

S.v

City of Las Vegas

RECOMMENDING COMMITTEE MEETING
CITY HALL, 400 STEWART AVENUE
CITY MANAGER'S CONFERENCE ROOM, EIGHTH FLOOR
CITY OF LAS VEGAS INTERNET ADDRESS: <http://www.lasvegasnevada.gov>
OCTOBER 17, 2006
4:00 P.M.

RECOMMENDING COMMITTEE: COUNCILWOMAN TARKANIAN AND COUNCILMAN ROSS

THE RECOMMENDING COMMITTEE WILL RECEIVE PUBLIC INPUT ON EACH ITEM OF LEGISLATION BEING CONSIDERED. THE RECOMMENDING COMMITTEE MAY, THEREAFTER, CONTINUE THE HEARING TO A FUTURE DATE OR FORMULATE A RECOMMENDATION TO THE CITY COUNCIL FOR PASSAGE, REJECTION OR AMENDMENT OF THE PROPOSED BILL. ANY MEMBER OF THE CITY COUNCIL MAY SUBSTITUTE FOR A MEMBER OF THE RECOMMENDING COMMITTEE AT ANY TIME.

DUPLICATE AUDIO CDS MAY BE AVAILABLE AT A COST OF \$5.00 EACH THROUGH THE CITY CLERK'S OFFICE.

1. CALL TO ORDER
2. ANNOUNCEMENT RE: COMPLIANCE WITH OPEN MEETING LAW
3. Bill No. 2006-57 – Amends Ordinance No. 5834, relating to the annexation of property, to correct the legal description contained therein (General Location - the southwest corner of Charleston Boulevard and Lindell Road). Proposed by: M. Margo Wheeler, Director of Planning and Development
4. Bill No. 2006-58 – Updates and strengthens Municipal Code provisions so as to better discourage, detect and punish those who would drive under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds or any combination of these. Sponsored by: Councilman Steve Wolfson
5. CITIZENS PARTICIPATION: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the committee. No subject may be acted upon by the committee unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited
6. ADJOURNMENT

ALL INTERESTED PERSONS ARE INVITED TO ATTEND: Copies of the above Bills may be obtained through the Office of the City Clerk, Monday through Friday, 8:00 A.M. to 5:00 P.M.

City of Las Vegas

Facilities are provided throughout City Hall for the convenience of disabled persons. Reasonable efforts will be made to assist and accommodate physically handicapped persons. If you need an accommodation to attend and participate in this meeting, please call the City Clerk's office at 229-6311 and advise of your need at least 48 hours in advance of the meeting.

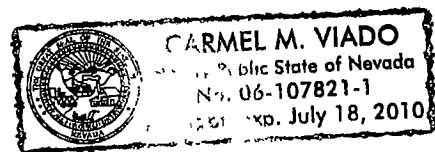
THIS MEETING HAS BEEN PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS:

City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge
Bulletin Board, City Hall Plaza, (next door to Metro Records)
Las Vegas Library, 833 Las Vegas Boulevard North
Clark County Government Center, 500 S. Grand Central Parkway
Grant Sawyer Building, 555 E. Washington Avenue

STATE OF NEVADA)) ss
COUNTY OF CLARK)

Paula Clark
SIGNATURE

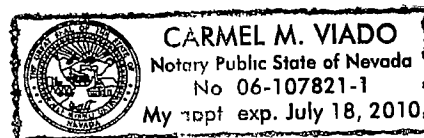
Carmel M. Viado
NOTARY PUBLIC in and for said County and State



STATE OF NEVADA)) ss
COUNTY OF CLARK)


SIGNATURE

Carmel M. Vlach
NOTARY PUBLIC in and for said County and State



AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 17, 2006

DEPARTMENT: CITY CLERK

DIRECTOR: BARBARA JO RONEMUS

SUBJECT:

CALL TO ORDER

Minutes:

COUNCILWOMAN TARKANIAN called the meeting to order at 4:08 p.m

PRESENT: COUNCILMEMBERS TARKANIAN and ROSS

Also Present: DEPUTY CITY MANAGER STEVE HOUCHENS, CHIEF DEPUTY CITY ATTORNEY VAL STEED and DEPUTY CITY CLERK GABRIELA PORTILLO-BRENNER

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 17, 2006

DEPARTMENT: CITY CLERK

DIRECTOR: BARBARA JO RONEMUS

SUBJECT:

ANNOUNCEMENT RE COMPLIANCE WITH OPEN MEETING LAW

Minutes:

ANNOUNCEMENT MADE - Meeting noticed and posted at the following locations: City Clerk's Bulletin Board, City Hall Plaza, 2nd Floor Skybridge Bulletin Board, City Hall Plaza (next door to Metro Records), Las Vegas Library, 833 Las Vegas Boulevard North, Clark County Government Center, 500 S. Grand Central Parkway, Grant Sawyer Building, 555 E Washington Avenue

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: OCTOBER 17, 2006

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

NEW BILL:

Bill No. 2006-57 – Amends Ordinance No. 5834, relating to the annexation of property, to correct the legal description contained therein (General Location - the southwest corner of Charleston Boulevard and Lindell Road). Proposed by: M. Margo Wheeler, Director of Planning and Development

Fiscal Impact

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No Impact

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Augmentation Required

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Budget Funds Available

Dept./Division:

Amount:

Funding Source:

PURPOSE/BACKGROUND:

The City Council recently adopted an ordinance for the purpose of annexing property generally located at the southwest corner of Charleston Boulevard and Lindell Road. It has been determined that the legal description of the property, as listed in the ordinance, was incomplete. This bill will include the complete legal description.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

Bill No 2006-57

Motion made by STEVEN D. ROSS to Approve as a Do Pass

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

LOIS TARKANIAN, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

COUNCILWOMAN TARKANIAN declared the Public Hearing open.

CHIEF DEPUTY CITY ATTORNEY STEED indicated that a map of an area was erroneously left out. Staff recommends approval of this bill, which will add thirty feet to the north.

No one appeared in opposition.

COUNCILWOMAN TARKANIAN declared the Public Hearing closed.

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8 **BILL NO. 2006-57**

9 **ORDINANCE NO. _____**

10 AN ORDINANCE TO AMEND ORDINANCE NO. 5834 (REGARDING THE
11 EXTENSION OF THE CORPORATE LIMITS OF THE CITY) TO CORRECT THE
12 LEGAL DESCRIPTION OF THE ANNEXED TERRITORY, AND TO PROVIDE FOR
OTHER RELATED MATTERS. (PERTAINING TO ANNEXATION ANX-11906)

13 Proposed by: M. Margo Wheeler, Director
of Planning and Development

Summary: Amends Ordinance No. 5834,
relating to the annexation of property, to
correct the legal description contained
therein (General Location - the southwest
corner of Charleston Boulevard and Lindell
Road).

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16 THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY
17 ORDAIN AS FOLLOWS:

18 SECTION 1: Ordinance No. 5834 of the City of Las Vegas is hereby
19 amended by amending Section 1 thereof to read as follows, with the underlining indicating
20 added language:

21 **SECTION 1: The corporate limits of the City of Las Vegas, Nevada, are**
22 **hereby extended to annex, include, and make a part of the City of Las**
23 **Vegas, Nevada, the following described real property:**

24 **Government Lot 5 and the north 33 feet of Government**
25 **Lot 20 in Section 1, Township 21 South, Range 60 East,**
26 **M.D.M., in the County of Clark, State of Nevada, as**
shown on Record of Survey in File 45, Page 23 of Clark
County, Nevada Records.

27 SECTION 2: The amendment represented in Section 1 of this Ordinance is
28 intended to correct an error. Therefore, it is the intent of the City Council that, to the extent

legally permissible, the amendment be effective as of the 30th day of June, 2006—the effective date of Ordinance No. 5834, and it is so declared. If it is subsequently determined that it is not legally permissible to make the amendment effective as of the 30th day of June, 2006, it shall be effective as of the date this Ordinance is recorded.

SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective. '

SECTION 4: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____,
2006.

APPROVED:

By OSCAR B. GOODMAN, Mayor

ATTEST:

BARBARA JO RONEMUS, City Clerk

APPROVED AS TO FORM:

Date _____

1 The above and foregoing ordinance was first proposed and read by title to the City Council
2 on the ____ day of _____, 2006, and referred to the following committee
3 composed of _____ and _____ for
4 recommendation; thereafter the said committee reported favorably on said ordinance on the
5 ____ day of _____, 2006, which was a _____ meeting of
6 said Council; that at said _____ meeting, the proposed ordinance was
7 read by title to the City Council as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

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APPROVED:

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By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

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17 BARBARA JO RONEMUS, City Clerk

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AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: OCTOBER 17, 2006

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

NEW BILL:

Bill No. 2006-58 – Updates and strengthens Municipal Code provisions so as to better discourage, detect and punish those who would drive under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds or any combination of these. Sponsored by: Councilman Steve Wolfson

Fiscal Impact

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No Impact

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Augmentation Required

☐

Budget Funds Available

Dept./Division:

Amount:

Funding Source:

PURPOSE/BACKGROUND:

It has been determined that the Municipal Code provisions relating to driving under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds, etc., are in need of updating. This bill will accomplish that objective, and is intended to better discourage, detect and punish those who would drive under the influence of these substances.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

- 1 Bill No. 2006-58
2. Business Impact Statement
3. Submitted at meeting – Exhibits 1, 2 and 3

Motion made by STEVEN D. ROSS to Approve as a Do Pass

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

LOIS TARKANIAN, STEVEN D. ROSS; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

COUNCILWOMAN TARKANIAN declared the Public Hearing open.

BEN LITTLE, Assistant City Attorney of the Criminal Division, commented that this bill resulted from COUNCILMAN WOLFSON'S desire to strengthen related laws to discourage DUI. Hence, staff researched legislative proposals regarding DUI submitted by every state for

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 17, 2006

the past five years, in order to submit proposals for COUNCILMAN WOLFSON'S review. Language inconsistencies with State of Nevada Law were culled, and staff came up with essential changes, which he then outlined with the use of Exhibit Nos. 1, 2 and 3, copies of which were submitted and made a part of the minutes.

ASSISTANT CITY ATTORNEY LITTLE stated that Exhibit No. 1 contains language in harmony with Nevada State Law, and it defines the phrase "actual physical control" and evaluates vehicle control for DUI prosecution purposes; thereby not requiring staff to prove that a person was driving, but rather that a person was in position to drive. This will keep people from being in position to drive under the influence, for which they could be punished.

Exhibit No. 2 defines the phrases "under the influence" and "combined influence" for purposes of the ordinance and DUI enforcement, and it is consistent with DUI case law. Exhibit No. 3, which includes Supreme Court Rule 123, is being submitted to point out that the Nevada Supreme Court's order is not considered legal precedent or authority, but simply serves as a guide to show Council where the language came from, as well as to show the Court's inclination to accept it as being in harmony with State Statute.

Bill No. 2006-58 would allow the courts to order DUI offenders to attend a Coroner's program designed to discourage drivers from drinking and driving, and it would encourage such orders where there is an accident involving a blood alcohol content of .20 or more, where the offense is not the offender's first offense, or the offender is under the age of 25.

The Coroner's program in place is designed to deal with youthful offenders who are engaged in risky behavior. The program requires these offenders to undergo six scenarios consisting of situations where someone has died. The participants are shown pictures of the individuals who died in that event, are made aware of the risky behavior in which the subjects were involved and are prepped for a tour of the autopsy room. This program has been very successful, because it is very difficult to forget the malodors of a morgue. Judges and staff believe that this is a powerful deterrent. Lastly, ASSISTANT CITY ATTORNEY LITTLE noted that the bill includes a minimum fine of \$300 and a driver intoxication awareness class, with the presiding judge having the ultimate discretion regarding the mandatory minimum.

COUNCILMAN ROSS opined that the minimum \$300 fine is insufficient, to which ASSISTANT CITY ATTORNEY LITTLE indicated that the fine only applies in situations not involving a DUI, but rather a person that has alcohol in the vehicle. COUNCILMAN ROSS appreciated the efforts made on this bill, but insisted that the City needs to send a clear message that DUIs will not be tolerated, and people will make changes if the fines impact their pocketbooks. ASSISTANT CITY ATTORNEY LITTLE advised that the proposed bill could be amended to include a tougher fine.

COUNCILWOMAN TARKANIAN suggested forwarding the bill to City Council with a recommendation to increase the fine to \$500. COUNCILMAN ROSS asked how the offense could be made a gross misdemeanor. ASSISTANT CITY ATTORNEY LITTLE answered that it

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 17, 2006

would have to be done through the State Legislature, adding that the court does waive fines for people who have a hardship in paying fines; however, community service would most likely be imposed. He noted that Municipal Court has approximately 5,000 DUI cases a year, and, even though this is a high number, it is surprising that the cases have not increased in correlation with the rapid growth in population. COUNCILMAN ROSS interjected that he would like to see the number of DUI cases decrease as the City passes tougher laws.

ASSISTANT CITY ATTORNEY LITTLE recommended approval of Bill 2006-58.

The Committee members discussed with CHIEF DEPUTY CITY ATTORNEY STEED and ASSISTANT CITY ATTORNEY LITTLE the options for this bill, in order to impose a stricter fine. It was decided that ASSISTANT CITY ATTORNEY LITTLE would confer with COUNCILMAN WOLFSON about the Committee's suggestion rather than holding the bill any longer.

COUNCILMAN ROSS applauded staff for its efforts, adding that he expects an ordinance amendment involving stricter penalties for domestic violence offenders will be forthcoming.

No one appeared in opposition.

COUNCILWOMAN TARKANIAN declared the Public Hearing closed.

BILL NO. 2006-58

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL AND REPLACE CHAPTER 11.14 OF THE MUNICIPAL CODE RELATING TO DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES, CHEMICALS, POISONS, ORGANIC SOLVENTS OR COMPOUNDS; PROVIDING FOR PENALTIES AND ENHANCEMENTS; PROVIDING FOR RELATED OFFENSES TO DISCOURAGE DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES, CHEMICALS, POISONS, ORGANIC SOLVENTS OR COMPOUNDS; AND TO PROVIDE FOR OTHER RELATED MATTERS.

Sponsored by: Councilman Steve Wolfson

Summary: Updates and strengthens Municipal Code provisions so as to better discourage, detect and punish those who would drive under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds or any combination of these.

THE CITY COUNCIL OF THE CITY OF LAS VEGAS DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1: Title 11, Chapter 14, of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby repealed in its entirety.

SECTION 2: Title 11 of the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, is hereby amended by adding thereto a new chapter, designated as Chapter 14, consisting of Sections 10 to 80, inclusive, reading as follows:

11.14.010: It is the purpose of this Chapter to:

(A) Serve the City's strong public policy against driving while under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds or any combination of these;

(B) Better detect, discourage, prosecute and punish those who would unreasonably risk driving while under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds or any combination of these;

(C) Minimize the number of victims of those who would jeopardize the safety of themselves, others and their property by undertaking an unreasonable risk of driving while under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds or any combination of these;

1 (D) Avoid conflict with the Nevada Revised Statutes and the Constitutions of the
2 United States of America and the State of Nevada. To this end, nothing herein is to be interpreted to
3 either authorize, license or require what is forbidden in the Nevada Revised Statutes, the Constitution
4 of the United States of America or the Constitution of the State of Nevada, or to forbid what has been
5 expressly licensed, authorized or required therein; and

6 (E) Make violations of this Chapter a misdemeanor, unless greater punishment is
7 otherwise provided by law.

8 **11.14.020:** Except as defined in this Section or in NRS Chapters 453 and 484, all words, terms or
9 phrases used in this Chapter are to have their common meaning:

10 "Actual physical control" with respect to a vehicle means having existing or present bodily
11 restraint, directing influence, domination, or regulation of the vehicle as evidenced by available
12 inferences and presumptions and the totality of the circumstances, including but not limited to:

- 13 (1) Where and in what position the person is found in the vehicle;
- 14 (2) Whether the vehicle's engine is running or not;
- 15 (3) Whether the person is awake or asleep;
- 16 (4) If the person is apprehended at night, whether the vehicle's lights are on;
- 17 (5) The location of the vehicle's keys;
- 18 (6) Whether the person was trying to move the vehicle or has moved the vehicle;
- 19 (7) Whether the property on which the vehicle is located is public or private;
- 20 (8) Whether the person must, of necessity, have driven to the location where
21 apprehended;
- 22 (9) Whether the person is the registered owner of the vehicle; and
- 23 (10) Whether there is any injury to the person which corresponds to physical
24 evidence within or damage to the vehicle.

25 "Under the influence or the combined influence" means under a degree of influence that:

- 26 (1) Diminishes a person's mental or physiological functions so that the risk of an
27 accident is unreasonably increased, or
- 28 (2) In any other manner makes the person incapable of safely driving,

→ as determined from the totality of the relevant and admissible presumptions, opinions, facts and circumstances.

11.14.030: (A) Unless a greater penalty is otherwise provided by law, it is a misdemeanor for any person to:

(1) Drive or be in actual physical control of a vehicle upon a highway or premises to which the public has access while under the influence or the combined influence of an intoxicating liquor, controlled substance, chemical, poison, organic solvent or compound; or

(2) In any other manner violate NRS 484.379.

(B) Unless a greater penalty is otherwise provided by law, a person who is convicted of a violation of Subsection (A) of this Section shall be sentenced in accordance with the applicable provisions of NRS 484.3792(1)(a) and 484.3792(1)(b) (misdemeanor criminal penalty for first and second offenses). In addition, such person:

(1) Shall be subject to the applicable penalties provided for in NRS 484.3791 (civil penalty), 484.3797 (first-time offender evaluation and treatment for alcohol or drug abuse), 484.37975 (second offender mandatory suspension of motor vehicle registration) and 484.3798 (fee for chemical analysis);

(2) Shall be subject to the applicable penalties set forth in NRS 484.3667 (double penalty if committed in a work zone) and 484.3943 (installation and inspection of device to prevent starting of vehicle by one who has consumed alcohol); and

(3) Maybe ordered by the court to complete an available coroner's program designed to discourage drivers from driving while under the influence or the combined influence of intoxicating liquor, controlled substance, chemical, poison, organic solvent or compound. Such a program and participation therein is especially encouraged where the offense involves one or more of the following:

(a) An accident;

(b) A blood alcohol content of .18 or more;

(c) The use of controlled or prohibited substances; or

(d) An offender who is under the age of 26 years old; and

1 (4) May be ordered to do or refrain from doing any other act the court
2 deems reasonable, given the nature of the offense and the criminal history of the defendant.

3 (C) The provisions of NRS 484.3793 to 484.3947 (miscellaneous provisions
4 regarding the evaluation and treatment for alcohol or drug abuse), apply to a violation of Subsection
5 (A) of this Section.

6 (D) The provisions of NRS Chapter 484 relating to implied consent, testing for
7 intoxication and the definitions of "offense," "prior offense" or "second offense" are further adopted
8 herein and apply to a suspected violation of Subsection (A) of this Section.

9 **11.14.040:** (A) Unless a greater penalty is otherwise involved (and pursued) for conduct
10 described in Subsection (A) of LVMC 11.14.030 or NRS 484.379, it is a misdemeanor for any person
11 to knowingly drink a beverage having a detectable amount of alcohol while driving or in actual
12 physical control of a motor vehicle upon a highway or on premises to which the public has access.

13 (B) A person convicted of a violation of Subsection (A) of this Section:

14 (1) Unless the court identifies reasonable grounds for ordering a lesser
15 sentence, shall be punished for a misdemeanor with.

16 (a) A fine of at least three hundred dollars; and

17 (b) An order to complete a drinking driver awareness course; and

18 (2) May be ordered to do or refrain from doing any other act the court
19 deems reasonable, given the nature of the offense and the character of the defendant.

20 **11.14.050:** Except as otherwise provided in LVMC 11.14.070, it is unlawful for any person, while
21 in a motor vehicle on a highway or upon a premises to which the public has access, to knowingly
22 possess any bottle, can or other receptacle containing any detectable amount of alcoholic beverage
23 which has been opened or the seal broken, or the contents partially removed.

24 **11.14.060:** (A) Except as otherwise provided in Subsection (B) of this Section or in LVMC
25 11.14.070, it is unlawful for the registered owner of any motor vehicle, or the driver if the registered
26 owner is not then present in the vehicle, to keep in that vehicle, when it is upon any highway, any
27 bottle, can or other receptacle containing any detectable amount of alcoholic beverage which has been
28 opened or the seal broken, or the contents partially removed.

1 (B) The prohibition contained in Subsection (A) of this Section does not apply if
2 the receptacle is kept in the trunk of the vehicle or, if the vehicle is not equipped with a trunk, in some
3 other area of the vehicle not normally occupied by the driver or passengers. For purposes of the
4 preceding sentence, a utility compartment or glove compartment shall be deemed to be within the area
5 normally occupied by the driver and passengers.

6 **11.14.070:** The provisions of LVMC 11.14.050 and 11.14.060 do not apply to:

7 (A) A motor vehicle operated by a common carrier or used to carry passengers for
8 furtherance of a commercial enterprise;

9 (B) A motor vehicle that is operated as part of a duly licensed limousine service and
10 that has a partition between the driver's seat and the passenger seats; or

11 (C) The living quarters of a motor home, camper or recreational vehicle, as those
12 terms are defined in NRS Chapter 482.

13 **11.14.080:** By committee, the judges of the Las Vegas Municipal Court shall continue to supervise
14 and monitor the operation of a program of education and counseling on the use and abuse of alcohol
15 and controlled substances for the benefit of persons who:

16 (A) Are convicted in the Municipal Court of violating this Chapter or any ordinance
17 corresponding to NRS 484.379, or

18 (B) Have agreed or acquiesced to such education or counseling pending an
19 anticipated disposition of a charge of violating this Chapter or any ordinance corresponding to NRS
20 484.379.

21 SECTION 3: If any section, subsection, subdivision, paragraph, sentence, clause or
22 phrase in this ordinance or any part thereof is for any reason held to be unconstitutional or invalid or
23 ineffective by any court of competent jurisdiction, such decision shall not affect the validity or
24 effectiveness of the remaining portions of this ordinance or any part thereof. The City Council of the
25 City of Las Vegas hereby declares that it would have passed each section, subsection, subdivision,
26 paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections,
27 subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional,
28 invalid or ineffective.

SECTION 4: Whenever in this ordinance any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in this ordinance the doing of any act is required or the failure to do any act is made or declared to be unlawful or an offense or a misdemeanor, the doing of such prohibited act or the failure to do any such required act shall constitute a misdemeanor and upon conviction thereof, shall be punished as provided for herein, where such punishment is specifically provided for, and where not so provided for, by a fine of not more than \$1,000.00 or by imprisonment for a term of not more than six months, or by any combination of such fine and imprisonment. Any day of any violation of this ordinance shall constitute a separate offense.

SECTION 5: All ordinances or parts of ordinances or sections, subsections, phrases, sentences, clauses or paragraphs contained in the Municipal Code of the City of Las Vegas, Nevada, 1983 Edition, in conflict herewith are hereby repealed.

PASSED, ADOPTED and APPROVED this _____ day of _____, 2006.

APPROVED:

By OSCAR B. GOODMAN, Mayor

ATTEST:

BARBARA JO RONEMUS, City Clerk

APPROVED AS TO FORM:

Date

1 The above and foregoing ordinance was first proposed and read by title to the City Council on the
2 ____ day of _____, 2006, and referred to the following committee composed of
3 _____ and _____ for recommendation;
4 thereafter the said committee reported favorably on said ordinance on the ____ day of
5 _____, 2006, which was a _____ meeting of said Council; that at said
6 _____ meeting, the proposed ordinance was read by title to the City Council
7 as first introduced and adopted by the following vote:

8 VOTING "AYE": _____

9 VOTING "NAY": _____

10 ABSENT: _____

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12 APPROVED:

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14 By _____
OSCAR B. GOODMAN, Mayor

15 ATTEST:

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17 BARBARA JO RONEMUS, City Clerk

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BUSINESS IMPACT STATEMENT

BILL NO. 2006-58

(Updates and strengthens Municipal Code provisions so as to better discourage, detect and punish those who would drive under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds or any combination of these)

This business impact statement was prepared pursuant to NRS 237.090 to address the impact of a proposed ordinance, Bill No 2006-58, that will update and strengthen Municipal Code provisions so as to better discourage, detect and punish those who would drive under the influence of alcohol, controlled substances, chemicals, organic solvents, compounds or any combination of these.

1. The following constitutes a description of the number of the manner in which comment was solicited from affected businesses, a summary of their responses and an explanation of the manner in which other interested persons may obtain a copy of the summary.

Not applicable.

2. The estimated economic effect of the proposed rule on businesses, including, without limitation, both adverse and beneficial effects, and both direct and indirect effects:

Adverse effects:

None

Beneficial effects:

None

Direct effects:

None

Indirect effects:

None

3. The following constitutes a description of the methods the local government considered to reduce the impact of the proposed rule on businesses and a statement regarding whether any, and if so which, of these methods were used:

Not applicable

4. The governing body estimates the annual cost to the local government for enforcement of the proposed rule is:

No additional cost

5. If the proposed rule provides for a new fee or increases an existing fee, the total annual amount expected to be collected is:

Not applicable

6. If the proposed rule provides for a new fee or increases an existing fee, the money generated by the new fee or increase in existing fee will be used by the local government to:

Not applicable

7. If the proposed rule includes provisions that duplicate or are more stringent than federal, state or local standards regulating the same activity, the following explains when such duplicative or more stringent provisions are necessary:

Not applicable

Date: September 21, 2006

Westlaw.

773 P 2d 1226

Page 1

105 Nev 230, 773 P 2d 1226

(Cite as: 105 Nev. 230, 773 P.2d 1226)

C

Supreme Court of Nevada
Nicky Dean ROGERS, Appellant,
v
The STATE of Nevada, Respondent
No. 17974.

May 18, 1989

Defendant was convicted in the Third Judicial District Court, Lyon County, Mario G Racanzone, J, of having .10 percent or more by weight of alcohol in his blood and being in **actual physical control** of vehicle on highway or on premises to which the public has access Defendant appealed The Supreme Court held that defendant was in "**actual physical control**" of car within meaning of statute

Affirmed

West Headnotes

[1] Automobiles ¶332

48Ak332 Most Cited Cases

A person is in "**actual physical control**" of vehicle, for purposes of statute making it unlawful for anyone who has 10 percent or more by weight of alcohol to be in **actual physical control** of vehicle on highway or on premises to which public has access, when person has existing or present bodily restraint, directing influence, domination, or regulation of a vehicle NRS 484.379, 484.379, subd 1

[2] Automobiles ¶332

48Ak332 Most Cited Cases

In deciding whether someone has existing or present bodily restraint, directing influence, domination, or regulation of a vehicle, and thus, has **actual physical control** of vehicle while intoxicated, trier of fact must weigh a number of considerations, including where, and in what

position, person is found in vehicle, whether vehicle's engine is running; whether person is awake or asleep, whether, if person is apprehended at night, vehicle's lights are on, location of vehicle's keys, whether person was trying to move vehicle or moved vehicle, whether property on which vehicle is located is public or private, and whether person must, of necessity, have driven to location where apprehended NRS 484.379, 484.379, subd 1

[3] Automobiles ¶332

48Ak332 Most Cited Cases

If defendant was sleeping when apprehended, that may be a factor that suggests that defendant was not in **actual physical control** of vehicle, for purposes of statute making it unlawful for one who is under the influence to be in **actual physical control** of vehicle on highway or on premises to which public has access, however, that fact is not totally dispositive evidence that **actual physical control** did not exist NRS 484.379, 484.379, subd 1

[4] Automobiles ¶332

48Ak332 Most Cited Cases

Defendant was in "**actual physical control**" of vehicle for purposes of statute making it unlawful for any person who has 10 percent or more by weight of alcohol in his blood to be in **actual physical control** of vehicle on highway or on premises to which public has access, defendant was found parked on public highway, partially in a traffic lane, and not on private property, defendant apparently drove car to that location, vehicle's engine was running and its lights were on, and defendant, though asleep and slumped over, was seated in driver's position, directly behind steering wheel NRS 484.379, subd 1

****1226 *230** Terri Steik Roeser, State Public Defender, Robert Morris, Deputy Public Defender and Michael K Powell, Chief Appellate Deputy State Public Defender, Carson City, for appellant

Brian McKay, Atty Gen, Carson City, William G

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Rogers, Dist Atty , and James N Varner, Deputy Dist Atty , Yerington, for respondent.

*231 OPINION

PER CURIAM

Just before 2 00 a m , May 4, 1986, two Lyon County Sheriff's officers drove past a **1227 silver Camaro parked on the edge of Highway 50, in the west-bound lane The Camaro was parked in the emergency lane, which was apparently about two feet wide, such that the car extended approximately one foot into the normal traffic lane

The officers returned to examine the vehicle. The engine was running, the transmission apparently in neutral or park. Reserve Officer Kidd noticed that the headlights were on The only occupant was sleeping, slumped over the steering wheel Officer McKibben knocked on the window to get the driver's attention, but he did not respond. McKibben then opened the door and identified himself Rogers awakened and asked "What?" Rogers told the officers he had stopped to sleep

Rogers then closed the door, revved the engine, and began turning the steering wheel McKibben again opened the door and asked Rogers to step out and perform a field sobriety test, i e , recite the alphabet, perform a finger count, and do a finger-to-nose test Rogers successfully recited the alphabet He had difficulty, *232 however, with the finger count [FN1] On the finger-to-nose test, Rogers correctly touched the tip of his nose with his right hand, but touched the side of his nose with his left McKibben testified that, although Rogers did not appear unkempt, his speech was slurred and his breath smelled of alcohol

FN1 Officer McKibben testified as to the finger count

Q What is the finger count?

A Counting your fingers forwards and backwards, touching thumb to finger one, two, three, four, five Five, four, three, two, one

Q And did you demonstrate it for him?

A Yes I did

Q And did you explain for him how to do it?

A Yes

Q Did he do it?

A Made two attempts Q And how did he perform on each one of those?

A The first time, he would touch his thumb and four fingers, but he would count them out of order, and the second time he would count out of order, not touching his thumb or his finger, just moving his fingers

Q Did he appear to have some difficulty with that test?

A Yes

Q Did--In your opinion, did he pass the test?

A No

McKibben then arrested Rogers for driving under the influence and took him for a blood test His blood, drawn about two hours after the arrest, reflected an alcohol level of 0 1014%

A jury convicted Rogers of violating NRS 484.379, his third such conviction He was sentenced to four years and fined \$2,000 Rogers appeals

DISCUSSION

This case presents one important issue for our consideration NRS 484 379(1) provides

It is unlawful for any person who

(a) Is under the influence of intoxicating liquor, or

(b) Has 0 10 percent or more by weight of alcohol in his blood, to drive or be in **actual physical control** of a vehicle on a highway or on premises to which the public has access

As Rogers was not driving at the time he was apprehended, the issue that must be decided is whether he was in "**actual physical control**" of the Camaro

NRS 484 379 proscribes both driving and being in **actual physical control** of a vehicle while under the influence Accordingly, we must assume that

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the statute does not contain a redundant phrase, but rather includes the term "**actual physical control**" to encompass activity broader than or different from driving a vehicle. Moreover, use of the disjunctive "or" between the term "drive" and the term "be in **actual physical control**" *233 suggests that the two terms have different meanings. See *State v Webb*, 78 Ariz 8, 274 P 2d 338, 339 (1954), *People v Pomeroy*, 419 Mich 441, 355 N W 2d 98, 102 (1984) (Levin J, dissenting), *Parker v State*, 424 P 2d 997, 1000 (Okla Crim App 1967). Obviously, the objective in requiring the arrest of those who are not driving but who are in **actual physical control** of a **1228 vehicle, is to prevent and discourage persons from placing themselves in control of a vehicle where they may commence or recommence driving while in an intoxicated state, notwithstanding the fact that they are not actually driving at the time apprehended.

Many courts have considered the issue of what constitutes **actual physical control** of a motor vehicle. See generally, Annotation, *What Constitutes Driving, Operating, or Being in Control of Motor Vehicle for Purposes of Driving While Intoxicated Statute or Ordinance*, 93 A.L.R.3d 7 (1979). These courts have articulated several definitions of **actual physical control**, [FN2] and courts facing situations very similar to the instant case have decided differently. Compare *Kirby v State, Dept of Public Safety*, 262 N W 2d 49 (S D 1978) (motorist in **actual physical control** when sitting behind wheel of vehicle, asleep, with motor running, parking lights on, and vehicle positioned with its left wheels on edge of traffic lane of city street) with *People v Pomeroy*, 419 Mich 441, 355 N W 2d 98 (1984) (motorist not in **actual physical control** when sitting behind wheel of vehicle, asleep, with motor running, headlights off, and vehicle legally parked in front of a bar on a street). Not surprisingly, defense counsel and the State have cited language and logic from those cases supporting their respective positions.

FN2 For a summary of the definitions courts have developed, see *What Constitutes Driving, Operating, or Being in Control of Motor Vehicle for Purposes*

of Driving While Intoxicated Statute or Ordinance, supra, at 18-19.

[1][2][3] After consideration of the many cases discussing the concept of **actual physical control**, the parties' briefs, and oral argument, we conclude that a person is in **actual physical control** when the person has existing or present bodily restraint, directing influence, domination, or regulation of the vehicle [FN3]. In deciding whether someone has existing or present bodily restraint, directing influence, domination, or regulation of a vehicle, the trier of fact must weigh a number of considerations, including where, and in what position, the person is found in the vehicle, whether the vehicle's engine is running or not, whether the occupant is *234 awake or asleep, [FN4] whether, if the person is apprehended at night, the vehicle's lights are on, the location of the vehicle's keys; whether the person was trying to move the vehicle or moved the vehicle, whether the property on which the vehicle is located is public or private, and whether the person must, of necessity, have driven to the location where apprehended [FN5].

FN3 *State v Ruona*, 133 Mont. 243, 321 P 2d 615,618 (1958), *City of Kansas City v Troutner*, 544 S.W 2d 295, 300 (Mo Ct App 1976), *Hughes v State*, 535 P 2d 1023, 1024 (Okla Crim App 1975), *Commonwealth v Klock*, 230 Pa Super 563, 327 A 2d 375, 383 (1974), *State v Bugger*, 25 Utah 2d 404, 483 P.2d 442, 443 (1971).

FN4 Rogers argues that a person who is asleep cannot be in **actual physical control** of anything, and that the use of the modifier "actual" prohibits judicial interpretation of NRS 484.379 to include constructive control. He also argues that a sleeping person cannot form the requisite criminal intent necessary for a conviction. However, as noted in *Webb*

While at the precise moment defendant was apprehended he may have been exercising no conscious volition with regard to the vehicle, still there is a

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legitimate inference to be drawn that defendant had of his own choice placed himself behind the wheel thereof, and had either started the motor or permitted it to run. He therefore had the "**actual physical control**" of that vehicle, even though the manner in which such control was exercised resulted in the vehicle's remaining motionless at the time of his apprehension.

274 P 2d at 340. Accordingly, if a defendant was sleeping when apprehended, this may be one factor that suggests that he or she was not in **actual physical control** of a vehicle, however, it is not, as Rogers argues, totally dispositive evidence that **actual physical control** did not exist.

FN5. For example, if, after leaving a bar, a person under the influence flopped into the back seat of his vehicle, while the vehicle was yet in the bar's parking lot, and fell asleep without starting or driving the vehicle, the person would not, under NRS 484.379, be in **actual physical control** of the vehicle. On the other hand, if an intoxicated person started the car, drove onto a public highway, and pulled onto an emergency lane to change a flat tire, that person would clearly be in **actual physical control**, notwithstanding the fact that he or she had stopped the vehicle before the police arrived. Between the two ends of such a hypothetical spectrum lie a multitude of factual possibilities, each of which must be determined according to its specific facts and the considerations we have mentioned.

[4] Applying these considerations to the case at hand, we conclude that the jury ****1229** correctly found, under NRS 484.379, that Rogers was regulating, dominating, directing and influencing the car he was in. Rogers was found parked on a public highway, partially in a traffic lane, and not on private property. He apparently drove the car to that location. When apprehended, the car's engine was running and its lights were on. Rogers, though

asleep and slumped over, was seated in the driver's position, directly behind the steering wheel. In this situation, Rogers could have easily resumed driving; indeed, he took measures apparently designed for doing so. Accordingly, we conclude that Rogers was, under NRS 484.379(1), in **actual physical control** of the car.

We have fully examined the remaining issues raised by appellant and conclude that they are without merit. Accordingly, we affirm the Rogers' judgment of conviction.

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END OF DOCUMENT

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE CITY OF HENDERSON,) No 30730
)
Petitioner,)
)
vs)
)
THE EIGHTH JUDICIAL DISTRICT)
COURT OF THE STATE OF NEVADA,)
IN AND FOR THE COUNTY OF CLARK,)
AND THE HONORABLE SALLY L.)
LOEHRER, DISTRICT JUDGE,)
)
Respondents,)
)
and)
)
LAURIE ANN RHYMER,)
)
Real Party in)
Interest.)

JUL 23 1975
CLERK OF DISTRICT COURT
BY *[Signature]*
CHIEF CLERK

ORDER DENYING PETITION

This is an original petition for a writ of certiorari challenging an order of the district court declaring NRS 484 379 unconstitutional as applied in this case Real party in interest Laurie Ann Rhymer was arrested in the City of Henderson, Nevada ("the City"), and ultimately charged with a misdemeanor violation of NRS 484.379(1) NRS 484 379(1) provides:

1. It is unlawful for any person who
 - (a) Is under the influence of intoxicating liquor;
 - (b) Has 0.10 percent or more by weight of alcohol in his blood, or
 - (c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have 0.10 percent or more by weight of alcohol in his blood,
- to drive or be in actual physical control of a vehicle on a highway or on premises to which the public has access.

At Rhymer's municipal court trial, the City apparently did not offer any blood alcohol or other physical evidence but proceeded solely on the "under the influence of intoxicating liquor" paragraph, NRS 484.379(1)(a). The defense theory was that under NRS 484.379(1)(a) the City had to plead and prove that Rhymer was under the influence "to a degree which render[ed] her

incapable of safely driving or exercising actual physical control of a vehicle." Henderson Municipal Court Judge Ken Proctor rejected the defense theory, specifically declining to make a finding that Rhymer was incapable of safely driving or exercising actual physical control of a vehicle. The municipal court found Rhymer guilty of violating NRS 484 379(1)(a) and ordered her to pay a fine of \$500.00, pay an administrative court fee of \$100.00, attend DUI school and Victim Impact Panel, and perform forty-eight hours of community service.

Rhymer appealed her conviction to the district court. By stipulation, the sole issue on appeal to the district court was whether the City had to allege and prove that Rhymer was under the influence of an intoxicating liquor to a degree which rendered her incapable of safely driving or exercising actual physical control of a vehicle and whether the municipal court's failure to require such allegation and proof harmed Rhymer. A hearing was held before Eighth Judicial District Court Judge Sally Loehrer. On May 14, 1997, the district court reversed, declaring NRS 484 379(1)(a) "impermissi[bly] vague, and consequently, unenforceable against Ms. Rhymer."

The City then filed the present petition, pursuant to NRS 34.020(3),¹ for issuance of a writ of certiorari, or review, seeking reversal of the order of the district court.

¹NRS 34.020(3) provides.

In any case prosecuted for the violation of a statute or municipal ordinance wherein an appeal has been taken from a justice's court or from a municipal court, and wherein the district court has passed upon the constitutionality or validity of such statute or ordinance, the writ shall be granted by the supreme court upon application of the state or municipality or defendant, for the purpose of reviewing the constitutionality or validity of such statute or ordinance, but in no case shall the defendant be tried again for the same offense.

As a preliminary matter, we must determine whether the district court declared NRS 484.379(1)(a) unconstitutional on its face or merely as applied to Rhymer. The district court's order is not clear as to basis of the constitutional challenge, we note, however, that this court has recognized previously that statutes challenged for vagueness are evaluated on an "as-applied" basis where, as here, first amendment interests are not implicated. See Lyons v. State, 105 Nev. 371, 320, 775 P.2d 219, 221 (1989). We further note that "trial judges are presumed to know the law and to apply it in making their decisions." Jones v. State, 107 Nev. 632, 636, 817 P.2d 1179, 1181 (1991). Accordingly, we interpret the district court's order as declaring NRS 484.379(1)(a) unconstitutional only as applied in this case.

We now address the question of whether the district court erred in declaring NRS 484.379(1)(a) void for vagueness as applied to Rhymer. The doctrine that a statute is void for vagueness is predicated upon its repugnancy to the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Woofter v. O'Donnell, 91 Nev. 756, 762, 542 P.2d 1396, 1400 (1975). "The test of granting sufficient warning as to proscribed conduct will be met if there are well settled and ordinary meanings for the words employed when viewed in the context of the entire statutory provision." Id.

The City argues that the term "under the influence" is in no sense vague and, in fact, "has been in common usage for generations and its meaning in the context of DUI law is well understood"; the City does not, however, indicate anywhere in its brief the well established meaning it attributes to the phrase "under the influence." Rhymer agrees that the phrase "under the influence" has a well established meaning, at least in Nevada, to wit: that a person is under the influence (i.e., effects of a controlled substance or alcohol) to a degree which

renders him incapable of safely driving or exercising actual physical control of a vehicle.

We agree that the phrase "under the influence," as used in the statute at issue here, is not vague, as it implicitly and ordinarily refers only to those individuals who ingest intoxicating liquor to a degree that renders them incapable of safely driving or exercising physical control of a vehicle. We conclude that this construction is consistent with the purpose of the DUI statute, which, presumably, is to protect the public against unsafe drivers. Because the phrase "under the influence," has a well-settled and ordinary meaning, we conclude that NRS 484.379(1)(a) meets the constitutional requirement of definiteness, at least when this well-settled and ordinary meaning is recognized in applying the statute. Unfortunately, the municipal court, at the insistence of the City, refused to recognize the well-established and ordinary meaning of the phrase "under the influence."

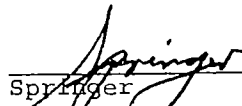
In conclusion, we hold that it was not necessary for the City to have explicitly alleged that Rhymer was under the influence to a degree that rendered her incapable of safely driving or exercising physical control of a vehicle because this well-settled and ordinary meaning is implicit in the phrase "under the influence." The City was, however, required to prove that Rhymer was "under the influence" to a degree that rendered her incapable of safely driving or exercising physical control of a vehicle.² Because the municipal court apparently rejected the well established and ordinary meaning of the phrase "under the influence," it is unclear whether the municipal court required the requisite degree of proof in convicting Rhymer. Therefore, the district court did not err in concluding that NRS

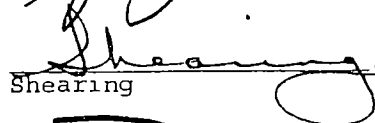
²"Incapable of safely driving" does not, of course, mean that one is incapable of reaching her destination in safety, but that her mental or physiological functions are diminished so that the risk of an accident is unreasonably increased.

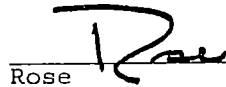
484 379(1)(a) is impermissibly vague as applied by the municipal court in this case and, as Rhymer was clearly prejudiced by this unconstitutional application of the law, properly reversed her judgment of conviction

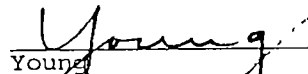
Because we find no abuse of the district court's authority, the petition for a writ of certiorari is denied

It is so ORDERED.

 _____, C J
Springer

 _____, J
Shearing

 _____, J.
Rose

 _____, J
Young

 _____, J.
Maupin

cc: Sally L. Loehrer, District Judge
Shauna Hughes, Henderson City Attorney
David Mincavage, Deputy City Attorney
John H. Howard, Jr.
Keith Puckett-Hart
Loretta Bowman, Clerk

disseminated to all subscribers of the advance sheets of the Nevada Reports and to all persons and agencies listed in NRS 2 345

5 Publication of public reprimand issued by state bar. A public reprimand issued by the state bar under Rule 113 shall be published in the state bar publication [Added; effective October 5, 2003]

Rule 122. Effective date. These rules are effective on February 15, 1979, any disciplinary proceeding pending on that date in which a written complaint has been filed with a local administrative committee shall be concluded pursuant to Rules 99 et seq of the Supreme Court Rules in effect prior to these rules All other disciplinary matters shall be transferred to the appropriate disciplinary board [Added; effective February 15, 1979.]

Rule 123. Citation to unpublished opinions and orders. An unpublished opinion or order of the Nevada Supreme Court shall not be regarded as precedent and shall not be cited as legal authority except when the opinion or order is (1) relevant under the doctrines of law of the case, res judicata or collateral estoppel, or (2) relevant to a criminal or disciplinary proceeding because it affects the same defendant or respondent in another such proceeding [Added; effective August 23, 1983]

G RULES OF PROFESSIONAL CONDUCT

NEVADA CASES.

Mandamus is appropriate remedy in matters involving disqualification of lawyers. Mandamus (see NRS 34 160) is used properly to challenge order disqualifying attorney from representing party in action pending in district court (See, generally, Nevada Rules of Professional Conduct, S C R 150 et seq) Cronin v Eighth

Judicial Dist Court, 105 Nev 635, 781 P 2d 1150 (1989), cited, Craffone v Eighth Judicial Dist Court, 113 Nev 1165, at 1167, 945 P 2d 950 (1997), Brown v Eighth Judicial Dist Court, 116 Nev 1200, at 1206, 14 P 3d 1266 (2000), Leibowitz v Eighth Judicial Dist Court, 119 Nev 523, at 529, 78 P 3d 515 (2003)

Rule 150. Adoption of rules of professional conduct.

1 The Model Rules of Professional Conduct adopted by the House of Delegates of the American Bar Association on August 2, 1983, with certain amendments approved by this Court, are hereby adopted as the rules of professional conduct for lawyers who practice in Nevada The rules may be referred to as the Nevada Rules of Professional Conduct and are comprised of the rules set out in this section of Nevada Supreme Court Rules entitled "Rules of Professional Conduct "

2 The preamble and comments to the ABA Model Rules of Professional Conduct are not enacted by this Rule but may be consulted for guidance in interpreting and applying the Nevada Rules of Professional Conduct, unless there is a conflict between the Nevada Rules and the preamble or comments.

3. All other rules of this Court stating or adopting by reference rules of professional conduct for lawyers who practice in Nevada in effect as of the date of the adoption of this Rule 150 are hereby repealed

[Added, effective March 28, 1986.]

WEST PUBLISHING CO.

Attorney and Client ⇌ 32(2)
WESTLAW Topic No 45
C J S Attorney and Client § 44

NEVADA CASES.

Agreement guaranteeing fixed sum if more not recovered from other defendant prohibited. In a malpractice action against three doctors, an agreement between the plaintiff and insurance carriers for two defendants which, in effect, guar-

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: OCTOBER 17, 2006

DEPARTMENT: CITY CLERK

DIRECTOR: BARBARA JO RONEMUS

SUBJECT:

CITIZENS PARTICIPATION: Public comment during this portion of the agenda must be limited to matters within the jurisdiction of the committee. No subject may be acted upon by the committee unless that subject is on the agenda and is scheduled for action. If you wish to be heard, come to the podium and give your name for the record. The amount of discussion on any single subject, as well as the amount of time any single speaker is allowed, may be limited.

Minutes:

TED RUSSELL, resident of Las Vegas, concurred with the comments made by COUNCILMAN ROSS under Item 4 regarding a zero tolerance for DUI and domestic violence.

AGENDA SUMMARY PAGE
RECOMMENDING COMMITTEE MEETING OF: OCTOBER 17, 2006

DEPARTMENT: CITY CLERK

DIRECTOR: BARBARA JO RONEMUS

☐ Consent ☒ Discussion

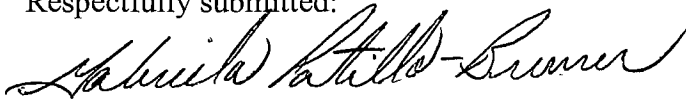
SUBJECT:

ADJOURNMENT

Minutes.

The meeting adjourned at 4 26 p.m.

Respectfully submitted:



Gabriela Portillo-Brenner, Deputy City Clerk II

November 8, 2006