



# CITY OF FERNLEY

## CITY COUNCIL AGENDA REPORT

Meeting Date: August 13, 2019

<b>REPORT TO:</b>	Mayor and City Council
<b>REPORT THRU:</b>	Daphne Hooper, City Manager
<b>REPORT FROM:</b>	Daphne Hooper, City Manager
<b>REVIEWED BY:</b>	Brandi Jensen, City Attorney
<b>REVIEWED BY:</b>	Denise Lewis, City Treasurer

<b>FINANCIAL IMPACT:</b> Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>	<b>CURRENTLY BUDGETED:</b> Yes: <input type="checkbox"/> No: <input type="checkbox"/>	<b>FUND/ACCOUNT:</b>
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**ACTION REQUESTED:**  Consent  Ordinance  Resolution  Motion  Receive/File

**AGENDA ITEM: Staff Report (For Possible Action):**  
Receive report; consider; and possibly approve settlement agreement in Case No. 19-CV-00812, Lyon County v. City of Fernley – concerning the Fernley Redevelopment Agency.

**Agenda Item Brief:**  
The City of Fernley adopted a Redevelopment Plan over certain geographic areas and with a certain tax increment. This activated the Fernley Redevelopment Agency. Lyon County brought a suit challenging the legal sufficiency of the Plan. The parties have agreed to settle the suit. Lyon County will pay Fernley \$90,000 and the public entities will work together to craft a revised Redevelopment Plan that meets the needs of all entities and the public.

**Recommended Motion:**  
“I move to authorize City Manager and the City Attorney to execute the settlement agreement as presented.”

**Business Impact (per NRS Chapter 237):**

- A Business Impact Statement is Attached.
- A Business Impact Statement is not required because this is not a rule (term excludes vehicles by which legislative powers are exercised under NRS Chapters 271, 278, 278A, or 278B).

See attached report for background, analysis, alternatives.

**ALTERNATIVES:** The Council could reject the proposed settlement. If this occurs, the litigation will resume. Counsel for the City has filed a motion to dismiss the action that remains pending. It is possible that the City could win the litigation. However, success is uncertain, and if the motion to dismiss is denied, litigation will be expensive and time consuming. Further, there is a risk that the County could win the litigation – which would result in the invalidation of the Redevelopment Plan with no funds given to the City.

**BACKGROUND:** The City of Fernley adopted a Redevelopment Plan prepared by a hired consultant. Lyon County believes that the currently adopted Plan includes too much physical area that is not eligible for redevelopment. Lyon County also believes that the Plan gives impermissible tax treatment to certain other public entities. The City disagrees strongly with Lyon County's claims. Lyon County filed a law suit to resolve the dispute. The City believes that Lyon County's suit was improperly filed and moved to dismiss on that ground. There is risk to each party. In any litigation results are uncertain. To mitigate that risk, the parties agreed to mediate the dispute. The mediation resulted in a tentative settlement agreement. Over the past few months, counsel for Lyon County, City of Fernley, Fernley Redevelopment Agency, the Lyon County School District, the North Lyon Fire Protection District and the Fernley Pool District, have collaborated and negotiated a final draft of the settlement agreement.

**LEGAL IMPLICATIONS:** Approving the settlement will resolve an ongoing court case. It will remove the risk of the Redevelopment Plan being found to be invalid. It will, however, also require that the current Redevelopment Plan be cancelled. If the City wants to move forward with activating the Redevelopment Agency and absorbing a tax increment into the Redevelopment Agency, it will need to adopt a new Redevelopment Plan. The settlement agreement also binds the City to certain features of a new Redevelopment Plan.

**FINANCIAL IMPLICATIONS:** The City will receive \$90,000 to offset the expense it had undertaken to create a Redevelopment Plan. That money would be utilized, in part, to work towards creating a revised Redevelopment Plan.

**ATTACHMENTS:** Proposed Settlement Agreement