COMMISSION FOR COMMON-INTEREST COMMUNITIES AND CONDOMINIUM HOTELS MEETING MINUTES DECEMBER 6, 2022

VIA IN PERSON AND WEBEX VIRTUAL MEETING
DECEMBER 6, 2022

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor, Nevada Room
Las Vegas, Nevada 89102

The meeting was called to order at 9:02 A.M.

1-A) Introduction of Commissioners in attendance
Michael Burke, Phyllis Tomasso, Charles Niggemeyer, June Heydarian, James Bruner and Kim Lighthart.

Commission Counsel: Chief Deputy Attorney General Rosalie Bordelove

1-B) Swearing In of New Commissioners
Commission Chair Michael Burke swore in new commissioners, June Heydarian and Kim Lighthart.

1-C) Introduction of Division staff in attendance
Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Jason Wyatt, Ombudsman; Shareece Bates, Administration Section Manager; Terry Wheaton, Chief Compliance Audit Investigator; Gary Little, Program Training Officer; Kelly Valadez, Commission Coordinator; Maria Gallo, Commission Coordinator. Michelle Briggs, Chief Deputy Attorney General; Virginia Tomova, Deputy Attorney General.

2) Public Comment
Adam Clarkson, owner of the Clarkson Law Group and chair of the Community Associations Institute-Legislative Action Committee commented. Mr. Clarkson provided a copy of the position statement previously submitted to the Commission for the September workshop. Mr. Clarkson gave his support for the final draft of the proposed regulation and encouraged ongoing cooperation with the Division and Commission on drafting the Health Safety Welfare regulations.

3) Adoption Hearing for LCB FILE No. R129-21
Sharath Chandra reminded the Commission of the steps taken to get to this point of adoption. Mr. Chandra reminded the Commission of the first public workshop held March 1, 2022, where public comment was gathered, and a second draft of regulation created. Mr. Chandra stated that the amended draft was presented at the second public workshop on September 13, 2022, where

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public comment was again used to present the final draft for adoption.

Commissioner Niggemeyer stated his approval with the final draft of the proposed regulation.

Commissioner Bruner stated that the Commission spent enough time reviewing the regulation and he stated his approval for the final proposed regulation.

Commissioner Burke moved to adopt the proposed regulation known as LCB File No. R129-21. Seconded by Commissioner Niggemeyer. All approved. Motion carried.

4-C) NRED v. Sierra Ranchos Property Owners Association, for possible action
Case No. 2018-1663
Type of Respondents: Board Members

Parties Present
Michelle Briggs, Chief Deputy Attorney General was present representing the Division
William Roth, Sierra Ranchos POA, Secretary was present

Preliminary Matters
Ms. Briggs stated she did talk to Equus Management and received their management agreement, budget, and Mr. Roth did provide bids that were required to be submitted before this meeting. Ms. Briggs stated she did have questions about the documents that were provided and questions about their election and if their board vacancies have been filled.

Chairman Burke asked Mr. Roth to give an update of what has transpired since the last meeting.

Mr. Roth stated they needed to have two valid proposals from licensed Nevada civil engineers to review the proposed work needed to correct the Washoe County violations. They received two formal proposals one from Nortech and the second from Lumos & Associates. The Lumos proposal did not come in until the 14th or 15th of November. They had a member meeting on the 12th of November and already had in hand a proposal from Nortech, so in order to get that going they signed the proposal with Nortech and they started working. Mr. Roth stated the other issue is that a reserve study update needs to be completed. Mr. Roth stated he sent out at his own expense a letter to the residents regarding the board vacancies. The management company Equus also sent out letters to the residents asking for board nominations. Mr. Roth stated a lot of the owners of these properties are investment owners, some are disinterested, and some owners are scared (of the Commission).

Chairman Burke asked if the October 5th inspection by Summit Engineering occur.

Mr. Roth stated they did a site visit and Joy Marvin was present and Mr. Roth did provide them some maps and other documents. Ms. Marvin has communicated with Summit, but they never did submit a proposal.

Chairman Burke asked Mr. Roth about his relationship with Ms. Marvin,

Mr. Roth stated he has a good relationship with Ms. Marvin and the management company

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Equus Management.

Commissioner Bruner stated he would like to hear a little bit more about the reserve.

Mr. Roth stated right now they have a large amount of money that should have been spent last year and even more is supposed to be transferred in anticipation of doing the work. There is supposed to be a special assessment to further fund the reserve amount needed for the work to be done. Mr. Roth stated the monthly normal assessment is going up for the budget, from $245 to $380 a year. Mr. Roth stated they need a reserve study update so they can figure out what amount they need to be targeting in the future.

Chairman Burke stated some of the items have been accomplished and some were not, but it was not from a lack of desire not to get it done and asked where they go from here.

Ms. Briggs stated the proposal the board approved the scope of work is very big and they will burn thru a lot of money.

Mr. Roth stated the amount of work that needs to be completed is very complex and involves several steps by different companies.

Ms. Briggs stated the engineer is going to put together a list of things that needs to be done and the board will have to bid those items out for the Washoe County violations. Ms. Briggs stated the problem that she has with the association since 2012 is that the assessment amount of $380 is for the year and that is not nearly enough.

Chairman Burke asked if the residents of the community who own property were really going to complain over paying an assessment of $380 a year?

Mr. Roth stated most of the properties were investment property and the residents that are complaining about the amount are the ones who have lived in the valley for a long time.

Commissioner Bruner stated the association has a funding issue, the board needs to get tough and get the special assessment, because the funding is going nowhere currently.

Ms. Briggs stated she did not see in the budget a reserve to repair the roads. Ms. Briggs stated this needs to be a significant amount because they are underfunded. The reserve study that was conducted in 2020 stated that they were 20% funded.

Mr. Roth stated there is a special assessment in the new budget and there is a budget rejection meeting on December 15.

Ms. Briggs asked how much the special assessment was and what was that amount based off. Ms. Briggs stated she would like to see the board figure out from Nortech what needs to be done and come back with that list and bids to complete the work. Ms. Briggs stated they need to correct the issues with the county and make the roads useable.

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Chairman Burke moved they need to come back to the next meeting with the Nortech itemized proposal with bids for the work to be done. All bids must be submitted to Ms. Briggs, and that the Board also meet and confer on the phone with Ms. Briggs before the next meeting. Seconded by Commissioner Niggemeyer. Motion carried.

5-A) NRED v Rancho San Juan Homeowners Association, Christopher Seckler, Sebastian Mayo, and Cesar Valdez, for possible action

Case No. 2021-161

Type of Respondent: Board Members

Parties Present

Virginia Tomova, Deputy Attorney General was present for the Division.
Christopher Seckler was present.

Preliminary Matters

Chairman Burke stated they are there for Mr. Seckler's petition for reconsideration of commission fine and payment plan.

Mr. Seckler stated he would like a payment plan.

Chairman Burke asked if Mr. Seckler could pay $100 a month.

Mr. Seckler stated he could pay $50 a month.

Ms. Tomova stated the Division is agreeable to the $50 a month payment plan until the amount owed is paid off.

Chairman Burke asked the other Commissioners if there was any questions or problems with the proposed payment plan.

Chairman Burke moved to amend the order that the $7491.95 be allowed to be paid monthly to the Division in the amount of $50 a month beginning January 15, 2023. Seconded by Commissioner Niggemeyer. Motion passed.

4-B) NRED v Rancho San Juan Homeowners Association, Christopher Seckler, Sebastian Mayo, and Cesar Valdez, for possible action

Case No. 2021-161

Type of Respondent: Board Members

Parties Present

Virginia Tomova, Deputy Attorney General was present for the Division.
Patrick Orme, Esq. was present representing Rancho San Juan HOA.

Preliminary Matters

Mr. Orme stated they have a functioning board and they have approved a new budget for 2023. The monthly assessments are going from $110 to $226 a month. During the October board meeting that was noticed the board put on the agenda that if any of the homeowners had any questions about the change in the assessment amount that the meeting was going to be conducted

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via ZOOM. The residents showed up at a board member's house. Mr. Orme stated at the November budget meeting that was properly noticed no homeowners appeared. Mr. Orme stated that by the end of 2024 the association will be at 65% of the reserve amount. The association would like to get a bare bones reserve study done with some of the items cut out so after the two years they might have a larger percentage of the reserve amount saved.

Chairman Burke asked what is the issue with the pool.

Mr. Orme stated the pool would either be filled in and no more pool, or completely renovated, currently it is shut down, closed and locked.

Ms. Tomova stated the pool closure is until they catch up their reserve account because they have been severely mis-managed for many years. The Division is working with Mr. Orme to get the association up to speed in terms of their budgeting. Ms. Tomova stated once they can budget for their utilities and regular maintenance then the association can look into more recreational activities like opening the pool. Ms. Tomova asked that once a new reserve study is done can Mr. Orme provide a copy to the Division.

Mr. Orme stated hopefully a new reserve study can be provided in a month or two. The board is waiting to sign the proposal for the new reserve study. Mr. Orme stated some of the homeowners are in the lien stage, but nobody has been foreclosed on, and since they have started the lien process some of the other homeowners have come in to pay their assessments.

Chairman Burke stated progress has been made and asked where they go from here. Chairman Burke stated there should be another status update.

Ms. Tomova stated a continuance should be made until the next meeting so the association can have another reserve study done and give updates in terms of funding to the Division.

Chairman Burke stated he would like to see how many residents are paying the new assessment amount from Mr. Orme at the next meeting.

Commissioner Bruner asked if any meetings were going to be held in person or were they going to continue to be held via ZOOM.

Mr. Orme stated because threats were made to the Community Manager at the last in person meeting, he recommended that the association no longer hold in person meetings.

Chairman Burke moved that they continue this case until the next meeting and that the association provide the Division with and update on the amount collected on the new $226 assessment and how much the association is paying putting liens on the properties. Seconded by Commissioner Niggemeyer. Motion passed.

4-A) NRED v. Monterey Grand Manor Owners Association, Dale Milligan, Susan Moore, Richard Jagodzinski, and Saturday Aisuan, for possible action.
Case No. 2021-1049

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Type of Respondent: Board Members

Parties Present

Virginia Tomova, Deputy Attorney General was present representing the Division.
I-Che Lai, Esq. was present representing Monterey Grand Manor OA.

Preliminary Matters

Ms. Tomova stated Mr. I-Che has reached out to her office and expressed an interest that his client would like to resolve this matter. Ms. Tomova stated they are not quite ready to reach a settlement in this matter. There are still outstanding issues: a CPA audit and continue to employ a Community Manager. Ms. Tomova stated per the reserve study the community is only 6% funded and the association needs to work on getting the reserve amount up. Ms. Tomova stated the board members need to contact the Office of the Ombudsman to discuss what education classes they will need to take to understand their responsibilities. Ms. Tomova stated if the Associations continues to show improvement in those areas and they continue to supply information to the Division they could work towards a settlement. Ms. Tomova stated this case should be continued until the next meeting to see what progress the Association has made.

Mr. I-Che stated the Association does have a reserve study and they do have a Community Manager and they are inline for getting the audits completed for 2021 and 2022. Mr. I-Che stated they would like to have the case continued and want to continue to voluntarily work with the Division. Mr. I-Che stated the issue with the underfunding the reserve account is being addressed, they have raised the assessment amount to boost the reserve account. Mr. I-Che stated by the next meeting they should have a better understanding of the funding issue.

Chairman Burke moved that they continue this case until the next meeting, with the understanding that the parties are working towards a settlement and that the Association will cooperate and provide the Division with the information they are requesting ahead of the next commission meeting. Seconded by Commissioner Niggemeyer. Motion carried.

4-E) NRED v Wine Ridge Estates Homeowners' Association, Fernando Hernandez, Rebecca Coins for possible action

Case No. 2021-942

Type of Respondent: Board Members

Parties Present:

Virginia Tomova, Deputy Attorney General, was present representing the Division.
Ryan Hasting, Esq. was present representing Wine Ridge Estates HOA.

Preliminary Matters:

Ms. Tomova stated the Association has reached out to the Division for a continuance and was asked by the Division to appear before the Commissioners as to why a continuance is requested.

Mr. Hastings stated a continuance is being requested because his office had just been retained on December 05, 2022, and his office is in the process of gathering documents and information that will help them provide whatever information the Division is requesting. Mr. Hastings stated they will cooperate and ensure any documentation is provided. Mr. Hastings stated by the next meeting they hope to have some sort of resolution if not provide a substantive response before

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any disciplinary action.

Ms. Tomova stated the Division does not have an objection for the request for a continuance to allow for counsel to provide the necessary documents to the Division before the next meeting.

Chairman Burke moved to continue this matter to the next meeting. Seconded by Commissioner Bruner. Motion carried.

6-B) Ombudsman's Summary Report
Jason Wyatt presented this report that was provided to the Commission in the meeting packet.

6-C) CIC Compliance Caseload Report and Summary
Terry Wheaton presented this report that was provided to the Commission in the meeting packet.

6-D) Education and Information Officer Report
Antonio Brown presented this report that was provided to the Commission in the meeting packet.

6-E) Licensee and Board Member Discipline Report
Shareece Bates presented this report that was provided to the Commission in the meeting packet.

6-A) Administrator's Report
Sharath Chandra reported that there are 3 updates. The Division has started the technology project for the Licensing and HOA side, where there is a portal for the Associations to register and submit all their documentation. Currently it is all paper based. Mr. Chandra stated we have a budget in place that goes thru the legislative process. On the Ombudsman side, it is self-funded, and they have a good reserve. Mr. Chandra stated we do not anticipate any changes going forward. Mr. Chandra stated we are still working on getting a licensing section in Carson City for minimal licensing transactions. Staffing issues are plaguing the State and the Division. Mr. Chandra stated the Division is currently not sponsoring any bills before this legislative session.

7-A) Discussion regard Commissioner's speaking engagement request
Commissioner Niggemeyer stated he is traveling to Reno to help teach a class in January, but he did not have any specific dates.

7-B Discussion regarding the State of Nevada Controller's Office debt collection process for fines issued by the Commission
Commissioner Niggemeyer stated there was no update at this time.

7-C) Discussion and decision to approve minutes of the September 13-14, 2022, Commission meeting
Chairman Burke moved to approve the September 13-14, 2022, meeting minutes. Seconded by Commissioner Tomasso. Motion passed.

8) Discussion and Decision on date, time, place, and agenda times for upcoming meeting(s) including setting the meeting calendar for 2023

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- March 7-9, 2023
- June 13-15, 2023
- September 26-28, 2023
- December 12-14, 2023

4-G) NRED v Dayton Valley Community Association, Dennis Drury, Carla Cole, Sandy Mass, Joan Latimer, Steve Gallisdorfer, James Kepler, Michelle Carr for possible action

Case No. 2021-761 and 2021-696

Type of Respondent: Board Members

Parties Present:

Virginia Tomova, Deputy Attorney General was present representing the Division.
Gayle Kern, Esq. was present virtually representing Dayton Valley Community Association.
Dennis Drury, Carla Cole, Sandy Mass and James Kepler was present virtually. Steve Gallisdorfer and Michelle Carr was present via phone.

Preliminary Matters:

Chairman Burke stated there was a Motion to Dismiss, Opposition to the Motion to Dismiss and an Answer to the Complaint that were all filed.

Ms. Kern stated out an abundance of caution because the Administrative Code or the Statute is not very clear on how they were to be handled they filed the Answer to the Complaint because they did not know if the Motion to Dismiss would be heard.

Chairman Burke asked if the Association's position is that the Motion to Dismiss should be heard first and then if not resolved thru the Motion proceed to the hearing.

Ms. Kern stated that was her understanding of how things should proceed, because from her knowledge the Nevada Rules of Civil Procedure do not apply because this case is not a District Court proceeding.

Ms. Tomova stated Nevada Rules of Civil Procedure will apply if there is no mention in the Statutes on how to handle certain procedural issues. Ms. Tomova stated the Motion to Dismiss should be denied and proceed on to the hearing.

Ms. Kern stated the Commission can hear the Motion to Dismiss and determine if they want to deny it, Ms. Kern stated they are ready to proceed with the case.

Chairman Burke stated he wanted to hear from the Commissioners about hearing the argument for the Motion to Dismiss so that things are taken in procedural order.

Commissioner Niggemeyer stated he was fine with hearing the argument for the Motion to Dismiss.

Chairman Burke stated Ms. Kern could proceed with her arguments for the Motion to Dismiss.

Motion to Dismiss Arguments

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Ms. Kern gave her argument.
Ms. Tomova gave her argument.
Ms. Kern gave a brief response.
Ms. Tomova gave a brief response.

Chairman Burke gave brief instructions to the Commissioners about the Motion to Dismiss.

Chairman Burke moved to deny the Motion to Dismiss. Seconded by Commissioner Bruner. Motion carried.

Opening Statements
Ms. Tomova gave her opening statement.
Ms. Kern gave her opening statement.

Chairman Burke stated the parties need to stipulate to what documents are going to be admitted.

Chairman Burke stated this case will be continued until December 07, 2022, at 9:00 A.M.

9) Public Comment
None.

10) Adjournment
Meeting recessed at 4:12 P.M. on December 06, 2022.

Minutes prepared by: _____
Shareece Bates
Administrative Section Manager

Minutes prepared by: _____
Maria Gallo
Commission Coordinator

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