



STATE OF NEVADA  
**COMMISSION ON ETHICS**  
<http://ethics.nv.gov>

**MINUTES**  
**of the meeting of the**  
**COMMISSION ON ETHICS**  
**April 9, 2009**

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.  
A certified court reporter transcribed the minutes of the meeting and a transcript is available.

The Commission on Ethics held a public meeting on Thursday, April 9, 2009, beginning at 11:00 a.m. at the following locations:

The Nevada State Gaming Control Board, 1919 E. College Parkway, Room 100, Carson City, Nevada, and the Nevada State Gaming Control Board, 555 East Washington Street, Room 2450, Las Vegas, Nevada.

The sites were connected by videoconference.

Call to Order, Roll Call.

In Carson City, Vice Chair George Keele called the meeting to order and called the roll at 11:09 a.m., Thursday, April 9, 2009. Also present in Carson City were Commissioners Erik Beyer, Paul H. Lamboley, Esq., John W. Marvel, and James M. Shaw. Also present in Carson City were Executive Director Patricia D. Cafferata, Esq., Adriana G. Fralick, Esq., General Counsel, and Michelle A. Ené, Executive Assistant.

Commissioner John T. Moran, III, Esq. was present in Las Vegas. Present also in Las Vegas were Tami E. DeVries, Research Analyst, and Michel Vavra, Investigator. Chair Mark Hutchison was absent.

Members of the public were asked to sign in, and the sign-in sheets are attached to the original minutes as Exhibit A.

1. Open session to approve the minutes of the meetings on February 12, 2009, March 12, 2009, March 13, 2009, March 25, 2009 and March 26, 2009.

This item was continued to the next regularly scheduled meeting.

2. Open session to hear testimony, receive evidence, deliberate and render an opinion on the future conduct of ROGER TOBLER, Mayor, Boulder City, on his Request for Advisory Opinion, 09-16A, pursuant to NRS 281A.440.

Mr. Tobler was represented by Attorney Dave Olsen. Vice Chair Keele disclosed that he and Mr. Olsen are old friends but haven't seen each other for many years. Patricia Cafferata disclosed that she has known Dave Olsen for a long time. They were fellow district attorneys in the same jurisdiction.

Mr. Tobler was administered an oath by the court reporter. Following testimony and deliberations, Moran moved that the Commission find, pursuant to NRS 281A.440(1), that Roger Tobler, mayor of Boulder City, must disclose his pecuniary interest in his hardware store and its relationship with the Boulder Inn and Suites when the City of Council is considering Boulder Inn and Suites matters, pursuant to NRS 281A.420(4). Marvel seconded the motion. The motion passed unanimously. Keele stated that if Tobler had any concerns about any given set of facts and circumstances in the future, he should seek an opinion from the Commission. Facts and circumstances that differ from those used by the Commission in this advisory opinion may result in an opinion different from this opinion.

Moran moved that the Commission find, pursuant to NRS 281A.440(1), that Roger Tobler, mayor of Boulder City, need not abstain when the City council is considering the Boulder Inn and Suites matters, pursuant to NRS 281A.420(2). Beyer seconded the motion. The motion passed unanimously. Keele stated that if Mr. Tobler did not like the opinion, he could appeal it or seek judicial review in accordance with the appropriate provisions of NRS 281A of Nevada Revised Statutes. Keele stated that the written opinion would be binding upon Tobler as to his future conduct. Keele commended Tobler for coming before the Commission to address the above issues and encouraged Tobler to do the same again should he have a similar concern in the future.

A lunch recess was taken at 12:19 p.m. The meeting reconvened at 1:45 p.m.

3. Open session to discuss a Stipulated Agreement with GARY WILSON, Board Member, McDermitt Sewer District, Humboldt County, Nevada, to settle Request for Opinion, No. 08-79C, pursuant to NAC 281A.275.

By agreement with Mr. Wilson, the matter was continued to a future meeting.

4. Open session on 2009 Legislative Session to discuss issues affecting ethics in government to include, but not be limited to, bill draft requests, bills, committee meetings, Commission's position on bills, status of bills, amendments to bills and the Commission's budget, and to determine who will testify at the Legislature, if needed.

Cafferata gave a brief overview of the bills that the Commission has been following. She stated that AB82 originally was going to remove the financial disclosure statements from the Commission's jurisdiction and place them hereafter with the Secretary of State's office. Cafferata went to the Legislature and testified that the Commission supported the bill. However, after amendments were made to the bill, the bill was killed in the Legislature. There was a hearing on a bill about the Board of Homeopathic Medical Examiners and Osteopathic Medicine Examiners retaining copies of the acknowledgment forms that are filed with the Commission. The bill stated that they would also have to file a copy with their own Board.

The Commission's bill, SB104, was killed by leadership. For purposes of ethics enforcement, SB160 removes members of the Legislature from the Commission's jurisdiction and sets up their own ethics. The bill passed the Senate and the committee. The bill is currently sitting in the Assembly.

Commission was watching SB124, which has to do with the changing of what a quorum is and requiring that a majority of most public bodies be required to pass a measure.

Cafferata stated that the Commission's budget was heard in both Houses. She was able to get the Attorney General cost allocation removed from the Commission's budget. Cafferata stated that the Commission resubmitted amendments to our budget. She stated that she is not sure if we will get the additional money or not. The only other issue is the Executive Director's salary reduction by \$10,000.00 on top of the six percent salary reduction for State employees that the Governor was recommending. Cafferata stated that she is going before the Board of Examiners to request that the money be put back into the budget.

5. Public Comments.

No public comment was made.

6. Open session to consider a Motion to Dismiss Complaint from the Regional Transportation Commission, Washoe County, Nevada, in Request for Opinion, No. 09-01C, pursuant to NAC 281A.265. Only Vice Chair George Keele, Commissioners Erik Beyer, John Marvel and J.T. Moran, III will participate.

Lamboley disclosed that he will not be participating further in any of the proceedings because he was a panel member for this case. Chair Hutchison was excused from participating because he also was a panel member.

Shaw recused himself from the proceeding because he was a Washoe County Commissioner and served on the RTC Board with all of the RTC Board members except Bob Larkin.

Beyer disclosed that he had served with Dave Humke in the Legislature in the early '50s in the Assembly. Beyer disclosed that Dave Aiazzi is the City Councilman for his ward in Reno and that Aiazzi's father, George Aiazzi, was a classmate of his in Carlin High School in the '50s. Beyer also disclosed that he was acquainted with John Mayer but hasn't had any social connection with any of the RTC members mentioned. Beyer stated that he felt that he could still participate in the proceeding.

Marvel disclosed that he served with Humke in the Assembly. Marvel stated that he felt that he did not have a conflict of interest that would prohibit him from participating in the proceeding.

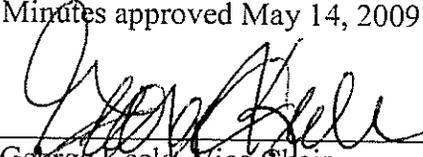
The RTC members were represented by Attorney Stan Peck. Moran moved that the Commission deny the Subject's Motion to Dismiss the Complaint under NRS 281A.520, which discusses support or opposition to a ballot question and, specifically, except as otherwise provided in subsections (4) and (5), that a public officer or employee shall not request or otherwise cause a governmental entity to incur an expense or make an expenditure to support or oppose a ballot question. Moran stated that the subject had not met the standard for having the complaint dismissed on its face. There is a question of fact that remains for the Commission to consider, specific mailers. Beyer seconded the motion. The motion passed unanimously.

Keele adjourned the meeting at 2:53 p.m.

Minutes transcribed by:

  
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Michelle A. Ené, Executive Assistant

Minutes approved May 14, 2009:

  
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George Keele, Vice Chair