



**In the Matter of the Request for Opinion  
Concerning the Conduct of DON PARSONS,  
City Councilman, City of Fernley,  
State of Nevada,**

**Requests for Opinion Nos.: 10-26C, 10-27C  
and 10-42C.**

**Subject. /**

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**EXECUTIVE DIRECTOR'S RECOMMENDATION  
AND APPROVAL OF INVESTIGATOR'S REPORT**

The following is the Executive Director's recommendation based on consideration and investigation of three Ethics Complaints filed against Don Parsons, City Council member, City of Fernley ("Subject"), a public officer, and on the Subject's written responses to the Complaints, attached to the Investigator's Report. That Report is approved and is attached for the consideration of this two-commissioner investigatory panel.

**Allegations:**

The main allegation is Councilman Parsons violated the following provisions of the Ethics in Government Law:

- NRS 281A.400(1) sought or accepted a favor that would tend to improperly influence a reasonable person to depart from the faithful discharge of his public duties,
- NRS 281A 400(2), used his position in government to attempt to gain an unwarranted privilege or exemption,
- NRS 281A 400(7) used government resources for personal purposes,  
and
- NRS 281A 400(9) attempted to influence a subordinate for his personal or financial benefit,

when he asked two City building inspectors to inspect a property his employer wished to purchase at 215 Lyon Drive, and allegedly asked them to condemn the building so he might negotiate a better purchase price.

The other allegations concern NRS 281A.400(1), that Parsons demanded a zoning change on his daughter's property and NRS 281A.400(2) that Parsons demanded assistance from City employees before beginning of official business hours. The Complaint also alleged that Parsons received an unwarranted benefit by having a water bill reduced by 50%, implicating NRS 281A.400(2).

**Facts:**

The main parties involved are the Subject: Don Parsons, City Councilmember; Requesters: Jeff Ball, City Building Inspector; Fred Turnier, Public Works Director; and Robert Auer, District Attorney on behalf of Brandi Jensen, City Attorney. Various city employees provided witness statements and documents to the Investigator, though many were loathe to speak freely or place their jobs on the line to cooperate.

Councilmember Parsons is known to be somewhat of a bully, and sees nothing wrong with accessing City personnel in his private capacity to inspect the building his employer had shown an interest in purchasing. He also characterizes the interactions as "proposing requests" rather than "making demands" of city staff, while the staff members, for the most part, heard his communications very differently.

In addition, in light of these tough economic times, the City Council has been discussing making cuts to various city departments and services. Parsons had been vocal about making cuts to Public Works and the Building Department and inspectors due to the fall-off in construction. Many City employees exhibited fear or anxiety about losing their jobs.

Parsons' manner of interacting with City offices is the main subject of the three Complaints. All seem to involve an accumulation of several acts that appear to have broken the proverbial camel's back, and caused the requesters to come to the Ethics Commission for assistance.

The facts are well documented in the Investigator's report.

**Nevada Revised Statutes (NRS) and case law:**

The applicable statutes are NRS 281A.400(1), (2), (7) and (9).

1. A public officer or employee shall not **seek or accept** any gift, service, **favor**, employment, engagement, emolument or economic opportunity **which would tend improperly to influence a**

**reasonable person** in the public officer's or employee's position **to depart from the faithful and impartial discharge** of the public officer's or employee's public duties.

2. A public officer or employee shall not **use the public officer's or employee's position in government to secure or grant unwarranted privileges**, preferences, exemptions or advantages **for the public officer or employee**, any business entity in which the public officer or employee has a significant pecuniary interest, or **any person to whom the public officer or employee has a commitment in a private capacity** to the interests of that person. As used in this subsection:

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection 8 of NRS 281A.420.

(b) "Unwarranted" means without justification or adequate reason.

7. Except for State Legislators who are subject to the restrictions set forth in subsection 8, **a public officer or employee shall not use governmental time**, property, equipment or other facility **to benefit the public officer's or employee's personal or financial interest**. This subsection does not prohibit:

(a) A limited use of governmental property, equipment or other facility for personal purposes if:

(1) The public officer who is responsible for and has authority to authorize the use of such property, equipment or other facility has established a policy allowing the use or the use is necessary as a result of emergency circumstances;

(2) The use does not interfere with the performance of the public officer's or employee's public duties;

(3) The cost or value related to the use is nominal; and

(4) The use does not create the appearance of impropriety;

(b) The use of mailing lists, computer data or other information lawfully obtained from a governmental agency which is available to members of the general public for nongovernmental purposes; or

(c) The use of telephones or other means of communication if there is not a special charge for that use.

➔ If a governmental agency incurs a cost as a result of a use that is authorized pursuant to this subsection or would ordinarily charge a member of the general public for the use, the public officer or employee shall promptly reimburse the cost or pay the charge to the governmental agency.

9. **A public officer or employee shall not attempt to benefit the public officer's or employee's personal or financial interest through the influence of a subordinate.**

NRS 281A.420(8)(a)(3) defines a "Commitment in a private capacity to the interests of others" as a commitment to a person:

(1) Who is a member of the public officer's or employee's household;

(2) Who is **related to the public officer or employee by blood**, adoption or marriage within the third degree of consanguinity or affinity;

(3) **Who employs the public officer or employee** or a member of the public officer's or employee's household.

## **Recommendations:**

With regard to the allegations regarding having city employees inspect, and possibly condemn, the building that Parsons' employer had shown interest in purchasing, and related interactions, and after reviewing the evidence and NRS 281A.400(1), (2), (7) and (9), I recommend that the Panel find that **sufficient credible evidence was presented to support a finding that just and sufficient cause EXISTS for the Commission to render an opinion** on the allegations that Parsons:

1. **sought favors** from several City employees that may have tended to improperly influence a public officer or employee to depart from the faithful discharge of his duties, **implicating NRS 281A.400(1);**
2. **used government employees' time** to further his own interests and those of his employer on several occasions, **implicating NRS 281A.400(7);**
3. and, on various occasions, attempted to use his position to **influence subordinates** for the benefit of his own financial interest in his employment, **implicating NRS 281A.400(9).**

**However, if Parsons used his position** on the City Council in various contexts to **ATTEMPT** to gain **unwarranted privileges**, preferences, exemptions or advantages for himself as an employee or for his employer, there appears to be insufficient evidence to find just and sufficient cause to support a reasonable belief that the Commission should hear evidence of a violation of **NRS 281A.400(2)**, as that statute addresses using the public office to **SECURE** privileges, and **does NOT ADDRESS the attempt** to secure the same. **Parson was unable to gain a formal inspection of the building, and he was unable to have it marked condemned;** therefore, I recommend the panel determine that just and sufficient cause **DOES NOT EXIST** to forward these allegations to the Commission.

With regard to the allegations brought in the various Complaints that Parsons undertook other activities, including:

1. attempting to gain access to City services outside of regular office hours,
2. improperly attempting to influence a subordinate or gain unwarranted privileges, preferences or advantages for himself or for his daughter by requesting a change in the zoning of his daughter's home; and

3. using his position in government to gain a 50% discount on a water bill that was improper and/or excessive due to a faulty water meter and other problems with service to his residence,

I recommend that the investigatory panel find that **sufficient credible evidence DOES NOT EXIST** to support a finding that just and sufficient cause exists **to forward the remaining allegations in the Complaints to the full Commission**, and that the panel **DISMISSES** these allegations.

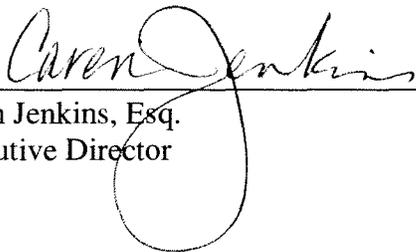
**NAC 281A.435 Basis for finding by panel; unanimous finding required for determination that no just and sufficient cause exists. (NRS 281A.290)**

1. A finding by a panel as to whether **just and sufficient cause** exists for the Commission to render an opinion on an ethics complaint **must be based on credible evidence.**

2. A finding by a panel that no just and sufficient cause exists for the Commission to render an opinion on an ethics complaint must be unanimous.

3. As used in this section, **“credible evidence” means the minimal level of any reliable and competent form of proof** provided by witnesses, records, documents, exhibits, concrete objects, and other such similar means, **that supports a reasonable belief by a panel that the Commission should hear the matter and render an opinion.** The term does not include a newspaper article or other media report if the article or report is offered by itself.

**I hereby approve the attached Investigator’s Report and provide this, my recommendation, to this honorable panel.**



Caren Jenkins, Esq.  
Executive Director

Date: 8/4/10