

**BEFORE THE NEVADA COMMISSION ON ETHICS**

**In the Matter of the Request for Opinion concerning the conduct of  
GEORGE NEWELL, Member, Board of Trustees, Palomino Valley General Improvement District**

This Opinion is in response to a third-party requests filed on September 9, 1998 with the Nevada Commission on Ethics (Commission) by Wanda Wright (Request #98-48), on September 10, 1998 by Deidre Erwin (Request #98-49), and on September 10, 1998 by Dave and Donna Wendland (Request #98-50) concerning the conduct of George Newell, trustee of the Palomino Valley General Improvement District (PVGID). A hearing was held on November 12, 1998 at which all three matters were combined since they involved a common core of facts and ethical questions. Throughout these hearings, all the parties appeared and represented themselves. Ms. Wright, Ms. Erwin, Mr. Newell, Carolyn Kenngott, Dennis Wells, and Wes Smithart testified, seven exhibits were accepted into evidence, and the Commission viewed a videotape made by Carolyn Kenngott that showed the condition of various roads in the PVGID, including Sharrock Road, on September 6, 1998. At its hearing on November 12, 1998, the Commission publicly deliberated the matter and rendered its decision. The Commission now issues the Findings and Fact and Opinion which follows.

**FINDINGS OF FACT**

1. Mr. Newell is a member of the board of trustees for the PVGID. The PVGID's primary task is the maintenance of approximately 98 miles of unpaved roads and 13 miles of paved roads on an annual budget of approximately \$230,000.00. The funds available to the PVGID are inadequate to maintain all of the roads in a perfect condition.
2. Because the PVGID's funds are limited and inadequate, the PVGID set priorities for the roads based upon their use and designation. The roads that received the highest priority were roads that were major arterials for the PVGID. These roads were used by most residents, were used by the Washoe County School District's buses, and were designated for use by emergency vehicles. Roads lower in priority were minor arterials, collectors, and local use roads. The roads lowest in priority were seasonal use roads.
3. Mr. Newell lived on Sharrock Road. Sharrock Road is designated by the PVGID as a high-priority road because it is used by the school buses and emergency vehicles.
4. On September 1 and 2, 1998, PVGID crews worked on Sharrock Road, including that portion of Sharrock Road in front of Mr. Newell's project. The work on Sharrock Road had been scheduled for months and was actually several weeks behind because of a mechanical failure of some of the PVGID's equipment. When the work was being done on Sharrock Road, Mr. Newell allowed the PVGID crews to park PVGID equipment on his property so that the equipment would not have to be driven back to the PVGID equipment yard which was some distance away.

**ANALYSIS AND OPINION**

This matter is merely an extension of a previous matter already heard and decided by this Commission. [Matter of](#)

[John C. Claypool, Ken McGuire, and George Newell, NCOE Opinion Nos. 97-36 and 97-47.](#) In the previous matter, one of the claims was that Mr. Newell used his position as a PVGID trustee to benefit himself by assuring that Sharrock Road was better maintained than many of the other roads in the PVGID. This Commission concluded that Mr. Newell had not committed any violation of the Ethics in Government Law. As we stated in that opinion:

[T]he substantial evidence in this matter showed that Mr. Newell did not personally benefit from the maintenance of Sharrock Road in an unwarranted way because the maintenance of Sharrock Road was made in accordance with the reasonable and necessary priorities assigned by the PVGID board. It simply cannot be unwarranted for a cash-strapped district to expend its precious resources maintaining its most necessary roads first and best according to a rational priority system, even where some of the better maintained roads run adjacent to property owned by one of the district's trustees.

[Matter of John C. Claypool, Ken McGuire, and George Newell,](#) at 9.

Nothing has substantially changed with any of the material facts adduced at the earlier matter. The PVGID is still under funded and overwhelmed. The same priority system is still in use, and, in fact, it was this priority system that determined months in advance that Sharrock Road would receive maintenance in August (which later became September) 1998. Mr. Newell still lives on Sharrock Road.

No evidence was presented to show that Mr. Newell used the PVGID equipment or personnel to improve his personal property. No evidence was presented to show that Mr. Newell somehow machinated the workings of the PVGID so that Sharrock Road received extraordinary maintenance or care. In fact, the evidence showed quite clearly that the maintenance of Sharrock Road was nothing more than routine and regularly scheduled.

This Commission appreciates that the constituents of the PVGID hold genuine and deeply felt concerns that the PVGID's extremely limited funds be used prudently and equitably. Nonetheless, the substantial evidence presented to this Commission in this matter does not show that Mr. Newell used his position as a PVGID trustee to grant or secure for himself any unwarranted advantage. Therefore, Mr. Newell did not violate NRS 281.481(2).

## **CONCLUSION**

Mr. Newell did not violate NRS 281.481(2).

## **COMMENT**

It is specifically noted that the foregoing Opinion applies only to these specific facts and circumstances. The provisions of the Nevada Revised Statutes quoted and discussed above must be applied on a case-by-case basis, with results which may vary depending on the specific facts and circumstances involved.

DATED: June 30, 1999.

NEVADA COMMISSION ON ETHICS

By: /s/ MARY E. BOETSCH, Chairwoman