



Meeting Date:
01/17/18

Mission Statement
To provide our growing dynamic community excellent municipal services to make Fernley a great place to live, work, and play.
Together, we enhance the desirability,

FERNLEY CITY COUNCIL MEETING - STAFF REPORT

REPORT TO: Mayor & City Council

REPORT THRU: Daphne Hooper, City Manager

REPORT FROM: Brent Kolvet, Deputy City Attorney

REVIEWED BY: Denise Lewis, Finance Director

AGENDA ITEM: Discussion and Possible Action to Authorize the City Attorney’s office to join in the filing of an Amicus Brief filed in the Nevada Supreme Court supporting the State of Nevada in a case arising out of the Little Valley fire in Washoe Valley

ACTION REQUESTED: Consent Ordinance Resolution Motion Receive/File

RECOMMENDED ACTION BY CITY COUNCIL
Staff recommends the following action:

“I move to authorize the City Attorney’s office to join in the filing of an Amicus Brief in the Nevada Supreme Court case of ‘State of Nevada, et al v. Second Judicial Court’”

Key Points:

1. A tort claim for injury to property has never been allowed to include a claim for inverse condemnation against a governmental entity.
2. The Second Judicial District Court has refused to dismiss an inverse condemnation claim arising from an allegation that property was damaged as a result of the negligence of the State of Nevada and the University.
3. If allowed to stand, the Court’s ruling could have far reaching implications for all local governments in the State of Nevada, including the City of Fernley by substantially increasing potential liability.
4. By joining in an Amicus Brief in the case currently before the State Supreme Court, the City would add its voice to other local governments seeking to preserve the limitations on tort claims against governmental entities which has been established through statutes and by the courts.

POLICY REFERENCE

Nevada Statutes: N/A
Fernley Municipal Code: N/A
Policies & Procedure Manual: N/A
Community Assessment: N/A
Other: N/A

SUPPORTING INFORMATION

Detailed explanation of policy question.

FINANCIAL INFORMATION

FISCAL IMPACT:

1. Is There A Fiscal Impact?
No
2. Is it Currently Budgeted?
No
3. If Budgeted, Which Line Item/Account?

FISCAL SYNOPSIS:

BACKGROUND INFORMATION

In October 2016, the University of Nevada, Reno (UNR) and the Nevada Division of Forestry (NDF) conducted a controlled burn in Washoe Valley. The controlled burn escaped and the resulting wildfire caused significant property damage to surrounding properties. The property owners and insurance companies brought a law suit against UNR and NDF asserting various claims including negligence and inverse condemnation. UNR and NDF filed a motion in District Court to throw out the inverse condemnation claim. The district court ruled against UNR and NDF who then appealed the district Court’s ruling to the Supreme Court. If allowed to stand, the District Court’s order would potentially greatly expand the damages that could be assessed against a public entity for negligently injuring property and could jeopardize the protections afforded governmental entities by the caps on tort damages and insurance coverage. The city has been approached by other local governments to join in an amicus (friend of the court) brief in support of UNR and NDF.

PRIOR COUNCIL ACTION/REVIEW

None.

ATTACHED INFORMATION

None.