

**COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM
HOTELS MEETING MINUTES SEPTEMBER 17, 2019**

**DIVISION OF INSURANCE
1818 E. COLLEGE PARKWAY
CARSON CITY, NEVADA 89706**

**VIDEO CONFERENCE:
NEVADA STATE BUSINESS CENTER
3300 WEST SAHARA AVENUE
NEVADA ROOM, SUITE 400
LAS VEGAS, NEVADA 89102**

SEPTEMBER 17, 2019

9:00 A.M.

1-A) Introduction of Commissioners in attendance

In Carson City: Michael Burke, James Rizzi, Charles Niggemeyer, Ken Williams, Richard Layton, Ryan Henderson and Senior Deputy Attorney General Sarah Bradley sitting as Commission Counsel.

In Las Vegas: Doris Woods.

1-B) Introduction of Division Staff in attendance

In Las Vegas: Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Monique Williamson, Education and Information Officer.

In Carson City: Perry Faigin, Deputy Administrator; Terry Wheaton, Chief Compliance Audit Investigator; Evelyn Pattee, Commission Coordinator; Michelle Briggs, Senior Deputy Attorney General.

2) Public Comment

No public comment.

**4-C) NRED v. Greenridge Homeowners Association, Leslie Holland, Diane Leyva, Joshua Schaper, Carline Roks, Dave Reid & Janet Meyer, for possible action
Case# 2018-993**

Type of Respondent: Board Members

Michelle Briggs was present representing the Division.

Diane Leyva was present by telephone.

Michael McKelleb was present representing Greenridge Homeowners Association and the board of directors.

Ms. Briggs stated that there was a settlement with the association. Ms. Briggs stated that Ms. Leyva has a separate settlement. Ms. Briggs stated that there was a change to the settlement with

the association. Ms. Briggs stated that Janet Meyers has moved from the association and the matter regarding Ms. Meyers will be continued until the December meeting.

Chairman Burke moved that the Commission continue the matter as to Janet Meyer until the December Commission meeting. Seconded by Commissioner Rizzi. Motion carried.

The Commission was provided with a copy of the settlement.

Ms. Briggs stated that the only change to the settlement is that Ms. Meyers is not part of the settlement. Ms. Briggs stated that all signatures have not been received but board members intend to sign the settlement. Ms. Briggs stated that Mr. McKelleb does not represent the board members only the association. Ms. Briggs stated that Mr. McKelleb has discussed the settlement with the board members and the board members agreed to the settlement. Ms. Briggs stated she is presenting the settlement for approval pending board members' signatures.

Chairman Burke moved to approve the settlement subject to full review and signatures by all participating parties except for Janet Meyer. Seconded by Commissioner Layton. Motion carried.

The Commission was provided with the settlement for Diane Leyva.

Ms. Briggs stated that Ms. Leyva has already signed the settlement.

Chairman Burke moved to approve the settlement as presented. Seconded by Commissioner Layton. Motion carried.

4-D) NRED v. Joy Marvin, for possible action

Case# 2018-1488

Type of Respondent: Unlicensed

Michelle Briggs was present representing the Division.

Joy Marvin was present.

Ms. Marvin stated that she has reviewed and signed the settlement.

The Commission was provided with a copy of the settlement.

Chairman Burke moved to approve the settlement. Seconded by Commissioner Rizzi. Motion carried.

4-F) NRED v. Sierra Ranchos Property Owners Association & Roger Seifert, for possible action

Case# 2018-1489

Type of Respondent: Board Member

Michelle Briggs was present representing the Division.

Roger Seifert was present by telephone.

Mr. Seifert stated that he signed the settlement and agrees to the terms.

The Commission was provided with a copy of the settlement.

Chairman Burke moved to approve the settlement as presented. Seconded by Commissioner Williams. Motion carried.

**4-G) NRED v. Sierra Ranchos Property Owners Association, Sabrina Brin, Tony Boggs & Greg Mayer, for possible action
Case# 2018-1663**

Type of Respondents: Executive Board and/or Board Members

Michelle Briggs was present representing the Division.

Donna Zanetti was present representing the association.

Sabrina Brin was present.

Tony Boggs was not present.

Ms. Briggs stated that there was a settlement regarding the association and a separate settlement with Sabrina Brin. Ms. Briggs stated that Tony Boggs is not part of either settlement.

The Commission was provided with a copy of the settlement for the association.

Ms. Briggs stated that no discipline is being imposed on Greg Mayer.

Ms. Zanetti stated that the settlement has been agreed to and signed by the association.

Chairman Burke moved to approve the settlement regarding Sierra Ranchos Property Owners Association presented to the Commission. Seconded by Commissioner Layton. Motion carried.

The Commission was provided with the settlement for Sabrina Brin.

Ms. Brin stated that she signed the settlement agreement.

Chairman Burke moved to approve the settlement agreement for Ms. Brin. Seconded by Commissioner Layton. Motion carried.

Ms. Briggs stated that she received an email from Mr. Boggs yesterday that indicated Mr. Boggs would probably not be attending the Commission meeting although the email does not say that. Ms. Briggs requested that a default be entered against Mr. Boggs and all the allegations be excepted as true.

State's Witness

Teralyn Lewis testified regarding service of notice to Mr. Boggs.

Ms. Briggs stated that she has had a couple of conversations with Mr. Boggs and emailed Mr. Boggs the complaint. Ms. Briggs stated that Mr. Boggs stated that he did not receive the

complaint. Ms. Briggs stated that Mr. Boggs was told that the mailing was with the post office because it was sent certified mail.

Ms. Briggs read the email that she received from Mr. Boggs on September 16, 2019 at 9:47 a.m. into the record.

Chairman Burke moved to find Mr. Boggs in default. Seconded by Commissioner Rizzi. Motion carried.

Ms. Briggs went over what was contained in State's Exhibits 1-10.

Chairman Burke admitted State's Exhibits 1-10.

Chairman Burke moved that the factual allegations in paragraphs 3-16 regarding Mr. Boggs be admitted. Seconded by Commissioner Rizzi. Motion carried.

Commissioner Rizzi moved to accept violations of law 17-23. Seconded by Commissioner Layton. Motion carried.

Ms. Briggs stated that the recommendation for discipline would be for removal, a finding of a knowing and willful violation, that it is in the best interest of the association that Mr. Boggs does not serve on the board for not less than 10 years, that Mr. Boggs return all association property including but not limited to a roller and a water truck within 7 days and pay the costs of the investigation and hearing.

Ms. Lewis stated that the total costs are \$3,305.21. Ms. Lewis provided the Commission with a breakdown of those costs. Ms. Lewis stated that the total of the pre-hearing costs is \$3,195.26. Ms. Lewis stated that the actual hearing is a total of \$109.95 and is broken down as follows:

- Commission Salary = \$17.50
- Commission Travel = \$44.49
- Attorney Fees = \$37.96
- Court Reporter = \$10.00

Commissioner Rizzi asked if the \$3,195.26 is specific to Mr. Boggs or if that is amongst all the parties.

Ms. Briggs requested that Ms. Lewis break down the pre-hearing costs.

Ms. Lewis stated that the pre-hearing costs are for the entire case. Ms. Lewis broke down the \$3,195.26 as follows:

- Administrative Costs = \$100.00
- Investigator Costs = \$362.50
- Attorney Fees = \$2,732.76

Ms. Briggs stated that the pre-hearing attorney fees is her allocation to time spent on Mr. Boggs' case.

Commissioner Rizzi moved to remove Mr. Boggs from the board immediately and he is not eligible to serve on the board for no less than 10 years and in not less than 7 days Mr. Boggs return all property of the association and must pay the cost of the hearing in the amount of \$3,305.21 within 90 days. Seconded by Commissioner Williams. Motion carried 6 to 1 with Commissioner Woods opposed.

Commissioner Woods stated that she voted no because although she agrees that the total costs for legal fees should be ordered, Commissioner Woods did not agree that it should be for the total of the administrative costs. Commissioner Woods stated that the administrative costs should have been divided amongst the other respondents who had settled.

**4-H) NRED v. Terra Linda Townhouse Homeowners Association, for possible action
Case# 2018-892**

Type of Respondent: Executive Board

Michelle Briggs was present representing the Division.

Carolyn Broussard was present representing the association.

Chairman Burke stated that the Commission received a proposed stipulation and order for settlement of the disciplinary action.

Ms. Broussard stated that the settlement has been agreed to by the association.

The Commission reviewed the proposed stipulation.

Sarah Bradley stated that there was an error on page 3 line 27. Ms. Bradley stated it should say "under no event".

Ms. Briggs agreed with Ms. Bradley.

Ms. Broussard stated that she agreed with that correction.

Chairman Burke moved to approve the settlement that was presented with the correction to page 3 line 27 of the agreement. Seconded by Commissioner Rizzi. Motion carried.

**4-B) NRED v. Diamond Creek Homeowners Association, for possible action
Case# 2017-1826**

Type of Respondent: Executive Board

Michelle Briggs was present representing the Division.

Edwina Daly was present representing Diamond Creek Homeowners Association.

Ms. Daly stated that she submitted the auditor's report. Ms. Daly stated that she provided Teralyn Lewis a letter of representation from the auditor this morning. Ms. Daly stated that the financials for 2017 were re-created. Ms. Daly stated that the re-creation was based on bank statements and hard evidence of who paid, who did not pay, any vendor that was paid and vendor that was not paid. Ms. Daly stated that she is confident that the re-creation is as accurate as can be.

Ms. Briggs stated that at the last status check before the Commission, there was an issue with the date that was on the financials. Ms. Briggs stated that Ms. Daly forwarded her an email regarding the date. Ms. Briggs stated that Ms. Daly also submitted the audit.

The Commission reviewed the documents submitted by Ms. Daly prior to the Commission meeting.

Commissioner Layton stated that his concern was that on the date of the audit, the preliminary draft was dated June 11, 2018 and the first page of the memo stated June 12, 2019.

Commissioner Layton stated that it was said that the reason the audit was dated in 2018 was because the confirmation from Mutual of Omaha should be done in a couple of days.

Commissioner Layton asked if that took a year later.

Ms. Daly stated that it did not take a year and that was a mistake. Ms. Daly stated that the Mutual of Omaha account was found to be still under Harmony in 2019.

Commissioner Williams stated that Ms. Daly has done a good job trying to get the association back on track.

Chairman Burke moved that the association is in compliance and does not need to come back before the Commission. Seconded by Commissioner Williams. Motion carried.

4-E) NRED v. Max McCombs & English Mill Condominium Homeowners Association, for possible action

Case# 2014-1179

Type of Respondent: Executive Board

Michelle Briggs was present representing the Division.

Robert Hughes, community manager for English Mill, was present representing Mr. McCombs and the association.

Max McCombs was not present.

Mr. Hughes stated that he was required to follow up on financial records where there was a discrepancy with the receivables showing an extreme negative. Mr. Hughes stated that he told the Commission that there were software issues. Mr. Hughes stated that those issues have been corrected and provided the Commission with financial records from the time that he has taken over management of the association until the end of August 2019 with the corrected information. Mr. Hughes explained the software error to the Commission.

Chairman Burke moved that English Mills Condominium Association and Max McCombs have complied with the Commission's request and do not have to return for status updates. Seconded by Commissioner Layton. Motion carried.

**3-A) For possible action: Discussion and decision regarding respondent's motion for rehearing and reconsideration; request for stay
NRED v. Sherryl Baca, for possible action
Case# 2017-1579 & 2018-136
Type of Respondent: Community Manager
License#: CAM.00001439.SUPR**

Michelle Briggs was present representing the Division.

Sue Cavaco was present representing Ms. Baca.

Sherryl Baca was present.

Ms. Briggs stated that the Division has entered into a stipulated agreement to amend the Commission's order. Ms. Briggs stated the Commission's prior order had revocation of Ms. Baca's license and a fine. Ms. Briggs stated that has been changed to provide for Ms. Baca's community manager certificate be on probation and shall be demoted from supervising community manager to community manager for 18 months from July 1, 2019. Ms. Briggs stated that Ms. Baca may re-apply to the Division for supervising community manager certificate at the expiration of the probation term. Ms. Briggs stated that Ms. Baca shall pay an administrative fine to the Division in the total amount of \$27,771.70 which includes a fine of \$24,000.00 for the violations of law and \$3,771.70 for attorney's fees and costs no later than 45 days from the date the stipulated amendment is signed. Ms. Briggs stated that Ms. Baca shall take 30 hours of continuing education which shall not be applied to any educational hours required to maintain her certificate. Ms. Briggs stated that the education required shall be completed in 18 months and shall include no less than 10 hours regarding ethics.

Ms. Briggs stated that the Commission's order was filed June 27, 2019. Ms. Briggs stated that Ms. Baca's attorney at that time filed a motion to reconsider on July 1, 2019. Ms. Briggs stated that Ms. Baca's attorney at that time filed the motion to reconsider under a regulation that did not apply. Ms. Baca stated that the Division is agreeing to reduce the discipline based on evidence that has been produced to the Division regarding Ms. Baca's former attorney not providing records to the Division. Ms. Briggs stated that Ms. Baca's certificate was revoked at the June 2019 meeting because Ms. Baca was not present.

Ms. Baca stated that she understands and agrees to the terms of the settlement.

Ms. Cavaco stated that the issue becomes if there is not 10 hours of ethics that is offered in Las Vegas within that 18-month period, that may be difficult for Ms. Baca to travel because of her financial situation. Ms. Cavaco asked if there can be some language in the order that requires the 10 hours in 18 months if the courses are offered in Las Vegas. Ms. Cavaco stated that if the courses are not offered in Las Vegas it will be okay if Ms. Baca completes the 30 additional hours.

The Commission agreed with Ms. Cavaco's request.

Chairman Burke moved to approve the proposed amendments to the Commission's order. Seconded by Commissioner Layton. Motion carried.

4-A) NRED v. Gregory Brimm, for possible action

Case# 2018-1380

Type of Respondent: Unlicensed

Michelle Briggs was present representing the Division.

Gregory Brimm was not present.

Ms. Briggs stated that Mr. Brimm filed a response to the complaint. Ms. Briggs stated that response was sent to the Division on September 3, 2019.

State's Witness

Teralyn Lewis testified regarding service of notice to Mr. Brimm.

Chairman Burke moved to find Mr. Brimm in default for failure to appear. Seconded by Commissioner Layton. Motion carried.

State's Exhibits 1-14 were admitted by Chairman Burke.

Ms. Briggs stated what was contained in State's Exhibits 1-14.

The Commission asked Ms. Briggs questions regarding the exhibits.

Commissioner Williams moved that factual allegations 3-16 are true. Seconded by Chairman Burke. Motion carried.

Chairman Burke moved to accept the violations of law as proven. Seconded by Commissioner Layton. Motion carried.

Ms. Briggs stated that the recommendation for discipline would be a fine of \$10,000 plus the cost of the hearing of \$2,500.60.

Commissioner Williams moved for a fine of \$10,000 plus costs of \$2,500.60 to be paid within 90 days. Seconded by Commissioner Layton. Motion carried.

5-A) Administrator's Report

Sharath Chandra presented this report. Mr. Chandra stated that the Division has a new Training Officer position that was approved during the past legislative session. Mr. Chandra stated that position will be in Carson City.

Mr. Chandra stated that there was a vacant investigator position in Carson City. Mr. Chandra stated that the Division is recruiting for that position.

Mr. Chandra stated that the Division is in process of getting a contract for a homeowner's association database for annual registrations.

5-B-1) Ombudsman's Report on Intervention Affidavits

5-B-2) Ombudsman's Report on Informal Conferences

5-B-3) Ombudsman's Report on number and types of associations registered within the State

5-B-4) Ombudsman's Report on auditor report

5-B-5) Ombudsman's Report on alternative dispute resolution program

5-B-6) Ombudsman's Report on education and training officer's report

5-B-7) Ombudsman's Report on Compliance section report

The Commission was provided with these reports. Terry Wheaton was present to answer questions.

5-C) Licensee and board member discipline report

The Commission was provided with this report. Teralyn Lewis was present to answer questions.

5-D) Administrative sanction report

The Commission was provided with this report. Teralyn Lewis was present to answer questions.

6-A) Discussion regarding the State of Nevada Controller's Office debt collection process for fines issued by the Commission.

Commissioner Williams stated that he and Commissioner Niggemeyer have an appointment with the Controller on September 18th. Commissioner Williams stated that one of the topics of discussion will be the collection measures taken and the Controller's Office deciding when to write debt off. Commissioner Williams stated that the collection company seems to be part of the problem. Commissioner Williams stated that he wants the Controller's Office to start getting judgements on the older larger debt owed to the Commission.

6-B) Discussion regarding Commissioners' speaking engagement requests.

Commissioner Niggemeyer stated that on September 19th he will be speaking to executives of some management companies in northern Nevada on behalf of an organization that he works with. Commissioner Niggemeyer stated that this engagement does not have anything to do with the Commission.

6-C) For possible action: Discussion and decision to approve minutes of June 4, 2019 Commission meeting.

Commissioner Williams stated that there is an error on page 3 in the eighth paragraph and should state "Commissioner" instead of "Chairman".

Commissioner Woods stated that Chairman Burke's name is misspelled on page 5, sixth paragraph.

Commissioner Rizzi stated that Ms. Briggs' name is misspelled on page 5, first paragraph.

Chairman Burke stated that page 5, second paragraph should read "Commissioner Williams stated that he asked for the inventory list from Ms. Baca to give her the benefit of the doubt."

Chairman Burke moved to approve the June 4, 2019 minutes with corrections as discussed. Seconded by Commissioner Williams. Motion carried with Commissioner Henderson abstaining.

6-D) For possible action: Discussion and decision regarding election of officers for FY20.

Commissioner Rizzi moved for Chairman Burke to remain as chair. Seconded by Commissioner Layton. Motion carried.

Chairman Burke moved for Commissioner Rizzi to remain as vice-chair. Seconded by Commissioner Niggemeyer. Motion carried.

Commissioner Rizzi moved for Commissioner Layton to remain as secretary. Seconded by Chairman Burke. Motion carried.

7) For possible action: Discussion and decision on date, time, place and agenda items for upcoming meeting(s).

Chairman Burke stated that the next meeting is December 3-5, 2019 in Las Vegas.

Chairman Burke thanked Commissioner Williams for his service to the Commission.

8) Public Comment

No public comment.

9) For possible action: Adjournment

The meeting adjourned on September 17, 2019 at 11:28 a.m.