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## Salerno makes deal with state ethics panel over Lazy 8 vote

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The Nevada Commission on Ethics admonished Sparks City Councilman Phil Salerno at a hearing on Thursday for his willful failure to disclose his business relationship with John Ascuaga's Nugget at the council's Aug. 23, 2006 vote on the Lazy 8 hotel-casino project in Spanish Springs.

In exchange for dropping several counts against him, the commission accepted a stipulation proposed by Salerno to pay a \$5,000 fine, the maximum penalty for a first willful violation as stated in the Nevada Revised Statutes.

Harvey Whittemore, who owns the Red Hawk Land Co. and is the developer of the Lazy 8, filed a complaint in March requesting opinion on Salerno's participation in the vote. Whittemore claimed that Salerno, who owns 60 percent of Nevada Forms and Printing, did not disclose his business transactions with the Nugget at the first of three city council meetings regarding the Lazy 8. The council, including Salerno, voted against the project on Aug. 23, prompting Whittemore to file a lawsuit against the city. The issue was again brought before the council on Sept. 20, 2006 and on Aug. 27, 2007. It was at these two meetings Salerno finally did disclose his relationship with the Nugget.

Salerno told the panel he felt he didn't need to abstain from the vote because of his responsibility as an elected official. Salerno did not disclose his relationship with the Nugget at the Aug. 23, 2006, meeting, but did disclose at the Sept. 20, 2006 and Aug. 27, 2007 meetings because, he testified, he was named in the lawsuit.

"Our job is to listen to our constituents and they come and voice their opinion and they all have different reasons," Salerno said, responding to a question about his evaluation of the project. "I've been on the City Council for 13 years next month. ... I did what I did and analyzed it."

His attorney, Mark Gunderson, said Salerno had no need to disclose his relationship at the Aug. 23 meeting because it was "procedural."

Panelists questioned Salerno on the nature of his business, the level of competition involved and his history of customers and examined sales analyses, focusing on his business with the Nugget. Salerno testified a portion of his clientele is casinos, both out of state and in Nevada, particularly the Peppermill and Western Village. But Salerno said he has not done business with the Peppermill since 2002 and his transactions with Western Village stopped after the council's first vote on the Lazy 8.

Salerno explained his business is one of a handful that offers slot machine tickets, which helps make him competitive among other printers the Nugget hires. The Nugget, however, which was found to generate about 12 percent of Nevada Forms' revenues, has vehemently opposed Whittemore's project. NCE members asked about his interaction with the Nugget prior to the vote.

"At any time prior to the City Council meeting determining the vote on Aug. 23, 2006, did you have any communication with respect to their feelings or their stance on the Lazy 8 project and its going forward?" NCE vice chairman Timothy Cashman asked.

"No, sir," Salerno responded.

"They at no time lobbied you and came forward to display their feelings on the project?" Cashman asked.

"No, sir," he said again, communicating to panel members that he never spoke with the Nugget's owners and executive managers, John, Stephen and Michonne Ascuaga, about their opinion on the Lazy 8.

Whittemore also was called to testify and said on three separate occasions before the Aug. 23 meeting he had asked whether Salerno needed any additional information on Lazy 8 and whether he could be impartial in the vote because of his dealings with the Nugget.

"I didn't ask him how he was going to vote," Whittemore said. "I asked, 'On what basis will you make your decision?'"

Whittemore explained the application process from its conception in 1994 through the planning stages in committee and expressing disappointment that it's been as contentious as it has. He emphasized that the agreement he's made with Sparks entitles him to rights to build the gaming facility, despite reaction from the Nugget.

"This was not about competition, this was about fair competition," he said. "We didn't expect people to protect an incumbent gaming competitor. We expected it would be whoever would do the best job."

Despite arguments from Salerno's attorney on Thursday, the panel determined the councilman should have realized the conflict he had as a public official and a businessman.

Salerno said he was fulfilling his responsibility to act on his constituents' wishes.

"The issue I was voting on was about the Lazy 8 casino, that's the way I looked at this particular issue," Salerno said. "It wasn't about the Nugget or how they felt about issue or any of the other citizens in my opinion. This is way I looked at the issue. I didn't feel I needed to abstain. That's what I'm elected for — to vote on these issues. I didn't feel I had to abstain from the issue because my job as city councilman is to take the issue and vote to the best of my knowledge."

But the panel felt the vote had larger implications on Sparks.

“In my view, Councilman Salerno, this Lazy 8 matter was too narrowly focused,” ethics panelist Paul Lambole said. “It was much larger and I think there was an inherent danger with not disclosing. Nonparticipation would have been appropriate.”

Panelist George Keele said someone of Salerno’s experience should have sought advice before the vote, but that the panel exists to keep government accountable when even public officials make mistakes.

“We can see examples of people we have all admired, name many of those people wrestling with public offices and employees who were subjects of these proceedings and we’re trying to do this for two purposes, to punish wrong conduct and use that as a deterrent to improve the environment in which government is conducted,” panelist George Keele said.

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