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TO: *Jodd Moody*
FROM: *Brad Gerkin*
DATE: *4.12.16*
RE:

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Submitted at Planning Commission

Date *4/12/16* Item *22-24*

OFFICE OF THE CITY ATTORNEYBRADFORD R. JERBIC
CITY ATTORNEY

LAS VEGAS, NEVADA

April 12, 2016

Todd L. Moody
Hutchison & Steffen
10080 W. Alta Drive #200
Las Vegas, Nevada 89145**ATTORNEY-CLIENT PRIVILEGED**

Dear Todd:

I have reviewed your email of March 29, 2016, wherein you seek legal review of a potential conflict involving applications on the agenda of the Planning Commission to rezone property and modify the development agreement for Queensridge and Badlands golf course. The following advice is limited to the facts contained herein.

You indicate that you are personal friends with Billy Bayne, CEO for Peccole, the original developer of Queensridge. I spoke with Mr. Bayne who indicated that Peccole no longer has any development interests in Queensridge and therefor is not a party in interest in any land use application relating to Queensridge appearing before the Planning Commission for your consideration. You are also a financial partner in the law firm Hutchinson and Steffen, whose law firm is located in offices directly to the north of Queensridge and Badlands golf course. Further, you have indicated that Peccole is a joint owner of your law office, but you personally have no ownership in the law office since you are a financial partner, not an equity partner. You indicate that Peccole may "gain by development" if the current applications are approved, however, no evidence is provided that would support that conclusion.

NRS 281A. 420(1)(b)(c) in relevant part, prohibits a public officer from voting on a matter "in which the public officer . . . has a pecuniary interest" or "which would reasonably be affected by the public officer's . . . commitment in a private capacity to the interest of others."

NRS 281A.420(4)(2) goes on to state that "[i]t must be presumed that the independence of judgement of a reasonable person in the public officer's situation would not be materially affected by the public officer's pecuniary interest or the public officer's commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of others, accruing to the other persons, is not greater than that accruing to any other member of the general business, profession, occupation or group that is affected by the matter."

Todd L. Moody
Hutchison & Steffen
April 12, 2016
Page 2

Applying the law to the facts, it is clear that you do not have a pecuniary interest in any matter relating to Queensridge or Badlands golf club. Therefore, no conflict exists under NRS 281A(1)(b).

I next address whether you have a commitment in your private capacity to the interests of others, specifically members of your law firm who may have a financial interest in the building housing your law offices or Mr. Bayne. It seems clear that you have a professional commitment to your law firm and all who serve it. I believe that it is unclear whether the proposed development agreement will have a positive, negative or neutral effect on surrounding land uses. However, any effect on the value of the land and building housing the law firm would not be more or less than for any other business or group in the area. Therefore, no conflict exists under NRS.281A(1)(c) and NRS 281A(4)(2).

Finally, I examine your friendship with Mr. Bayne. As with the building housing your law office, I believe it is unclear what effect the proposed application would have on land values, including future development by Peccole. More importantly, you have no commitment in your private capacity to Mr. Bayne and therefore there is no conflict under NRS 281A(1)(c).

I advise full disclosure of this matter on the record each time these applications appear. You may also disclose this opinion at your discretion. Abstention is not required.

Sincerely,



Bradford R. Jerbic
City Attorney

BRJ/cg