

**JASON D. WOODBURY**  
District Attorney  
775.283.7677  
jwoodbury@carson.org



**CARSON CITY DISTRICT ATTORNEY**  
885 East Musser Street, Suite 2030  
Carson City, NV 89701  
775.887.2070 • 775.887.2129 fax  
www.carson.org

June 22, 2016

TRAFCC Members

**Re: NRS 281A.520**

**Delivered: Via e-mail**

Dear TRAFCC Members:

Let me first express my appreciation to each of you for your participation in this forum. For decades Carson City has recognized the value of citizen-led deliberations as an integral component of local government, particularly on challenging issues such as those you will be discussing.

TRAFCC is not a "public body" as that term is defined by Chapter 241 of Nevada Revised Statutes. As such, TRAFCC meetings are exempt from the Open Meeting Law and the District Attorney's office will not regularly staff TRAFCC meetings. Of course, we are available to discuss with Mr. Pittenger any legal issues or questions that would be useful for TRAFCC discussions.

One certain topic of discussion will be the upcoming ballot question concerning fuel tax indexing in Carson City. While that topic is clearly within TRAFCC's purview, I wish to caution you in advance regarding a legal limitation. NRS 281A.520 provides, in pertinent part:

... [A] public officer or employee shall not request or otherwise cause a government entity to incur an expense or make an expenditure to support or oppose ... a ballot question.

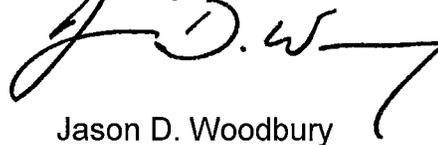
In compliance with this provision, my office has instructed that Carson City's public officers and employees, including Mr. Pittenger, must not advocate either in favor or against the fuel tax indexing question that will be presented on the November ballot. Additionally, public resources of Carson City must not be expended to advocate for or against the question. In some contexts, the scope of NRS 281A.520's prohibition is

quite obvious. But conduct that constitutes advocacy can be somewhat unclear at the margins where it can be subjectively misinterpreted. For example, the presentation of factually accurate information may tend to favor one side or the other in regard to a ballot question even when it is not intended to do so. Other factually accurate information may tend to favor the opposite side.

Accordingly, my office has asked Mr. Pittenger and other Carson City officials and employees to avoid even an appearance of impropriety and to exercise appropriate caution in presenting factual information regarding fuel tax indexing. I have complete confidence that all Carson City representatives will remain appropriately neutral in this regard. Nevertheless, I anticipate TRAFCC will primarily rely on Mr. Pittenger and other staff of Carson City's Public Works department to provide factual and historical information helpful to its discussions. ***The purpose of this correspondence is to forewarn all TRAFCC members that any such information provided by Mr. Pittenger or any representative of Carson City is not intended to and should not be interpreted by any member of TRAFCC or any member of the public as advocacy in favor of or in opposition to the fuel indexing ballot question.***

Thank you again for volunteering your time. If any of you have any questions or concerns about this correspondence or about any issue regarding TRAFCC, please do not hesitate to contact me directly or submit your inquiry to Mr. Pittenger.

Sincerely,



Jason D. Woodbury

JDW/

Cc: Patrick Pittenger (by e-mail only to [PPittenger@carson.org](mailto:PPittenger@carson.org))