to bring back at the next Commission meeting.

The Commission agreed

8-O) Discussion regarding the feasibility of sponsoring a 2014 public workshop to prepare legislative and administrative documents for establishing policies and regulating the use of professional engineering services by homeowner associations and condominiums.

Commissioner Frank stated that it is very common for homeowner associations to have contracted management companies with professionals hired to maintain the equipment who have very limited experience on how to conduct quality competitive bidding processes.

Commissioner Frank stated that if associations could bring in an engineer that is qualified and could bill for a specified period of time, that person could help the repair and maintenance function to save money and do a better job. Commissioner Frank stated that Dan Robles was posting about this on the internet and Commissioner Frank thought it was an interesting idea that he would like to explore. Commissioner Frank stated that management companies could be encouraged to have professional engineers help them with building their specifications and evaluate their bids.

Commissioner Frank stated that the first reaction that people have is that associations are already short on money and cannot afford this. Commissioner Frank stated that if you do not do a good job on your technical specifications on engineering replacements, associations could lose anywhere from one hundred to two hundred thousand dollars in the cost of the project if not done properly.

Commissioner Frank stated that he would like to sponsor Dan Robles to make a presentation to the Commission and to the CAI organization and see if there is some way to get a professional organization started as an understanding of why you could use this and why it would be a good idea to make it available. Commissioner Frank stated that this is another professional organization that would serve the interest of the community by saving money and getting better quality maintenance.

Commissioner Lein agreed that this would be a useful service but does not think that it comes to the level of this Commission or something the Commission should be promoting. Commissioner

Lein suggested that this individual go to CAI and bring forth an educational class to the Commission to anticipate approval.

The Commission agreed that Commissioner Frank should contact Mr. Robles and put him in contact with CAI.

8-P) For possible action: Discussion and decision to approve minutes of the August 27-28, 2013 Commission meeting.

Commissioner Friedrich moved to approve the minutes as presented modified. Seconded by Commissioner Frank.

Commissioner Friedrich stated that on page 7 within the eighth paragraph on the third line it should state “take a long time in the future”.

Commissioner Frank stated that on page 27 within the fourth paragraph from the bottom it should state “to be modified to reflect that he asked for example.”

Commissioner Friedrich stated that on page 37 within the seventh paragraph within the third line after the word “insurance” the word “company” should be added.

Motion carried unanimously.

8-Q) For possible action: Discussion and decision regarding meeting schedule for calendar year 2014.

Gail Anderson presented the Commission with proposed meeting dates.

- February 25-27, 2014 in the South. Commissioner Sibley stated that he would not be available for this date.
- June 3-5, 2014 location to be determined
- August 26-28, 2014 location to be determined
- November 18-20, 2014 in the South

The Commission agreed to Ms. Anderson’s proposed meeting dates.

8-R) Discussion regarding Commissioners’ speaking engagement requests.

Chairman Watkins stated that he will be teaching the class that the Commission approved.

Commissioner Lein stated that he is teaching a class for Sara Barry on sections 14 and 15 on the sixty hour class at Ms. Barry’s office on December 13.

10) For possible action: Discussion and decision on date, time, place and agenda items for upcoming meetings.

Chairman Watkins stated that if a commissioner has an item for the agenda, to get it to Terilyn Thompson by the middle of January with hand-outs.

11) Public Comment

In Las Vegas: Fredrick Wilkening, president of Frontier Estates Homeowners Association, commented. Mr. Wilkening stated that he is curious about which commissioner represents his association. Mr. Wilkening stated that he sees association vendors on the Commission and homeowner advocates on the Commission. Mr. Wilkening stated that he has heard the Commission speak about personal knowledge about personal cases. Mr. Wilkening stated that his association has one hundred and sixty-seven homes and like every other association there are a couple of people who have problems every now and then. Mr. Wilkening stated that there are people who have consistent problems. Mr. Wilkening stated that he knows which commissioner to send them to if they need to get something fixed. Mr. Wilkening stated that his problem is the rest of the homeowners that do not have a problem. Mr. Wilkening stated that there is always something coming from the Commission that if recommended to the State Legislature increases their cost.

In Las Vegas: Norman McCullough, resident of Sun City Anthem Homeowners Association, commented. Mr. McCullough stated that he reported to the Commission that in his opinion, the Division's investigative division is not doing their job as mandated by state law and statutes. Mr. McCullough presented the Commission with written public comment dated December 4, 2013 titled "Statement to be entered into the record of this meeting-by Nevada citizen Norman H. McCullough".

In Las Vegas: Chuck Niggemeyer, Summerlin resident, commented. Mr. Niggemeyer stated that in the last two days all he has heard is that the system must be broken. Mr. Niggemeyer stated that very few specifics are mentioned. Mr. Niggemeyer stated that he does not think that the system is broken but if we continue to mess with the system and add regulations to it, the system will be broken. Mr. Niggemeyer stated that maybe this is the goal. Mr. Niggemeyer stated that the positive side should be shown and not the negative side.

In Las Vegas: Tim Stebbins commented. Mr. Stebbins stated that he is concerned that some of the actions that are occurring seem to be boiling down to a deep pockets issue. Mr. Stebbins stated that if a person is wealthy, has extra money, has a dispute with his board and can afford to hire an attorney to represent them at the Division, they can avoid filing a letter, avoid filing an intervention affidavit, avoid the conference and have their issue brought directly to the Division. Mr. Stebbins stated that the person can get a ruling on that and this can happen in a period of weeks rather than years. Mr. Stebbins stated that this makes him uncomfortable and is concerned about that issue.

In Las Vegas: Francine Wilkening commented. Ms. Wilkening stated that most people who live in an association abide by the rules of the association. Ms. Wilkening stated that it seems like the legislature and certain members of the Commission do nothing but fight against the people who follow the rules. Ms. Wilkening stated if someone feels that they have been called in for a hearing for not following the rules and did not get the answer that he wanted then they complain. Ms. Wilkening stated that the person did not get the answer that they liked because they did not follow the rules and was found guilty. Ms. Wilkening stated that the person might refuse to pay the fines. Ms. Wilkening stated that she as a homeowner is paying for all of the extra funds that are going into paying for attorneys to represent the association because a homeowner violated the

rules. Ms. Wilkening stated that she is sick of ninety percent of the people having to pay for the ten percent of the non-compliant people.

12) Commissioner Comments

None

13) For possible action: Adjournment

Meeting adjourned on December 4, 2013 at 3:55 p.m.

Respectfully Yours,

Teralyn Thompson
Commission Coordinator