



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

**In the Matter of the Request for Opinion
Concerning the Conduct of JIM DAVIS,
Member, Beatty Water and Sanitation District,
State of Nevada**

Request for Opinion No.: 09-88C

Subject.

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

The following is the Executive Director's recommendation based on consideration and investigation of the Ethics Complaint filed against JIM DAVIS ("Subject"), a public officer, and on the Subject's written response to the Complaint, attached to the Investigator's Report. That Report is approved and is attached for the consideration of the two-commissioner panel.

Allegations:

The main allegation is that DAVIS failed to make any disclosure or provide any explanation whatsoever for his abstention during the October 16, 2009 District meeting, in violation of NRS 281A.420.

Facts:

On October 16, 2009, the Beatty Water and Sanitation District held an open meeting. DAVIS participated in over an hour of the meeting by cell phone, and had experienced several challenges with his connection, having been disconnected several times and having difficulty hearing the proceedings. After a closed session to discuss the performance of the general manager, the District went into an open session. A motion was made to terminate the general manager. DAVIS seemed unsure of what to do, and the chairman suggested that he simply be marked as having abstained from the vote. Despite the lack of complaint or comments about his connection at the time, Davis agreed that he would not vote. The motion passed.

While DAVIS claims that he was confused about the matter before the body, and that he could not hear on his cell phone, the audio recording of the meeting seems to provide another perspective that perhaps Davis simply chose not to vote on the personnel issue before the District. Our investigator found no commitment in a private capacity to the interest of Davis or another, no gift or loan, and no other enumerated conflict that should have been disclosed.

Recommendation:

After reviewing the evidence and NRS 281A.400 and NRS 281A.420, I recommend that the Panel find just and sufficient cause DOES NOT EXIST for the Commission to render an opinion on the allegations that DAVIS was somehow compelled to vote under the public policy provisions of NRS 281A.400, and that he had no disqualifying conflict of interest to disclose pursuant to NRS 281A.420. While it may have been more clear had he provided some explanation for his abstention, neither his failure to express his reasoning nor the abstention itself seem to violate the Ethics in Government statutes.

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.

_____ Date: _____
Caren Jenkins, Esq.
Executive Director