CITY OF HENDERSON
CHARTER COMMITTEE
REGULAR MEETING AGENDA

Tuesday, April 26, 2016
8:30 AM
Meeting Inquiries: (702) 267-1200

Mayor & Council Boardroom
240 Water Street
Henderson, Nevada 89015

NOTICE

Notice to persons with special needs: For those requiring special assistance or accommodation to attend or participate in this meeting, arrangements for a sign language interpreter or services necessary for effective communication for qualified persons with disabilities should be made as soon as possible, but no later than 72 hours before the scheduled event. Listening devices are available for persons with hearing impairments.

Please contact Crystal Bomar at (702) 267-2057 or TTY: 7-1-1 at least 72 hours in advance to request a sign language interpreter. You may also submit your request by using Contact Henderson.

The Chairman reserves the right to hear agenda items out of order, combine two or more agenda items for consideration, remove an item from the agenda, or delay discussion relating to an item on the agenda at any time.

Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes.

Backup materials for agenda items can be found at the Intergovernmental Relations Office or on the City's website at: http://henderson.siretechnologies.com/sirepub/meetresults.aspx.To request backup materials, please contact Crystal Bomar at (702) 267-2057.

I. CALL TO ORDER

II. CONFIRMATION OF POSTING AND ROLL CALL

III. PUBLIC COMMENT

Items discussed under Public Comment cannot be acted upon at this meeting, but may be referred to a future agenda for consideration. Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes, at the discretion of the Chairman.

IV. ACCEPTANCE OF AGENDA (For Possible Action)

V. NEW BUSINESS

NB-1 MINUTES
CHARTER COMMITTEE MEETING
MARCH 29, 2016

For Possible Action.
RECOMMENDATION: adopt the Charter Committee Meeting Minutes of March 29, 2016.

City of Henderson Charter Committee Meeting Minutes of March 29, 2016.

NB-2 HENDERSON CHARTER COMMITTEE BYLAWS
AMENDMENTS TO VARIOUS ARTICLES

CITY ATTORNEY'S OFFICE

For Possible Action.
RECOMMENDATION: adopt the Henderson Charter Committee Bylaws as amended

Review amendments to Article V, Section E; Article V, Section F; and Article VII, Section A of the Henderson Charter Committee Bylaws to require a majority vote of members present at the meeting for 1) routine motions and resolutions, 2) recommendations that are to be presented to the City Council, and 3) the adoption of amendments to the Bylaws.

NB-3 PRESENTATION OF HENDERSON CITY CHARTER
SECTION 5.040 AND “AT-LARGE” MUNICIPAL ELECTIONS

CITY CLERK'S OFFICE

The City Clerk's Office will provide an overview of the Henderson City Charter provisions providing for the current “at-large” election process. The overview will include legislative history of Section 5.040 and prior proposals for “ward only” voting.

NB-4 PRESENTATION ON ARTICLE V (JUDICIAL DEPARTMENT) OF THE HENDERSON CITY CHARTER AND THE MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF HENDERSON AND THE HENDERSON MUNICIPAL COURT DATED APRIL 24, 2014

CITY ATTORNEY'S OFFICE

The City Attorney's Office will provide a presentation on Article V of the Henderson City Charter and the Memorandum of Agreement between the City of Henderson and the Henderson Municipal Court that was entered into as of April 24, 2014, following the Supreme Court of Nevada decision captioned as City of Sparks, Sparks Civil Service Commission v. Sparks Municipal Court, 302 P.3d 118.

VI. CHAIRMAN\MEMBER COMMENTS

The Chairman and Members may speak on any subject under this section of the agenda. Chairman and Members may comment on matters including, without limitation, future agenda items, upcoming meeting dates, and meeting procedures. Comments made cannot be acted upon or discussed at this meeting, but may be placed on a future agenda for consideration.

VII. SET NEXT MEETING

VIII. PUBLIC COMMENT

Items discussed under Public Comment cannot be acted upon at this meeting, but may be referred to a future agenda for consideration. Individuals speaking on an item will be limited to three (3) minutes and spokespersons for a group will be limited to ten (10) minutes, at the discretion of the Chairman.

IX. ADJOURNMENT

Posted by 9:00 a.m., April 20, 2016, at the following locations:
City Hall, 240 Water Street, 1st Floor Lobbies
Multigenerational Center, 250 S. Green Valley Parkway
Whitney Ranch Recreation Center, 1575 Galleria Drive
Fire Station No. 86, 96 Via Antincendio
www.cityofhenderson.com
https://notice.nv.gov

CITY OF HENDERSON
CHARTER COMMITTEE
REGULAR MEETING AGENDA
March 29, 2016

I. CALL TO ORDER

Jennifer Carleton called the Charter Committee meeting to order at 9:05 a.m., in the Mayor and Council Board Room, Henderson City Hall, 240 S. Water Street, Henderson, Nevada.

II. CONFIRMATION OF POSTING AND ROLL CALL

Crystal Bomar, Board Secretary, confirmed the Charter Committee had been noticed in compliance with the Open Meeting Law by posting the Agenda three working days prior to the meeting at the Facilities Management Building, City Hall, the Multigenerational Center, the Whitney Ranch Recreation Center, Fire Station No. 86, the Nevada Public Notice Website, the City of Henderson Website, and by emailing a copy of the Agenda to everyone appearing thereon on the Agenda Master Mailing List.

Present: Chair Jennifer Carleton
Lou Cila
Virginia Finnegan
Charlene Frost (arrived at 9:56 a.m.)
Edward Gonzalez
Terry Mannion
Erin McMullen
Tina Past (left at 10:36 a.m.)
Walt Rulffes
John Simmons
Vice Chair Nick Vaskov
Joseph Zerga

Absent: Robert McNinch

Staff: Crystal Bomar, Board Secretary
Chris Boyd, Intergovernmental Relations Specialist
Stacey Brownfield, Assistant City Clerk
David Cherry, Intergovernmental Relations Specialist
Brent Gunson, Assistant City Attorney III
Tedie Jackson, Council and Commission Services Reporter
Robert Murnane, City Manager
Josh Reid, City Attorney
Rory Robinson, Senior Assistant City Attorney
Javier Trujillo, Director of Public Affairs

III. PUBLIC COMMENT

There were no public comments presented.

IV. ACCEPTANCE OF AGENDA (For Possible Action)

(Motion) Ms. Finnegan introduced a motion to accept the agenda as submitted, seconded by Mr. Vaskov. The vote favoring approval was unanimous. Chair Carleton declared the motion carried.

V. NEW BUSINESS

NB-1 WELCOME REMARKS

CITY MANAGER'S OFFICE

City Manager Robert Murnane will welcome committee members and provide an overview of the committee purpose.

City Manager Robert Murnane introduced himself, welcomed everyone present, and thanked the committee members for their service. He explained that the Legislature wanted to see more transparency in city charter amendments and created the Charter Committee during the 2013 Legislative Session. He said the goal is for the Committee to complete its work by June 30, 2016.

NB-2 ELECTION OF CHAIR

CHARTER COMMITTEE

For Possible Action.
RECOMMENDATION: Elect

Elect new Chair to the Charter Committee.

(Motion) Ms. Finnegan introduced a motion to elect Jennifer Carleton as Chair to the Charter Committee, seconded by Mr. Vaskov. The vote favoring approval was unanimous. Chair Carleton declared the motion carried.

NB-3 ELECTION OF VICE-CHAIR

CHARTER COMMITTEE

For Possible Action.
RECOMMENDATION: Elect

Elect new Vice-Chair to the Charter Committee.

(Motion) Ms. Past introduced a motion to elect Nick Vaskov as Vice-Chair to the Charter Committee, seconded by Ms. McMullen. The vote favoring approval was unanimous. Chair Carleton declared the motion carried.

NB-4 HENDERSON CHARTER COMMITTEE BYLAWS
REVISIONS TO VARIOUS ARTICLES

CITY ATTORNEY'S OFFICE

Review amendments to Article V, Section E; Article V, Section F; and Article VII, Section A of the Henderson Charter Committee Bylaws to require a majority vote of a quorum of members present at the meeting for 1) routine motions and resolutions, 2) recommendations that are to be presented to the City Council, and 3) the adoption of amendments to the Bylaws

Brent Gunson, Assistant City Attorney III, reviewed proposed amendments to the bylaws. He noted that a quorum of this committee is seven members.

Ms. Finnegan referred to Article V, Meetings and Meeting Requirements, E and F, and expressed concern that the intent is not clear regarding “of a quorum.”

Responding to a question as to why staff is proposing the change, Mr. Gunson stated that this change is suggested to be consistent with language in the Henderson Municipal Code (HMC) and Nevada Revised Statutes (NRS).

Following further discussion regarding the language, there was a consensus to remove “of a quorum” from Article V, Meetings and Meeting Requirements, E and F.

Regarding Article III, Mr. Cila commented that an even-number committee can cause issues. He suggested adding a tolerance level to appoint a new member within 15, 20, or 30 days of a vacancy.

Mr. Reid replied that this is a good idea; however, there is a provision in the City Charter that specifically addresses this issue. He noted that this change would have to be made in the City Charter first.

Regarding Article VII, Amendments of Bylaws, there was a consensus to remove "of a quorum" from the last sentence of the paragraph.

In response to a question as to the process of approving the bylaws, Mr. Gunson noted that this language is directly out of the Henderson Municipal Code. He said staff's interpretation is to vote on the bylaws at the second meeting.

Regarding Article V, Meetings and Meeting Requirements, B, a question was asked as to why the City Attorney can call a special meeting.

Mr. Reid replied that staff has the ability, in certain committees, to call a special meeting if necessary.

Ms. Past referred to Article VII and questioned why staff proposes deleting the language regarding a two-thirds majority vote.

Mr. Gunson explained that staff proposes removing the language to comply with NRS. He noted that a simple majority vote is required for every committee in the City, and all City committee bylaws have been amended to be consistent.

Mr. Reid stated that all municipalities work differently. The two-thirds majority vote language was initially in the bylaws as a caution because this was a new committee. Based on cases studied and contacts, staff felt it would be better to have a simple majority, which is consistent with NRS.

Staff will present the following changes to the bylaws at the next meeting for review and adoption.

Article V, Meetings and Meeting Requirements, E: Strike the word "routine," and strike the words "of a quorum," to read: Motions and resolutions shall require a majority vote of the members present at the meeting.

Article V, Meetings and Meeting Requirements, F: Strike the words "of a quorum," to read: Recommendations that are to be presented to the City Council shall require a majority vote of the members present at the meeting.

Article VII, Amendments of Bylaws, A,: Strike the words "of a quorum," to read: Proposed amendments to the Bylaws shall be presented to the Committee through the regular agenda process at two consecutive regular meetings prior to adoption. A majority vote of members present at the meeting shall be required for adoption.

NB-5 REVIEW OF 2014 CHARTER COMMITTEE FINAL REPORT

INTERGOVERNMENTAL RELATIONS

Intergovernmental Relations will provide an overview of the 2014 Charter Committee Final Report.

Javier Trujillo, Director of Public Affairs, gave a PowerPoint presentation of the 2014 Charter Committee Final Report recommendations. He reviewed the following slides: 2014 Charter Committee Schedule; Presentations to Charter Committee; and Recommendations to City Council.

NB-6 REVIEW CITY CHARTER AND ASSEMBLY BILL 493 (HOME RULE)

CITY ATTORNEY'S OFFICE

The City Attorney's Office will provide an overview of the Henderson City Charter and Assembly Bill 493 (Home Rule).

City Attorney Josh Reid provided a background history on Home Rule and reviewed the following slides via PowerPoint presentation: The City Charter and Home Rule; The Three Concepts of City Power (Express, Implied, No Clear Authority); Cities created under “general laws”; Cities created under “special law”; How is a Charter Amended; Henderson Home News Articles; Section 1.010: Legislative Intent; Section 2.080-Powers of City Council: Ordinances; Powers Granted Under the City of Henderson Charter, NRS 268; Powers Granted Under other State Statutes; Dillon’s Rule; What is Home Rule; Types of Home Rule; Legislative Discussion of Home Rule in Nevada; The Three Concepts of Power; AB 493; Greatest Benefit of AB 493; Matter of Local Concern; AB 493 “Shall Nots”; AB 493 User Charges/Service Fees; NB 493 New Program Analysis; and Implementation.

Mr. Cila commented that he filled out a questionnaire regarding the City of Henderson getting involved in the reorganization of the Clark County School District.

Mr. Reid said the City is not looking to operate its own school district, but is interested in a smaller school precinct. He noted that Henderson residents are very interested to have a school board focused on Henderson schools.

VI. CHAIRMAN\MEMBER COMMENTS

Ms. Past asked if it is possible for subsequent meetings to begin at 8:30 a.m. so she does not have to leave the meeting early to go to work. There were no concerns expressed regarding changing the meeting time to 8:30 a.m.

Members were asked to present suggested topics for discussion to Javier Trujillo within the next week to allow sufficient time for staff to research information and prepare presentations.

Ms. Finnegan suggested the Committee discuss district elections in the city of Henderson. She asked if staff has considered any issues that might need to be reviewed in the Charter.

City Manager Robert Murnane commented that the property tax cap is a current issue the City is facing; however, this issue may not be appropriate for the Charter Committee to discuss.

Mr. Vaskov asked staff to consider the Committee discussing operations of the Municipal Court relating to concerns or additional powers. He noted there has been much controversy over operations of the municipal courts.

VII. SET NEXT MEETING

The next meeting was set for April 26, 2016, at 8:30 a.m.

Future meetings were set for May 24, 2016, and June 28, 2016, at 8:30 a.m.

VIII. PUBLIC COMMENT

There were no public comments presented.

IX. ADJOURNMENT

There being no further business to be discussed, the meeting was adjourned at 10:40 a.m.

Respectfully submitted,

_____
Tedie Jackson, Council and
Commission Services Reporter

BYLAWS
CHARTER COMMITTEE

ARTICLE I
Name

The name of this Committee is the Charter Committee.

ARTICLE II
Purpose

The purpose of the Charter Committee shall be to review the Henderson City Charter and advise the City Council with regard to its recommendations to the City Council regarding necessary amendments to the Charter.

ARTICLE III
Members

A. The thirteen (13) members of the Charter Committee shall be appointed as follows:
   1. The mayor shall appoint two (2) members;
   2. The mayor pro tempore shall appoint two (2) members;
   3. The remaining members of the City Council shall each appoint one (1) member;
   4. The members of the Senate delegation of the State Legislature representing the residents of the City of Henderson and belonging to the majority party of the Senate shall appoint two (2) members;
   5. The members of the Senate delegation of the State Legislature representing the residents of the City of Henderson and belonging to the minority party of the Senate shall appoint one (1) member;
   6. The members of the Assembly delegation of the State Legislature representing the residents of the City of Henderson and belonging to the majority party of the Assembly shall appoint two (2) members; and
   7. The members of the Assembly delegation of the State Legislature representing the residents of the City of Henderson and belonging to the minority party of the Senate shall appoint one (1) member.

B. Each member of the Charter Committee:
   1. Must be a registered voter of the City;
   2. Must reside in the City during his or her term of office; and
   3. Serves without compensation.

C. The term of office of a member of the Committee is concurrent with the term of the person or persons, as applicable, by whom the member was appointed. If the term of office of any person making an appointment ends by resignation or otherwise, the term of

office of a member of the Committee appointed by that person ends on the day that the person resigns or otherwise leaves office.

D. If a vacancy occurs on the Committee, the vacancy must be filled in the same manner as the original appointment for the remainder of the unexpired term.

E. The Committee members shall elect one (1) member as Chairperson, and one (1) member as Vice-Chairperson. The terms of office shall be two (2) years. However, nothing herein shall prohibit the Chairperson or Vice-Chairperson from being elected to consecutive terms.

F. The City Clerk of the City of Henderson, or the City Clerk's designee, shall serve as the ex-officio secretary of the Committee.

G. The City Attorney of the City of Henderson, or the City Attorney's designee, shall act as legal counsel to the Committee.

H. Any Committee member who compiles more than three (3) consecutive unexcused absences shall be considered to have resigned.

I. Excused absences are defined as absences due to illness of a member or a member's family, employment-related activities, or other instances as approved by the Chairperson on a case-by-case basis. Notification of absences is to be made to the Committee secretary.

ARTICLE IV
Powers and Duties

A. The Chairperson shall preside at all meetings, call meetings, and review and approve the agenda for meetings. The Chairperson shall appear before the City Council and present any recommendations concerning necessary amendments to the Henderson City Charter.

B. The Vice-Chairperson shall act as the Chairperson and perform those duties in the absence of the Chairperson.

C. The ex-officio secretary shall maintain the minutes of Committee meetings.

D. The Committee secretary shall prepare and post meeting agendas in compliance with the Nevada Revised Statutes.

ARTICLE V
Meetings and Meeting Requirements

A. The Charter Committee shall, at a minimum, meet in March of every even year.

B. Special meetings may be called as directed by:
   1. The Chairperson;
   2. A majority vote of a quorum at a meeting;
   3. Request of a majority of the members; or
   4. The City Attorney or the City Attorney's designee.

C. A quorum of the Committee is a simple majority of all members of the Committee.

D. All meetings shall be properly noticed and posted according to Nevada Revised Statutes.

E. Motions and resolutions shall require a majority voteof the members present at the meeting.

F. Recommendations that are to be presented to the City Council shall require a majority vote of the members present at the meeting.

G. The Charter Committee will use an agenda prepared by the Committee secretary. All agenda items must be submitted to the Committee secretary for inclusion in the agenda at least ten (10) calendar days prior to the official meeting date. Appropriate backup materials must be submitted with the item requested.

ARTICLE VI
Parliamentary Authority

A. The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Charter Committee in all cases where they are applicable and in which they are not inconsistent with the ordinance governing this Committee, these Bylaws, and any special rules of order the Committee may adopt.

ARTICLE VII
Amendments of Bylaws

A. Proposed amendments to the Bylaws shall be presented to the Committee through the regular agenda process at two consecutive regular meetings prior to adoption. A majority vote of the members present at the meeting shall be required for adoption.

Adopted on _____, 2016

ATTEST:

DRAFT

Chairperson

Committee secretary

DRAFT

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ATTEST:

Chairperson	Committee secretary

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DRAFT

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Adopted on _____, 2016

ATTEST:

Chairperson

Committee secretary

DRAFT

ARTICLE V

Elections

Section 5.010 Primary municipal election.

1. Except as otherwise provided in section 5.020, a primary municipal election must be held on the Tuesday after the first Monday in April of each odd-numbered year, at which time there must be nominated candidates for offices to be voted for at the next general municipal election.

2. A candidate for any office to be voted for at any primary municipal election must file a declaration of candidacy as provided by the election laws of this State.

3. All candidates for elective office must be voted upon by the registered voters of the City at large.

4. If in the primary municipal election no candidate receives a majority of votes cast in that election for the office for which he is a candidate, the names of the two candidates receiving the highest number of votes must be placed on the ballot for the general municipal election. If in the primary municipal election, regardless of the number of candidates for an office, one candidate receives a majority of votes cast in that election for the office for which he is a candidate, he must be declared elected and no general municipal election need be held for that office. Such candidate shall enter upon his or her respective duties at the second regular meeting of the City Council held in June of the year of the general municipal election.

(Ch. 266, Stats. 1971 p. 415; A—Ch. 12, Stats. 1979 p. 16; Ch. 596, Stats. 1995 p. 2214; Ch. 686, Stats. 1997 p. 3480; Ch. 100, Stats. 1999 p. 272; Ch. 637, Stats. 1999 p. 3565; Ch. 218, Stats. 2011 p. 955; Ch. 266, Stats. 2013 p. 1214)

Section 5.020 General municipal election.

1. Except as otherwise provided in subsection 2:

   a. A general municipal election must be held in the City on the second Tuesday after the first Monday in June of each odd-numbered year, at which time the registered voters of the City shall elect city officers to fill the available elective positions.

b. All candidates for the office of Mayor, Council Member and Municipal Judge must be voted upon by the registered voters of the City at large. The term of office for members of the City Council and the Mayor is 4 years. Except as otherwise provided in subsection 3 of section 4.015, the term of office for a Municipal Judge is 6 years.

c. On the second Tuesday after the first Monday in June 2019, and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 1 who will hold office until his or her successor has been elected and qualified.

d. On the second Tuesday after the first Monday in June 2021, and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 2 who will hold office until his or her successor has been elected and qualified.

e. On the second Tuesday after the first Monday in June 2017, and every 6 years thereafter, there must be elected by the qualified voters of the City, at a general municipal election to be held for that purpose, a Municipal Judge for Department 3 who will hold office until his or her successor has been elected and qualified.

2. The City Council may by ordinance provide for a primary municipal election and general municipal election on the dates set forth for primary elections and general elections pursuant to the provisions of chapter 293 of NRS.

3. If the City Council adopts an ordinance pursuant to subsection 2, the dates set forth in NRS 293.12755, in subsections 2 to 5, inclusive, of NRS 293.165 and in NRS 293.175, 293.177, 293.345 and 293.368 apply for the purposes of conducting the primary municipal elections and general municipal elections.

4. If the City Council adopts an ordinance pursuant to subsection 2, the ordinance must not affect the term of office of any elected official of the City serving in office on the effective date of the ordinance. The next succeeding term for that office may be shortened but may not be lengthened as a result of the ordinance.

(Ch. 266, Stats. 1971 p. 416; A—Ch. 67, Stats. 1987 p. 133; Ch. 209, Stats. 2001 p. 971; Ch. 218, Stats. 2011 p. 955; Ch. 266, Stats. 2013 p. 1215; Ch. 336, Stats. 2015 p. 1878)

Section 5.030 Applicability of state election laws; elections under City Council control.

1. All elections held under this Charter are governed by the provisions of the election laws of this State, so far as those laws can be made applicable and are not inconsistent herewith.

2. The conduct of all municipal elections is under the control of the City Council. The City Council shall by ordinance provide for the holding of the election, appoint the necessary officers thereof and do all the things required to carry the election into effect as it considers desirable and consistent with law and this Charter.

(Ch. 266, Stats. 1971 p. 416; A—Ch. 596, Stats. 1995 p. 2215)

Section 5.040 Qualifications, registration of voters.

1. Every person who resides within the City at the time of holding any municipal election, and whose name appears upon the official register of voters in and for the City, is entitled to vote at each municipal election, whether special, primary or general, and for all officers to be voted for and on all questions that may be submitted to the people at any such primary, general or special City elections, except as otherwise provided in this article.

2. Nothing in this Charter shall be so construed as to deny or abridge the power of the City Council to provide for supplemental registration.

(Ch. 266, Stats. 1971 p. 416)

Section 5.050 Names on ballots.

1. The full names of all candidates, except those who have withdrawn, died or become ineligible, must be printed on the official ballots without party designation or symbol. If two or more candidates have the same surname or surnames so similar as to be likely to cause and:

   (a) None of them is an incumbent, their middle names or middle initials, if any, must be included in their names as printed on the ballot or;

(b) One of them is an incumbent, the name of the incumbent must be listed first and must be printed in bold type.

(Ch. 266, Stats. 1971 p. 416; A—Ch. 596, Stats. 1995 p. 2215; Ch. 312, Stats 2003 p. 1729)

Section 5.060 Ballots for ordinances and Charter amendments.

An ordinance or Charter amendment to be voted on in the City shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" The ballot or voting machine or device shall be so marked as to indicate clearly in what manner the voter may cast his vote, either for or against the ordinance or amendment.

(Ch. 266, Stats. 1971 p. 417; A—Ch. 669, Stats. 1971 p. 2053)

Section 5.070 Availability of lists of registered voters.

Any person who desires a copy of a list of registered voters in the City may obtain a copy pursuant to the provisions of NRS 293.440.

(Ch. 266, Stats. 1971 p. 417; Ch. 596, Stats. 1995 p. 2215)

Section 5.090 Voting machines.

The City Council may provide for the use of mechanical or other devices for voting or counting the votes not inconsistent with law or regulations of the Secretary of State.

(Ch. 266, Stats. 1971 p. 417)

Section 5.100 Election returns; canvass; certificates of election; entry of officers upon duties; tie vote procedure.

1. The election returns from any special, primary or general municipal election must be filed with the City Clerk, who shall immediately place the returns in a safe or vault, and no person may handle, inspect or in any manner interfere with the returns until canvassed by the City Council.

2. The City Council shall meet at any time within 10 days after any election and canvass the returns and declare the result. The election returns must then be sealed and kept by the City Clerk for 6 months. No person may have access to the returns except on order of a court of competent jurisdiction or by order of the City Council.

3. The City Clerk, under his hand and official seal, shall issue to each person elected a certificate of election. Except as otherwise provided in section 1.070, the officers so elected shall qualify and enter upon the discharge of their respective duties at the second regular meeting of the City Council held in June of the year of the general municipal election.

4. If any election results in a tie, the City Council shall summon the candidates who received the tie vote and determine the tie by lot. The City Clerk shall then issue to the winner a certificate of election.

(Ch. 266, Stats. 1971 p. 417; A—Ch. 149, Stats. 1973 p. 205; Ch. 504, Stats. 1985 p. 1551; Ch. 596, Stats. 1995 p. 2216; Ch. 266, Stats. 2013 p. 1216)

Section 5.110 Contest of election.

A contested election for any municipal office shall be determined according to the law of the state regulating proceedings in contested elections in political subdivisions.

(Ch. 266, Stats. 1971 p. 418)

ARTICLE IV

Judicial Department

Section 4.015 Municipal Court.

1. There is a Municipal Court of the City which consists of at least one department. Each department must be presided over by a Municipal Judge and has such power and jurisdiction as is prescribed in, and is, in all respects which are not inconsistent with this Charter, governed by, the provisions of chapters 5 and 266 of NRS which relate to municipal courts.

2. The City Council may from time to time establish additional departments of the Municipal Court and shall appoint an additional Municipal Judge for each.

3. At the first primary or general municipal election which follows the appointment of an additional Municipal Judge to a newly created department of the Municipal Court, the successor to that Municipal Judge must be elected for a term of not more than 5 years, as determined by the City Council, in order that, as nearly as practicable, one-third of the number of Municipal Judges be elected every 2 years.

4. Except as otherwise provided in subsection 3, each Municipal Judge must be voted upon by the registered voters of the City at large and, except as otherwise provided in section 5.020, shall serve for a term of 6 years.

5. The respective departments of the Municipal Court must be numbered 1 through the appropriate Arabic number, as additional departments are approved by the City Council. A Municipal Judge must be elected for each department by number.

6. The Senior Municipal Judge is selected by a majority of the sitting judges for a term of 2 years. If no Municipal Judge receives a majority of the votes, the Senior Municipal Judge is the Municipal Judge who has continuously served as a Municipal Judge for the longest period.

(Added—Ch. 231, Stats. 1991 p. 513; A—Ch. 596, Stats. 1995, p. 2213; Ch. 209, Stats. 2001 p. 970; Ch. 218, Stats. 2011 p. 955)

Section 4.020 Municipal Court: Qualifications of Municipal Judge; salary.

1. Each Municipal Judge must have been a resident of the territory which is established by the boundaries of the City for the 12 months immediately preceding the last day for filing a declaration of candidacy for the office.

2. Each Municipal Judge shall devote his or her full time to the duties of his or her office and must be a duly licensed member, in good standing, of the State Bar of Nevada.

3. The salary of each Municipal Judge must be fixed by the City Council and be uniform for all departments of the Municipal Court. The salary may be increased during the terms for which the Judges are elected or appointed.

(Ch. 266, Stats. 1971 p. 415; A—Ch. 98, Stats. 1977 p. 207; Ch. 208, Stats. 1985 p. 674; Ch. 231, Stats. 1991 p. 513; Ch. 23, Stats. 1993 p. 46; Ch. 209, Stats. 2001 p. 971; Ch. 266, Stats. 2013 p. 1214)

Section 4.030 Disposition of fines.

All fines and forfeitures for the violation of ordinances must be paid to the Chief Financial Officer.

(Ch. 266, Stats. 1971 p. 415; A—Ch. 596, Stats. 1995 p. 2214; Ch. 266, Stats. 2013 p. 1214)

MEMORANDUM OF AGREEMENT

This Memorandum of Agreement ("Agreement") is made on April 24, 2014 ("Effective Date"), and entered into by and between the City of Henderson, a political subdivision of the State of Nevada ("Henderson" or "City"), and the Henderson Municipal Court, the judicial branch of the City and part of the state constitutional judicial system ("Municipal Court").

WITNESSETH:

WHEREAS, on May 30, 2013, the Supreme Court of Nevada issued a decision in the matter captioned as *City of Sparks, Sparks Civil Service Commission v. Sparks Municipal Court*, 129 Nev. Adv. Op. No. 38 (hereinafter "the Case");

WHEREAS, the Case involved a legal dispute between the City of Sparks and its Municipal Court concerning whether the Sparks Municipal Court had the authority to administer its own budget once appropriated and to manage its employees without interference from the City of Sparks pursuant to the separation of powers doctrine of the Nevada Constitution and the Sparks Municipal Court's inherent authority;

WHEREAS, the Supreme Court in its decision of the Case clarified that municipal courts are the judicial branches of their respective city governments and, as co-equal branches of local governments and as part of the state's constitutional judicial system, such courts have the authority to exercise and manage their own affairs without interference from separate, co-equal governmental branches;

WHEREAS, the Henderson City Council, pursuant to the Henderson City Charter and Nevada Revised Statutes, is the governing body of Henderson;

WHEREAS, as the governing body of Henderson, the City Council authorizes and appropriates budgets for all departments, branches and divisions of the Henderson government, including the Municipal Court, and enacts all ordinances and resolutions for Henderson;

WHEREAS, although at present, there is no actual dispute between Henderson and the Municipal Court arising out of their mutual longstanding practice of subjecting City of Henderson Municipal Court employees (hereinafter "Municipal Court Employees") to provisions of the Henderson City Charter and Henderson Civil Service Rules, which govern Henderson's non-represented employees, or the mutual practice of allowing Henderson to handle the Municipal Court's personnel and human resources functions, and Henderson entering into collective bargaining agreements with labor organizations that have further affected the terms and conditions of employment, including wages and disciplinary procedures, for certain Municipal Court Employees;

WHEREAS, as a result of the Case, absent an agreement, the separation of powers doctrine and the Municipal Court's inherent authority, bar Henderson from continuing to act as it has, insofar as doing so could be deemed as Henderson interfering with the Municipal Court's control over personnel decisions;

WHEREAS, Municipal Court Employees, in the absence of some agreement between Henderson and the Municipal Court, stand to lose benefits they have been receiving;

WHEREAS, Henderson and the Municipal Court are desirous of entering into an Agreement to clarify and confirm their relationship with each other on personnel and human resources issues relating to Municipal Court Employees without jeopardizing any benefits which these employees currently receive, and with regard to other general operational matters; and

WHEREAS, Henderson and the Municipal Court also seek to promote efficiency and cost effectiveness to the citizens of Henderson by having Henderson continue to provide the existing infrastructure to the Municipal Court regarding budgeting, contracting, purchasing, facilities maintenance, computer usage and information technology, personnel/human resources, risk management, legal representation, workers' compensation and workplace safety rather than having the Municipal Court provide these functions independently;

NOW, THEREFORE, it is mutually agreed as follows:

1. Henderson recognizes that the Municipal Court is a separate, co-equal branch of the City's tripartite system of government.

2. To the maximum extent permitted by law, all Municipal Court Employees as listed in the attached Municipal Court Staff Complement, **Exhibit A**, shall continue to be treated in all respects as employees of Henderson. The Municipal Court shall exercise its management, control and supervision of all Municipal Court Employees in accordance with Henderson's Administrative Policies, employment policies and procedures, Civil Service Rules, or the terms of a collective bargaining agreement, as applicable. The Municipal Court shall involve Henderson's Human Resources Department in employee discipline for the purpose of maintaining compliance with federal and state employment laws. Henderson shall continue to be responsible for all compensation, benefits, and taxes of any nature related to Municipal Court Employees. Henderson shall continue to provide such Municipal Court Employees with the same rights, privileges and incidents of employment as similarly situated City employees pursuant to City policies and procedures, Civil Service Rules and the terms of any collective bargaining agreement to the maximum extent permitted by law.

3. To the maximum extent permitted by law, all Municipal Court Employees will continue to participate in Henderson's employee benefit plans, as may be amended by Henderson from time to time, for the duration of this Agreement.

4. Henderson will continue to assume responsibility for any currently pending and new Henderson workers' compensation claims arising through the term of this Agreement, that are attributed to Municipal Court Employees during such time period.

5. Henderson will continue to assume responsibility and provide legal representation and/or indemnification pursuant to Nevada law for any legal actions filed against the Municipal Court and/or its Judges and Municipal Court Employees arising through the term of this Agreement.

6. By and through this Agreement, the Municipal Court recognizes the current Clerical/Technical and Supervisors collective bargaining agreements, previously negotiated by Henderson and Teamsters Local 14 and in effect through June 30, 2014, which applies to the rights, compensation and benefits of certain Municipal Court Employees covered by the collective bargaining agreement. By recognizing such collective bargaining agreements, and any subsequent collective bargaining agreements entered into by Henderson with Teamsters Local 14 in effect during the term of this Agreement, the Municipal Court is not establishing any precedent or commitment to maintaining a bargaining relationship with Teamsters Local 14 beyond the term of this Agreement.

7. If there is no collective bargaining agreement entered into between Henderson and Teamsters Local 14 for Municipal Court Employees subsequent to June 30, 2014, or a reasonable time thereafter should negotiations extend beyond such time period, including any arbitration proceedings, the Municipal Court Employees who are currently covered by such agreements will become non-represented Municipal Court Employees, and such employees will receive the same conditions of employment and benefits as other non-represented Municipal Court Employees.

8. The Municipal Court and Henderson agree that the Municipal Court may participate with Henderson and be a member of Henderson's negotiation team and may designate a representative to speak on issues pertinent to the Municipal Court. As has always been the practice during contract negotiation, Henderson will develop the contract negotiation strategy and lead the negotiations. The Municipal Court further understands and agrees that Henderson will have final say on any collective bargaining agreement entered into during the term of this Agreement on behalf of the City and the Municipal Court.

9. Henderson and the Municipal Court agree to follow the Indigent Defense Administrative Plan submitted to the Nevada Supreme Court for ADKT No. 411 by the Municipal Court. The Independent Selection Committee shall make the Public Defender recommendation to the Henderson City Council for approval. Funding for the Public Defender contract will be a fully budgeted item in the Municipal Court's General Fund budget pursuant to the contracted amounts approved by the Henderson City Council.

10. Throughout the term of this Agreement, Henderson's Human Resources Department will provide comprehensive personnel services for the Municipal Court, including classification and compensation, recruitment, employee relations, personnel systems and records, employee assistance and wellness, and other related services. As set forth above, the Municipal Court will exercise management, supervision and control of all Municipal Court Employees pursuant to Henderson's Administrative Policies, employee policies and procedures, Civil Service Rules and the terms of any collective bargaining agreement.

11. The Municipal Court understands and acknowledges that Henderson instituted a salary freeze affecting all Henderson employees, including Municipal Court Employees, during the 2013 Fiscal Year and such salary freeze is still in place as of the 2014 Fiscal Year. The Municipal Court also understands that during the 2013 Fiscal Year, Henderson commenced a class and compensation study wherein all existing Henderson and Municipal Court job categories, position titles, job descriptions and total compensation are being reviewed and compared with the same information from other jurisdictions to determine the market competitiveness of such Henderson and Municipal Court job categories. The Municipal Court agrees that with regard to Municipal Court Employees, it will continue to be bound to the instant salary freeze and will work in good faith in determining whether to apply the recommendations of Henderson's class and compensation study to Municipal Court Employees, which may include a modification to the salary ranges for various employees, but will not result in a decrease of the current salary for any individual employee. Henderson agrees to provide notice of the results and recommendations of the class and compensation study to the Municipal Court before any changes are adopted by the Municipal Court with regard to Municipal Court Employees.

12. During the term of this Agreement, the Municipal Court agrees to follow all Henderson Administrative Policies, Civil Service Rules, personnel rules outlined in any applicable collective bargaining agreement, ethics standards and employee policies and procedures, as such policies and procedures may be amended by Henderson from time to time, including but not limited to policies and procedures relating to: budgeting, contracting, fiscal management, purchasing, facilities maintenance, anti-discrimination, harassment and EEO, computer usage and information technology, risk management, workplace safety and any other policy or procedure enacted by Henderson after execution of this Agreement that would generally be applicable to all Henderson departments and employees.

13. The Municipal Court understands that Henderson modifies its health coverage and other benefits, including policies on annual and sick leave, on a regular basis, and that non-represented Municipal Court Employees will have their benefits adjusted in the same fashion as Henderson employees during the term of this Agreement, including

Henderson's conversion to a Paid Time Off program for non-represented employees effective July 1, 2014. Henderson agrees to provide notice of any proposed modification(s) to the Municipal Court before any health and benefit changes are made that would apply to the non-represented Municipal Court Employees or Municipal Judges, who will continue to participate under Henderson's Elected Officials Benefit Plan. The Municipal Court will also have a liaison for purposes of procuring information associated with any proposed changes to the employee health plan, policies on leave and other benefits. The Municipal Court further understands and agrees that the final decision on all Municipal Court Employee benefits will be made by Henderson.

14. During the term of this Agreement, Henderson may make adjustments to the compensation schedules of Henderson employees pursuant to Henderson policies, budget projections, and Henderson City Council action regarding class and compensation for employees as discussed in paragraph 11 above. **Exhibit B** of this Agreement includes a copy of the current salary schedule for Municipal Court Employees. Unless Henderson enters into a new collective bargaining agreement for Municipal Court Employees currently covered by the Teamsters Local 14 collective bargaining agreement in effect with Henderson, the Municipal Court agrees not to modify the salary schedule in **Exhibit B** unless it mutually agrees to do so with Henderson. In addition, the Municipal Court agrees that non-represented Municipal Court Employees will receive future salary increases, or any other additional compensation, pursuant to the same policies and procedures as Henderson's non-represented employees, which are budgeted and approved at the discretion of the City Council.

15. This Agreement in no way alters the Henderson City Council's powers to determine the budget of Henderson, including that of the Municipal Court. During the term of this Agreement, Henderson shall follow its traditional and historic budgeting process for the Municipal Court as part of the overall Henderson budget with the understanding that once said budget has been allocated, the Municipal Court shall follow Henderson fiscal management policies and procedures, but shall otherwise have discretion regarding administration of and expenditures from its budget. As part of this Agreement, Henderson agrees to reimburse the Municipal Court up to $35,000 per fiscal year for the Municipal Court's outside counsel fees, which fees may only be used in order to effectuate this Agreement, any renewals thereto, or for disputes relating to this Agreement pursuant to paragraph 24 below.

16. Within 90 days of the effective date of this Agreement, Henderson agrees to amend Henderson Municipal Code Section 2.05 in order to properly reflect the current salaries of Municipal Court Judges and to provide for a three percent (3%) salary increase for each Municipal Court Judge. Effective the first pay period of fiscal year 2016, the Municipal Court Judges shall receive an additional three percent (3%) salary increase. Should this Agreement be extended beyond July 1, 2016, effective the first pay period of

fiscal year 2017, and each fiscal year thereafter while this Agreement is in effect, the base salary for Municipal Court Judges shall be increased by the same formula used to determine increases in salary for members of the City Council, which formula is described in Henderson Municipal Code section 2.01.030. During the term of this Agreement, including any renewals thereof, Henderson also agrees to provide all Municipal Court Judges with a non-PERS eligible professional allowance of $400 per month.

17. Henderson agrees that, during the term of this Agreement, any Municipal Court Judge may elect to become a member of the Nevada Judicial Public Employee Retirement System pursuant to Nevada law and Henderson will make the required contribution for such election.

18. This Agreement does not provide for the acquisition, holding or disposal of real or personal property as the Municipal Court's facilities and equipment are owned and maintained by Henderson. Henderson shall continue to pay all necessary expenses associated with maintaining and renovating, as necessary, the Municipal Court's facilities in the same manner Henderson has historically done, and this Agreement in no way alters Henderson's legal ownership of such property and any rights attached with such legal ownership.

19. Henderson shall continue to receive all Municipal Court revenues in the same manner and to the same extent as it has prior to the execution of this Agreement pursuant to the Henderson City Charter and Nevada law. This Agreement in no way alters Henderson's legal right and ability to collect and dispose of money pursuant to Section 3.130 of the Henderson City Charter, Nevada Revised Statutes Chapter 176 and/or any other applicable provision of the Nevada Revised Statutes.

20. No separate legal or administrative entity is created by this Agreement. To the extent necessary, this Agreement shall be administered by the City Manager or his designee on behalf of Henderson, and by the Chief Judge or Court Administrator for the Municipal Court, or their designee, collectively as a Joint Administrative Board. The Joint Administrative Board shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such administrators are replaced, the party making the administrator replacement shall notify the other party in writing.

21. Any notices or other communication given hereunder shall be deemed sufficient, if in writing and delivered personally to the addressee, or sent by certified or registered mail, return receipt requested, addressed as follows, or to such other address as may be designated by the addressee by written notice to the other party:

To Henderson:	**City Manager** City of Henderson 240 Water Street P.O. Box 95050 MSC 141 Henderson, NV 89009-5050
To Municipal Court:	**Chief Judge** Henderson Municipal Court 243 Water Street P.O. Box 95050 MSC 621 Henderson, NV 89009-5050

22. The rights, duties, and obligations of either party to this Agreement shall not be assignable by either party.

23. Whenever Henderson and the Municipal Court disagree as to the interpretation or application of any provision of this Agreement, or if a dispute in the form of an alleged breach of this Agreement is communicated between the parties in writing, the dispute resolution process discussed in this paragraph shall govern. The parties agree to endeavor first to resolve any dispute informally through discussion at the level of the Joint Administrative Board. In the event a dispute cannot be resolved informally at the level of the Joint Administrative Board, then the parties agree to submit the dispute to mediation governed by a mediator pursuant to the American Arbitration Association's Commercial Arbitration Rules and Mediation Procedures before resorting to arbitration. The mediator must be selected by agreement of the Joint Administrative Board. Following mediation, any unresolved dispute or claim arising from or relating to this Agreement or breach thereof shall be settled through binding arbitration which shall be conducted pursuant to the American Arbitration Association's Commercial Arbitration Rules and Mediation Procedures. The arbitrator shall be selected by agreement of the Joint Administrative Board. All fees and expenses for mediation or arbitration shall be borne by Henderson and the Municipal Court equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of evidence subject to paragraph 15 above. The parties understand and agree that until any dispute is resolved; all non-disputed portions of the Agreement shall continue to be enforced by both parties.

24. This Agreement contains the entire understanding between Henderson and the Municipal Court and supersedes any prior understandings and agreements between them regarding the subject matter hereof. There are no other representations, agreements, or understandings, oral or written, between the parties hereto relating to the subject matter of this Agreement. No amendment of this Agreement shall be valid or effective unless made in writing and executed by the parties hereto.

25. The term of this Agreement shall commence upon the Effective Date and shall expire on July 1, 2016 ("the Stated Term") unless terminated earlier as provided herein.

26. Neither party may terminate this Agreement before the end of the Stated Term unless both parties agree in writing.

27. If neither party elects to terminate this Agreement at least six (6) months prior to the end of the Stated Term, this Agreement shall automatically extend for an additional four (4) year term. If either party provides written notice of its intent to terminate this Agreement six (6) months before the end of the Stated Term or any subsequent renewal term, each party to this Agreement shall act in good faith and shall aid and assist the other party in executing a new Agreement for the benefit of the residents of Henderson.

28. Each party to this Agreement shall act in good faith and shall aid and assist the other in accomplishing the objectives of this Agreement.

29. No part of this Agreement shall be construed as or deemed a contract for the benefit of any third party or parties and no third party or parties shall have any right to action hereunder for any cause whatsoever.

30. This Agreement shall be governed by and interpreted according to the laws of the State of Nevada.

31. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. Any provision of this Agreement that shall prove to be invalid, void or illegal shall in no way affect, impair, or invalidate any other provision hereof, and such other provisions shall remain in full force and effect. Time is of the essence as to each and every provision contained herein.

IN WITNESS WHEREOF, we place our hands the day and year first above written.

CITY OF HENDERSON:	HENDERSON MUNICIPAL COURT
By: _____	By: Bill Zihlmann _____
for **Jacob Snow** City Manager	**Bill Zihlmann,** Court Administrator
ATTEST: _____	By: _____
Sabrina Mercadante, MMC City Clerk	**Richard A. Derrick** Chief Financial Officer

APPROVED AS TO FORM:

Josh M. Reid
City Attorney

Scott M. Abbott
Legal Counsel for Municipal Court

EXHIBIT - A

Exhibit "A"
Municipal Court Staff Complement (FIN)

Class	Home Entity	Position	Pos #	Employee #
Clerical/Tech	2073-5005	Accounting Clerk	00002969	17051
Clerical/Tech	1001-5001	Accounting Clerk - PT	00003910	10898
Managerial	1001-5001	Asst Court Administrator	00000844	16143
Management 40	1001-5001	Chief Court Marshal	00002191	Vacant
Managerial	1001-5001	Court Administrator	00000274	11690
Clerical/Tech	1001-5001	Court Clerk II	00000275	11253
Clerical/Tech	1001-5001	Court Support Specialist	00000033	12803
Clerical/Tech	1001-5001	Court Support Specialist	00000034	Vacant
Clerical/Tech	1001-5001	Court Support Specialist	00000276	16944
Clerical/Tech	1001-5001	Court Support Specialist	00000277	14734
Clerical/Tech	1001-5001	Court Support Specialist	00000278	22682
Clerical/Tech	1001-5001	Court Support Specialist	00000289	14911
Clerical/Tech	1001-5001	Court Support Specialist	00000290	16590
Clerical/Tech	1001-5001	Court Support Specialist	00000292	21337
Clerical/Tech	1001-5001	Court Support Specialist	00000293	20928
Clerical/Tech	1001-5001	Court Support Specialist	00000294	15924
Clerical/Tech	1001-5001	Court Support Specialist	00000296	12635
Clerical/Tech	1001-5001	Court Support Specialist	00000297	16306
Clerical/Tech	1001-5001	Court Support Specialist	00000300	13281
Clerical/Tech	1001-5001	Court Support Specialist	00000302	17100
Clerical/Tech	1001-5001	Court Support Specialist	00000304	15259
Clerical/Tech	1001-5001	Court Support Specialist	00002542	13060
Clerical/Tech	1001-5001	Court Support Specialist	00002735	22149
Clerical/Tech	1001-5001	Court Support Specialist	00002736	24265
Clerical/Tech	1001-5001	Court Support Specialist	00002737	17048
Clerical/Tech	1001-5001	Court Support Specialist	00002738	21935
Clerical/Tech	1001-5001	Court Support Specialist	00002971	16862
Clerical/Tech	1001-5001	Court Support Specialist	00003076	23404
Clerical/Tech	1001-5001	Court Support Specialist	00003181	14063
Clerical/Tech	1001-5001	Court Support Specialist	00003182	13311
Clerical/Tech	1001-5001	Court Support Specialist	00003183	14171
Clerical/Tech	1001-5001	Court Support Specialist	00003184	22613
Clerical/Tech	1001-5001	Court Support Specialist	00003185	22614
Clerical/Tech	1001-5001	Court Support Specialist	00003371	22759
Clerical/Tech	1001-5001	Court Support Specialist	00003372	20199
Clerical/Tech	1001-5001	Court Support Specialist PT	00000870	Vacant
Clerical/Tech	1001-5001	Court Support Specialist PT	00000878	Vacant
Clerical/Tech	1001-5001	Court Support Specialist-PE	00003996	24442
Supervisor	1001-5001	Executive Administrative Asst	00002922	20930
Technical	1001-5001	Judicial Assistant	00000021	16686
Technical	1001-5001	Judicial Assistant	00002149	14244
Technical	1001-5001	Judicial Assistant	00002780	13232
Elected	1001-5001	Municipal Court Judge	00000837	13203
Elected	1001-5001	Municipal Court Judge	00000838	16575

Exhibit "A"
Municipal Court Staff Complement (FIN)

Class	Home Entity	Position	Pos #	Employee #
Elected	1001-5001	Municipal Court Judge	00002779	15780
Technical 40 Hour	1001-5001	Municipal Court Marshal	00000279	17050
Technical 40 Hour	1001-5001	Municipal Court Marshal	00000280	17373
Technical 40 Hour	1001-5001	Municipal Court Marshal	00000839	23253
Technical 40 Hour	1001-5001	Municipal Court Marshal	00000840	22683
Technical 40 Hour	1001-5001	Municipal Court Marshal	00000841	17618
Technical 40 Hour	1001-5001	Municipal Court Marshal	00000842	12102
Technical 40 Hour	1001-5001	Municipal Court Marshal	00000843	22684
Technical 40 Hour	1001-5001	Municipal Court Marshal	00002379	24886
Technical 40 Hour	1001-5001	Municipal Court Marshal	00002720	17075
Technical 40 Hour	1001-5001	Municipal Court Marshal	00002739	Vacant
Technical 40 Hour	1001-5001	Municipal Court Marshal	00002773	17096
Technical 40 Hour	1001-5001	Municipal Court Marshal	00002970	22007
Technical 40 Hour	1001-5001	Municipal Court Marshal	00003370	23252
Professional 40	1001-5001	Municipal Court Marshal Sgt	00003163	11820
Professional 40	1001-5001	Municipal Court Marshal Sgt	00003369	15123
Clerical/Tech	1001-5001	Sr Accounting Clerk	00002180	14243
Supervisor	1001-5001	Supervising Court Support Spc	00000208	14309
Supervisor	1001-5001	Supervising Court Support Spc	00002275	14120
Supervisor	1001-5001	Supervising Court Support Spc	00002772	17046
Technical	1001-5001	Systems Support Analyst	00002972	22004

EXHIBIT - B

Exhibit "B"
Current Salary Schedule for Municipal Court Employees as of 3-18-14

Position Title	Sal Grade	Min/Anni	Max/Anni	Min/Hrly	Max/Hrly
Accounting Clerk	Clerical 405	$ 46,850.960	$ 53,644.448	$ 23.710	$ 27.148
Asst Court Administrator	Managerial 100	$ 74,709.187	$ 117,685.282	$ 37.808	$ 59.557
Chief Court Marshal	Managerial 201	$ 79,640.650	$ 125,453.546	$ 38.289	$ 60.314
Court Administrator	Managerial 400	$ 96,513.420	$ 152,032.315	$ 48.843	$ 76.939
Court Clerk II	Clerical 416	$ 49,413.832	$ 56,576.832	$ 25.007	$ 28.632
Court Support Specialist	Clerical 405	$ 46,850.960	$ 53,644.448	$ 23.710	$ 27.148
Executive Administrative Asst	Supervisor 429	$ 55,096.808	$ 63,085.776	$ 27.883	$ 31.926
Judicial Assistant	Technical 400	$ 47,760.621	$ 75,235.301	$ 24.170	$ 38.075
Municipal Court Judge	Elected 100	$ 137,866.657	$ 137,866.657	$ 69.771	$ 69.771
Municipal Court Marshal	Technical 601	$ 57,129.280	$ 89,995.360	$ 27.466	$ 43.267
Municipal Court Marshal Sgt	Professional 301	$ 65,744.292	$ 103,563.383	$ 31.608	$ 49.790
Sr Accounting Clerk	Clerical 406	$ 47,277.776	$ 54,132.520	$ 23.926	$ 27.395
Supervising Court Support Spc	Supervisor 435	$ 56,804.072	$ 65,043.992	$ 28.747	$ 32.917
Systems Support Analyst	Technical 600	$ 54,272.411	$ 85,495.869	$ 27.466	$ 43.267

Exhibit "B"
Current Salary Schedule for Municipal Court Employees as of 3-18-14

Hrs/Wk
38.00
38.00
40.00
38.00
38.00
38.00
38.00
38.00
38.00
40.00
40.00
38.00
38.00
38.00

CHAPTER 5 - MUNICIPAL COURTS

GENERAL PROVISIONS

NRS 5.010	**General requirements for court; designation as court of record.**
NRS 5.020	**Municipal judges: Election; term; oath; qualifications; justice of the peace as ex officio municipal judge.**
NRS 5.023	**Municipal judges pro tempore.**
NRS 5.024	**Senior municipal judges.**
NRS 5.025	**Courses of instruction for municipal judges; payment of costs.**
NRS 5.026	**Attendance required at courses of instruction; penalty for unexcused absence.**
NRS 5.030	**Compensation of municipal judges.**
NRS 5.040	**Municipal judges: Power to take and certify acknowledgments.**
NRS 5.045	**Report of certain statistical information to be submitted to Court Administrator.**
NRS 5.050	**Jurisdiction.**
NRS 5.052	**Administration of program of supervision for persons with suspended sentences or persons sentenced to residential confinement.**
NRS 5.055	**Suspension of sentence; conditions of suspension; reduction of sentence; arrest for violation of condition of suspension.**
NRS 5.057	**Determination if defendant is a veteran or member of military; alternative program of treatment.**
NRS 5.060	**Process, writs and warrants.**
NRS 5.065	**Use of facsimile signature: Conditions and restrictions.**
NRS 5.070	**Municipal courts always open.**
NRS 5.073	**Conformity of practice and proceedings to those of justice courts; exception; imposition and collection of fees.**
NRS 5.075	**Form of docket and records.**

RESIDENTIAL CONFINEMENT

NRS 5.0755	**"Residential confinement" defined.**
NRS 5.076	**Power to order; conditions of sentence; maximum term; arrest for violation of condition.**
NRS 5.077	**Establishment and modification of terms and conditions.**
NRS 5.078	**Violation of terms and conditions.**

APPEALS TO DISTRICT COURT FROM MUNICIPAL COURTS IN CITIES INCORPORATED UNDER GENERAL OR SPECIAL LAWS

NRS 5.080	**Notice of intention to appeal; bail.**
NRS 5.090	**Judgment on appeal; notice to municipal court; payment of fines.**

GENERAL PROVISIONS

NRS 5.010 General requirements for court; designation as court of record. There must be in each city a municipal court presided over by a municipal judge. The municipal court:

1. Must be held at such place in the city within which it is established as the governing body of that city may by ordinance direct.
2. May by ordinance be designated as a court of record.

[35:19:1865; B § 940; BH § 2454; C § 2535; RL § 4855; NCL § 8397]—(NRS A 1983, 899; 1985, 671; 1991, 161)

NRS 5.020 Municipal judges: Election; term; oath; qualifications; justice of the peace as ex officio municipal judge.

1. Except as provided in subsection 3 and NRS 266.405, each municipal judge must be chosen by the electors of the city within which the municipal court is established on a day to be fixed by the governing body of that city. The term of office of a municipal judge is the period fixed by:

(a) An ordinance adopted by the city if the city is organized under general law; or

(b) The charter of the city if the city is organized under a special charter.

➥ Before entering upon his or her duties, a municipal judge shall take the constitutional oath of office.

2. A municipal judge must:

(a) Be a citizen of the State;

(b) Except as otherwise provided in the charter of a city organized under a special charter, have been a bona fide resident of the city for not less than 1 year next preceding his or her election;

(c) Be a qualified elector in the city; and

(d) Not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline.

3. The governing body of a city, with the consent of the board of county commissioners and the justice of the peace, may provide that a justice of the peace of the township in which the city is located is ex officio the municipal judge of the city.

4. For the purposes of this section, a person shall not be ineligible to be a candidate for the office of municipal judge if a decision to remove or retire the person from a judicial office is pending appeal before the Supreme Court or has been overturned by the Supreme Court.

[36:19:1865; B § 941; BH § 2454; C § 2536; RL § 4856; NCL § 8398]—(NRS A 1983, 899; 1985, 671; 1999, 95, 1183)

NRS 5.023 Municipal judges pro tempore.

1. The governing body of the city shall select a number of persons it determines appropriate to comprise a panel of substitute municipal judges. The persons selected must not have ever been removed or retired from any judicial office by the Commission on Judicial Discipline and must be:

(a) Members in good standing of the State Bar of Nevada;

(b) Adult residents of the city; or

(c) Justices of the peace of the county.

2. Whenever a municipal judge is disqualified from acting in a case pending in the municipal court or is unable to perform his or her duties because of his or her temporary sickness or absence, the municipal judge shall, if necessary, appoint a person from the panel of substitute municipal judges to act in his or her place.

3. A person so appointed must take and subscribe to the official oath before acting as a municipal judge pro tempore. While acting in that capacity, the municipal judge pro tempore is entitled to receive a per diem salary set by the governing body. The annual sum expended for salaries of municipal judges pro tempore must not exceed the amount budgeted for that expense by the governing body.

4. If an appointment of a municipal judge pro tempore becomes necessary and the municipal judge fails or is unable to make the appointment, the mayor shall make the appointment from the panel of substitute municipal judges.

5. For the purposes of this section, a person shall not be ineligible to be a candidate for the office of municipal judge pro tempore if a decision to remove or retire the person from a judicial office is pending appeal before the Supreme Court or has been overturned by the Supreme Court.

(Added to NRS by 1981, 1639; A 1983, 899; 1999, 95)

NRS 5.024 Senior municipal judges.

1. Notwithstanding any other provision of law or city charter, a senior municipal judge who serves in that capacity or a senior justice of the peace who serves in that capacity and who formerly served as a municipal judge may serve temporarily in any municipal court in this State, regardless of whether he or she is a resident of the city in which the municipal court to which he or she is assigned is located.

2. As used in this section:

(a) "Senior justice of the peace" means a former justice of the peace who has received a commission from the Supreme Court to serve as a senior justice of the peace pursuant to the rules prescribed by the Supreme Court.

(b) "Senior municipal judge" means a former judge of a municipal court who has received a commission from the Supreme Court to serve as a senior municipal judge pursuant to the rules prescribed by the Supreme Court.

(Added to NRS by 2005, 105)

NRS 5.025 Courses of instruction for municipal judges; payment of costs.

1. The Court Administrator shall, at the direction of the Chief Justice of the Supreme Court, arrange for the giving of instruction, at the National Judicial College in Reno, Nevada, or elsewhere:

(a) In court procedure, recordkeeping and the elements of substantive law appropriate to a municipal court, to each municipal judge who is first elected or appointed to office after July 1, 1971, and to other such judges who so desire and who can be accommodated, between each election designated for the election of such judges and the date of entering office.

(b) In statutory amendments and other developments in the law appropriate to a municipal court, to all such judges at convenient intervals.

2. Each city shall pay to the Supreme Court the city's pro rata share of the costs of such instruction as budgeted for pursuant to the Local Government Budget and Finance Act.

3. The Supreme Court shall deposit with the State Treasurer, for credit to the appropriate account of the Supreme Court, all money received pursuant to subsection 2.

(Added to NRS by 1971, 838; A 1975, 1025; 1977, 362; 1981, 253; 1983, 109, 900; 2001, 1819)

NRS 5.026 Attendance required at courses of instruction; penalty for unexcused absence.

1. Each municipal judge who is first elected or appointed to office after July 1, 1971, shall attend the instruction provided pursuant to NRS 5.025, on the first occasion when such instruction is offered after the election or appointment of the municipal judge, unless excused by written order of a judge of the district court in and for the county where the city is situated, which must be filed with the Court Administrator. Such an order is final for all purposes.

2. If a municipal judge fails to attend such instruction without securing a written order pursuant to subsection 1, the municipal judge forfeits his or her office.

(Added to NRS by 1971, 838; A 1977, 363; 1983, 900)

NRS 5.030 Compensation of municipal judges. Each municipal judge is entitled to receive compensation as fixed by the charter of the city or, if not fixed by a charter, by the governing body of the city, to be paid by the city. That compensation must not be diminished during the period for which the judge is elected. The compensation may be increased during that period if so provided in the charter of the city.

[37:19:1865; B § 942; BH § 2456; C § 2537; RL § 4857; NCL § 8399]—(NRS A 1983, 900; 1989, 283)

NRS 5.040 Municipal judges: Power to take and certify acknowledgments. Municipal judges, within their respective cities, may take and certify:

1. The acknowledgment of conveyances and the satisfaction of a judgment of any court.

2. An affidavit to be used in any court of justice in this state.

[Part 63:19:1865; B § 968; BH § 2482; C § 2563; RL § 4883; NCL § 8425]—(NRS A 1983, 900)

NRS 5.045 Report of certain statistical information to be submitted to Court Administrator. In the time and manner prescribed by the Supreme Court, the municipal judge of a city or, if there is more than one municipal judge for a city, a municipal judge designated by mutual consent of the other municipal judges of that city, shall submit to the Court Administrator a written report of the statistical information required pursuant to this section and such other statistical information as prescribed by the Supreme Court. The report must include, without limitation, statistical information concerning:

1. Those cases which are pending and undecided and the municipal judge to whom each case has been assigned;
2. The type and number of cases each municipal judge considered during the preceding month;
3. The number of cases submitted to each municipal judge during the preceding month;
4. The number of cases decided by each municipal judge during the preceding month; and
5. The number of full judicial days in which each municipal judge appeared in court or in chambers in performance of his or her duties during the preceding month.

(Added to NRS by 1999, 707)

NRS 5.050 Jurisdiction.

1. Municipal courts have jurisdiction of civil actions or proceedings:

(a) For the violation of any ordinance of their respective cities.

(b) To prevent or abate a nuisance within the limits of their respective cities.

2. The municipal courts have jurisdiction of all misdemeanors committed in violation of the ordinances of their respective cities. Upon approval of the district court, a municipal court may transfer original jurisdiction of a misdemeanor to the district court for the purpose of assigning an offender to a program established pursuant to NRS 176A.250 or 176A.280.

3. The municipal courts have jurisdiction of:

(a) Any action for the collection of taxes or assessments levied for city purposes, when the principal sum thereof does not exceed $2,500.

(b) Actions to foreclose liens in the name of the city for the nonpayment of those taxes or assessments when the principal sum claimed does not exceed $2,500.

(c) Actions for the breach of any bond given by any officer or person to or for the use or benefit of the city, and of any action for damages to which the city is a party, and upon all forfeited recognizances given to or for the use or benefit of the city, and upon all bonds given on appeals from the municipal court in any of the cases named in this section, when the principal sum claimed does not exceed $2,500.

(d) Actions for the recovery of personal property belonging to the city, when the value thereof does not exceed $2,500.

(e) Actions by the city for the collection of any damages, debts or other obligations when the amount claimed, exclusive of costs or attorney's fees, or both if allowed, does not exceed $2,500.

(f) Actions seeking an order pursuant to NRS 441A.195.

4. Nothing contained in subsection 3 gives the municipal court jurisdiction to determine any such cause when it appears from the pleadings that the validity of any tax, assessment or levy, or title to real property, is necessarily an issue in the cause, in which case the court shall certify the cause to the district court in like manner and with the same effect as provided by law for certification of causes by justice courts.

[33:19:1865; B § 938; BH § 2452; C § 2533; RL § 4853; NCL § 8395] + [34:19:1865; B § 939; BH § 2453; C § 2534; RL § 4854; NCL § 8396]—(NRS A 1959, 853; 1981, 652, 1928; 1985, 129, 671; 1991, 454; 2001 Special Session, 258; 2009, 111; 2013, 599)

NRS 5.052 Administration of program of supervision for persons with suspended sentences or persons sentenced to residential confinement.

1. If the city in which a municipal court is situated has a department of alternative sentencing, the chief of that department shall administer a program of supervision for persons whose sentences have been suspended pursuant to NRS 5.055 or who are sentenced to a term of residential confinement pursuant to NRS 5.076.

2. If the city in which the municipal court is situated does not have a department of alternative sentencing and:

(a) The county in which the municipal court is situated has a department of alternative sentencing, the chief of the department of alternative sentencing of the county shall administer the program of supervision.

(b) The county in which the municipal court is situated does not have a department of alternative sentencing, the municipal court may contract with a qualified person to administer the program of supervision.

(Added to NRS by 1987, 2232; A 1995, 873; 2009, 2259)

NRS 5.055 Suspension of sentence; conditions of suspension; reduction of sentence; arrest for violation of condition of suspension.

1. Except as otherwise provided in subsection 2, NRS 211A.127 or another specific statute, or unless the suspension of a sentence is expressly forbidden, a municipal judge may suspend, for not more than 2 years, the sentence of a person convicted of a misdemeanor. If the circumstances warrant, the municipal judge may order as a condition of suspension that the offender:

(a) Make restitution to the owner of any property that is lost, damaged or destroyed as a result of the commission of the offense;

(b) Engage in a program of community service, for not more than 200 hours;

(c) Actively participate in a program of professional counseling at the expense of the offender;

(d) Abstain from the use of alcohol and controlled substances;

(e) Refrain from engaging in any criminal activity;

(f) Engage or refrain from engaging in any other conduct deemed appropriate by the municipal judge;

(g) Submit to a search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(h) Submit to periodic tests to determine whether the offender is using any controlled substance or alcohol.

2. If a person is convicted of a misdemeanor that constitutes domestic violence pursuant to NRS 33.018, the municipal judge may, after the person has served any mandatory minimum period of confinement, suspend the remainder of the sentence of the person for not more than 3 years upon the condition that the person actively participate in:

(a) A program of treatment for the abuse of alcohol or drugs which is certified by the Division of Public and Behavioral Health of the Department of Health and Human Services;

(b) A program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 228.470; or

(c) The programs set forth in paragraphs (a) and (b),

➥ and that the person comply with any other condition of suspension ordered by the municipal judge.

3. The municipal judge may order reports from a person whose sentence is suspended at such times as the municipal judge deems appropriate concerning the compliance of the offender with the conditions of suspension. If the offender complies with the conditions of suspension to the satisfaction of the municipal judge, the sentence may be reduced to not less than the minimum period of confinement established for the offense.

4. The municipal judge may issue a warrant for the arrest of an offender who violates or fails to fulfill a condition of suspension.

(Added to NRS by 1987, 1135; A 1989, 199; 1997, 34, 1477, 1806; 1999, 486, 1382, 1877; 2001, 87, 429; 2001 Special Session, 122; 2005, 66)

NRS 5.057 Determination if defendant is a veteran or member of military; alternative program of treatment.

1. Before accepting a plea from a defendant or proceeding to trial, the municipal judge shall address the defendant personally and ask the defendant if he or she is a veteran or a member of the military.

2. If the defendant is a veteran or a member of the military and meets the qualifications of NRS 176A.285, the municipal court may, if appropriate, take any action authorized by law for the purpose of having the defendant assigned to:

(a) A program of treatment established pursuant to NRS 176A.280; or

(b) If a program of treatment established pursuant to NRS 176A.280 is not available for the defendant, a program of treatment established pursuant to NRS 176A.250 or 453.580.

3. As used in this section:

(a) "Member of the military" has the meaning ascribed to it in NRS 176A.043.

(b) "Veteran" has the meaning ascribed to it in NRS 176A.090.

(Added to NRS by 2009, 111)

NRS 5.060 Process, writs and warrants.

1. Municipal judges and municipal courts may issue all legal process, writs and warrants necessary and proper to the complete exercise of their powers.

2. All warrants issued by the municipal court must run to any sheriff or constable of the county, the marshal or any police officer of the city, or a marshal or park ranger who is part of a unit of specialized law enforcement established pursuant to NRS 280.125.

3. Any constable or sheriff may serve any process or make any arrest authorized to be made by any officer of a city.

[39:19:1865; B § 944; BH § 2458; C § 2539; RL § 4859; NCL § 8401]—(NRS A 1983, 901; 1985, 672; 1995, 159)

NRS 5.065 Use of facsimile signature: Conditions and restrictions.

1. Each municipal judge may use a facsimile signature produced through a mechanical device in place of his or her handwritten signature whenever the necessity arises and upon approval of the Supreme Court, subject to the following conditions:

(a) That the mechanical device must be of such a nature that the facsimile signature may be removed from the mechanical device and kept in a separate secure place.

(b) That the use of the facsimile signature may be made only under the direction and supervision of the municipal judge whose signature it represents.

(c) That the entire mechanical device must at all times be kept in a vault, securely locked, when not in use, to prevent any misuse of the device.

2. No facsimile signature produced through a mechanical device authorized by the provisions of this section may be combined with the signature of another officer.

(Added to NRS by 1989, 999)

NRS 5.070 Municipal courts always open. There shall be no terms in municipal courts. These courts shall always be open.

[40:19:1865; B § 945; BH § 2459; C § 2540; RL § 4860; NCL § 8402]

NRS 5.073 Conformity of practice and proceedings to those of justice courts; exception; imposition and collection of fees.

1. The practice and proceedings in the municipal court must conform, as nearly as practicable, to the practice and proceedings of justice courts in similar cases. An appeal perfected transfers the action to the district court for trial anew, unless the municipal court is designated as a court of record as provided in NRS 5.010. The municipal court must be treated and considered as a justice court whenever the proceedings thereof are called into question.

2. Each municipal judge shall charge and collect such fees prescribed in NRS 4.060 that are within the jurisdictional limits of the municipal court.

(Added to NRS by 1989, 903; A 1991, 455; 1997, 115)

NRS 5.075 Form of docket and records. The Court Administrator shall prescribe the form of the docket and of any other appropriate records to be kept by the municipal court, which form may vary from court to court according to the number and kind of cases customarily heard and whether the court is designated as a court of record pursuant to NRS 5.010.

(Added to NRS by 1971, 1997; A 1991, 161)

RESIDENTIAL CONFINEMENT

NRS 5.0755 "Residential confinement" defined. As used in NRS 5.0755 to 5.078, inclusive, "residential confinement" means the confinement of a person convicted of a misdemeanor to the person's place of residence under the terms and conditions established by the sentencing court.

(Added to NRS by 1987, 2231)

NRS 5.076 Power to order; conditions of sentence; maximum term; arrest for violation of condition.

1. Except as otherwise provided in subsection 7, in lieu of imposing any punishment other than a minimum sentence required by statute, a municipal judge may sentence a person convicted of a misdemeanor to a term of residential confinement. In making this determination, the municipal judge shall consider the criminal record of the convicted person and the seriousness of the crime committed.

2. In sentencing a convicted person to a term of residential confinement, the municipal judge shall:

(a) Require the convicted person to be confined to his or her residence during the time the convicted person is away from his or her employment, public service or other activity authorized by the municipal judge; and

(b) Require intensive supervision of the convicted person, including, without limitation, electronic surveillance and unannounced visits to his or her residence or other locations where the convicted person is expected to be in order to determine whether the convicted person is complying with the terms of his or her sentence.

3. In sentencing a convicted person to a term of residential confinement, the municipal judge may, when the circumstances warrant, require the convicted person to submit to:

(a) A search and seizure by the chief of a department of alternative sentencing, an assistant alternative sentencing officer or any other law enforcement officer at any time of the day or night without a search warrant; and

(b) Periodic tests to determine whether the offender is using a controlled substance or consuming alcohol.

4. Except as otherwise provided in subsection 5, an electronic device may be used to supervise a convicted person sentenced to a term of residential confinement. The device must be minimally intrusive and limited in capability to recording or transmitting information concerning the presence of the person at his or her residence, including, but not limited to, the transmission of still visual images

which do not concern the activities of the person while inside his or her residence. A device which is capable of recording or transmitting:

(a) Oral or wire communications or any auditory sound; or

(b) Information concerning the activities of the person while inside his or her residence,

➥ must not be used.

5. An electronic device must be used in the manner set forth in subsection 4 to supervise a person who is sentenced pursuant to paragraph (b) of subsection 1 of NRS 484C.400 for a second violation within 7 years of driving under the influence of intoxicating liquor or a controlled substance.

6. A term of residential confinement, together with the term of any minimum sentence required by statute, may not exceed the maximum sentence which otherwise could have been imposed for the offense.

7. The municipal judge shall not sentence a person convicted of committing a battery which constitutes domestic violence pursuant to NRS 33.018 to a term of residential confinement in lieu of imprisonment unless the municipal judge makes a finding that the person is not likely to pose a threat to the victim of the battery.

8. The municipal judge may issue a warrant for the arrest of a convicted person who violates or fails to fulfill a condition of residential confinement.

(Added to NRS by 1987, 2231; A 1991, 57, 1726; 1993, 1500; 1997, 1478, 1807, 3361; 1999, 669, 675, 2143)

NRS 5.077 Establishment and modification of terms and conditions.

1. In sentencing a person to a term of residential confinement, a municipal judge may establish the terms and conditions of that confinement.

2. The municipal judge may, at any time, modify the terms and conditions of the residential confinement.

3. The municipal judge shall cause a copy of his or her order to be delivered to the convicted person and the local law enforcement agency.

(Added to NRS by 1987, 2231)

NRS 5.078 Violation of terms and conditions. If it is determined that the convicted person violated any term or condition of the convicted person's residential confinement, the sentence may be rescinded, modified or continued. If it is rescinded, another punishment authorized by law must be imposed.

(Added to NRS by 1987, 2232)

APPEALS TO DISTRICT COURT FROM MUNICIPAL COURTS IN CITIES INCORPORATED UNDER GENERAL OR SPECIAL LAWS

NRS 5.080 Notice of intention to appeal; bail.

1. After filing a notice of intention to appeal, which shall include a statement of the character of the judgment, with the municipal court and serving such notice upon the city attorney, a defendant who has been convicted of a criminal violation in a municipal court may, if the defendant desires to be released from custody during the pendency of the appeal or desires a stay of proceedings under the judgment until disposition of the appeal, enter bail for the prosecution of the appeal, the payment of any judgment, fine and costs that may be awarded against the defendant on the appeal for failure to prosecute the appeal and for the rendering of himself or herself in execution of the judgment from which the defendant is appealing or of any judgment rendered against the defendant in the action appealed from in the district court to which the action is appealed.

2. Any bail which has been entered in the municipal court for the prosecution of the action in such court may be released or retained by the court in partial satisfaction of the bail required pursuant to subsection 1.

(Added to NRS by 1967, 1088)

NRS 5.090 Judgment on appeal; notice to municipal court; payment of fines.

1. When an appeal of a civil or criminal case from a municipal court to a district court has been perfected and the district court has rendered a judgment on appeal, the district court shall, within 10 days from the date of such judgment, give written notice to the municipal court of the district court's disposition of the appealed action.

2. When a conviction for a violation of a municipal ordinance is sustained and the fine imposed is sustained in whole or part, or a greater fine is imposed, the district court shall direct that the defendant pay the amount of the fine sustained or imposed by the district court to the city treasurer of the city in which the municipal court from which the appeal was taken is located.

(Added to NRS by 1967, 1089; A 1989, 903)

City of Sparks v. Sparks Municipal Court

Summary and analysis provided by the City of Henderson City Attorney's Office

FACTS

- The City of Sparks treated certain employees of the Sparks Municipal Court (MC) as City employees.
- City collective bargaining agreements purported to cover MC employees.
- The MC disputed the City's ability to require it to reduce the salaries of two MC employees.

FACTS *cont.*

- The MC filed a complaint in district court for declaratory and injunctive relief and other remedies.
- The district court broadly enjoined the City from asserting control over MC employees and from interfering with the MC's ability to administer the MC budget and prohibited the City from enforcing collective bargaining agreements.
- The City appealed.

LEGAL ISSUES

- Does the separation of powers doctrine and the MC's inherent authority bar the City of Sparks from interfering with the Municipal Court's control over personnel decisions?
- Did the City impermissibly interfered with the MC's inherent authority to manage its internal affairs by administering the MC budget?

DISPOSITION/OUTCOME

- The Supreme Court affirmed the district court's order that enjoined the City from interfering with the MC's ability to make **personnel decisions**.
- So long as the MC can provide for its employees **within the budget appropriated** by the City, it may do so without interference.

DISPOSITION/OUTCOME *cont.*

- In a **controversy over the budget**, the court must decide whether the action is a permissible exercise of the MC's ability to manage internal affairs or an assertion of inherent power that would overlap with the City's legislative power over the budget.
- Lower court order enjoining the City from interfering with the MC's ability to make budgetary decisions **reversed and remanded**.

Article 15, Section 11 of the Nevada State Constitution

- "In the case of any officer or employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employee shall control."
- Supreme court: City only had the authority to control Municipal Court employees who are "officers"

Separation of Powers

- Judicial, legislative and executive branches
- Each branch has the authority to exercise its own functions, unless the Nevada Constitution expressly permits otherwise.

Inherent Powers

- Broader and more fundamental than separation of powers doctrine
- Each branch possesses certain inherent powers “by virtue of its sheer existence” to carry out its basic functions
- Inherent ministerial functions may overlap

Similarities to Henderson Municipal Court Operations

- City of Henderson (COH) Municipal Court employees subject to provisions of Henderson City Charter and Civil Services Rules
- COH collective bargaining agreements affect COH Municipal Court employees
- COH performs personnel and human resource functions

Differences in Henderson Municipal Court Operations

- COH role in Henderson Municipal Court employment and budget matters was not disputed by the Municipal Court
- City of Henderson Charter provisions differ from those contested in *City of Sparks*

COH Response to *City of Sparks*

- Memorandum of Agreement between the COH and the Henderson Municipal Court (April 24, 2014)
- Henderson Municipal Court recognized as separate, co-equal branch
- Mutual agreement on employment practices
- Automatic 4-year renewals

129 Nev., Advance Opinion 38

IN THE SUPREME COURT OF THE STATE OF NEVADA

CITY OF SPARKS; SPARKS CIVIL SERVICE COMMISSION,
Appellants,
vs.
SPARKS MUNICIPAL COURT,
Respondent.

No. 59139

FILED

MAY 30 2013

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY
CHIEF DEPUTY CLERK

Appeal from a district court order granting a preliminary injunction. Second Judicial District Court, Washoe County; Steven P. Elliott, Judge.

Affirmed in part, reversed in part, and remanded.

Lemons, Grundy & Eisenberg and Alice Campos Mercado, Reno,
for Appellants.

Holland & Hart LLP and Anthony L. Hall and Deanna C. Brinkerhoff, Reno,
for Respondent.

Kaempfer Crowell Renshaw Gronauer & Fiorentino and Jason D. Woodbury, Carson City,
for Amici Curiae Nevada District Judges Association; the Honorable T. Arthur Ritchie, Jr., in his capacity as President of the Nevada District Judges Association; the Nevada Judges of Limited Jurisdiction; and the Honorable John Tatro, in his capacity as President of the Nevada Judges of Limited Jurisdiction.

BEFORE THE COURT EN BANC.

3/10/14: Corrected per letter to publishers. CJ

12-15971

OPINION

By the Court, HARDESTY, J.:

The City of Sparks has traditionally made most personnel and budget decisions for the Sparks Municipal Court. Following a dispute between these entities over the City's exercise of this authority, the district court enjoined the City from making these decisions in the future based on the Municipal Court's broad authority to manage its own affairs. We are asked to decide whether the separation of powers doctrine and the Municipal Court's inherent authority bar the City from interfering with the Municipal Court's control over personnel decisions. We conclude that they do, and we therefore affirm that portion of the district court's order enjoining the City from interfering with the Municipal Court's ability to make personnel decisions. As to the parties' budgetary dispute, we conclude that the Municipal Court's inherent power over its budget must be weighed against the City's authority over government finances. Because the parties have failed to develop the record sufficiently for us to determine whether the Municipal Court properly invoked its inherent powers on this point, we reverse the district court's order as to this issue and remand the matter for further proceedings consistent with this opinion.

BACKGROUND

Appellant City of Sparks is a municipal corporation, organized and existing under the laws of the State of Nevada through a charter approved by the Legislature. By statute, Sparks, like all Nevada cities, is required to have a municipal court with jurisdiction over certain civil and criminal actions arising under city ordinances and other matters directly involving the City. *See* NRS 5.010, 5.050. The Sparks City Charter

provides for respondent Sparks Municipal Court in Article IV, entitled "Judicial Department." In addition to the judicial department, the charter separates the governmental functions of the City into a legislative department, which is made up of the Sparks City Council, *see* Sparks City Charter art. II, § 2.010, and the executive department, which consists of the mayor, the city manager, and the city attorney, among other city officers.[1] *See* Sparks City Charter art. III, §§ 3.010-.070. Thus, the structure of the Sparks government mirrors the tripartite system of government established for the state by the Nevada Constitution. Nev. Const. art. 3, § 1.

Historically, the City has subjected certain employees of the Municipal Court to provisions of the Sparks City Charter and to the Sparks Civil Service Commission's[2] rules, which also govern the City's employees. These provisions and rules have allowed the City to make or influence decisions regarding the selection, discipline, transfer, and termination of Municipal Court employees. The City has also routinely

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[1]As the powers of both the legislative and the executive branches of the City of Sparks are implicated by the issues raised in this appeal, we refer to those branches as appropriate in this opinion, although we note that the particular government entities making up these branches have not been specifically designated as parties in these proceedings. *See* Sparks City Charter art. II, § 2.010 (vesting the legislative power of the City in the city council); Sparks City Charter art. III, §§ 3.010, 3.020, 3.040, and 3.050 (identifying the duties of the mayor, city manager, city clerk, and city attorney, respectively, in their roles as part of the City's executive branch).

[2]Appellant Sparks Civil Service Commission is a body of five Sparks residents appointed by the mayor that is responsible for adopting regulations governing the selection and appointment of all employees of the City. Sparks City Charter art. IX, §§ 9.010, 9.020.

entered into collective bargaining agreements with two labor organizations that have further affected the terms and conditions of employment, including wages and disciplinary procedures, for certain Municipal Court employees.

The events underlying this appeal were set in motion when the Sparks City Council asked the Municipal Court to reduce the salaries of its court administrator and judicial assistant by 7.5 percent beginning on July 1, 2010, and an additional 7.5 percent effective July 1, 2011, which appears to result in a 15-percent salary reduction for those employees over a two-year period. The request prompted the Municipal Court to question the City's authority to require it to reduce the salaries of these Municipal Court positions by specific amounts when the positions are exempt from the city charter provisions and civil service rules governing City employees. In presenting its concerns to the City, the Municipal Court also asserted that it holds certain inherent powers, pursuant to the separation of powers doctrine of the Nevada Constitution and by virtue of its sheer existence. The Municipal Court contended that those inherent powers include the authority to administer its own budget once that budget is appropriated to it by the City and the power to manage the two employees who would be affected by the proposed reductions.

The Municipal Court indicated that, as a result of these objections, it had instructed the court administrator and the judicial assistant not to execute any documents required to effectuate the salary reductions. In later correspondence, however, the Municipal Court communicated its intention to satisfy the City's budget-cutting objectives, but the record fails to disclose how the reduction was accomplished.

While the Municipal Court purportedly complied with the budget reductions, it continued to seek clarification from the City as to its rights in connection with what the Municipal Court viewed as the City's unconstitutional interference with the Municipal Court's inherent power to administer its budget and manage its employees, including those who had traditionally been treated as City employees: the court administrator, administrative assistant, marshals, court clerk/interpreters, and court clerks I and II.[3] The Municipal Court asserted that the authority to manage these employees gave it the power to make all decisions as to hiring and firing, set the terms and conditions of employment, and determine employee wages. Further, the Municipal Court contended that it was not bound by the collective bargaining agreements negotiated between the City and the labor organizations, the Sparks Police Protective Association (SPPA) and the Operating Engineers Local Union No. 3 (OE3).

At the request of the Municipal Court, the City obtained a legal opinion on these issues from the city attorney, but later asserted that it could not share the opinion with the Municipal Court because doing so would violate the City's attorney-client privilege. Thus, it was agreed that the Municipal Court would need to retain outside counsel to address the questions on which it sought clarification. The Municipal Court thereafter engaged independent counsel, who provided it with a legal opinion that

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[3]In particular, Section 9.020 of the Sparks City Charter directs the Civil Service Commission to adopt regulations regarding recruitment, promotion, and discipline of City employees; Section 9.060 requires department heads, including the Municipal Court judges, to fill employee vacancies from a list of applicants created by the Commission; and Section 9.100 permits the city manager or his or her representative to suspend, dismiss, or demote covered employees.

concluded that the Municipal Court had the authority to make its own personnel decisions. As to its right to manage its budget, the opinion stated only that "the Court has the discretion to use the budget allocated to it by the City in the manner it sees fit."

Pursuant to the opinion of counsel, the Municipal Court notified the City that it would begin the process of taking control of its personnel by notifying the SPPA and the OE3 that the Municipal Court was not subject to any collective bargaining agreements, informing its employees that they would no longer be considered civil service employees covered by the civil service rules, and explaining to its employees that it would thereafter be responsible for making all substantive personnel decisions. The Municipal Court also stated that it would "continue to meet the City's budget requirements, to the extent feasible to sustain the Municipal Court's essential functions, acknowledging the Municipal Court's ultimate responsibility, and control of the allocation of its budget." The Municipal Court further objected to the method for establishing its budget in the future by requiring an itemized allocation of the appropriation.

In response to the Municipal Court's declaration, the City expressed concern that the Municipal Court's proposed actions could expose both the Court and the City to liability from affected Court employees. The City argued that the Municipal Court's inherent powers did not provide it with unfettered control over its employees in violation of their civil service status and any rights provided to them under collective bargaining agreements and state law. Nevertheless, the City agreed to work with the Municipal Court towards reaching the goal of assuming greater control over its employees. In the months that followed, the City

and the Municipal Court engaged in negotiations in an attempt to draft mutually agreeable proposed amendments to the Sparks City Charter provisions affecting the Municipal Court's ability to manage its employees. The City and the Municipal Court also discussed approaching the SPPA and the OE3 regarding voluntary withdrawal of union representation of Municipal Court employees. During this time, the OE3 withdrew any claim of representation of Municipal Court employees, but the SPPA did not.

Ultimately, the City and the Municipal Court were unable to reach an agreement on amendments to the Sparks City Charter. When the negotiations failed, the Municipal Court filed a complaint in the district court for declaratory and injunctive relief and for writs of mandamus and prohibition to establish its independence from the City to make personnel and budget decisions. In conjunction with its complaint, the Municipal Court also filed an application for a preliminary injunction, which is the subject of this appeal. In the application, the Municipal Court argued that it had the inherent power to make independent decisions regarding its personnel, as well as to determine how to use the budget allocated to it by the City. The Municipal Court asked for an injunction preventing the City from entering into collective bargaining agreements purporting to cover Municipal Court employees and from enforcing provisions of the Sparks City Charter or the civil service rules that the Municipal Court believed interfered with its right to manage its employees and control its budget. Finally, the Municipal Court asserted that the City had threatened to withhold funding for the Municipal Court's attorneys in this case and requested that the City be prohibited

from interfering with its right to retain special counsel in situations such as this one.

The City opposed the application for a preliminary injunction, arguing that the Municipal Court had not met its burden of showing that it would be irreparably harmed in the absence of an injunction or that it had a reasonable likelihood of success on the merits in the underlying action. In particular, although the City recognized that the Municipal Court held certain inherent powers, the City contended that it could not exercise such powers in the absence of a showing that it was unable to perform its judicial functions using established methods. Moreover, the City asserted that the Municipal Court had failed to show that any action of the City had impeded its ability to perform its core constitutional functions.

The Municipal Court filed a reply, asserting that it had suffered and continued to suffer irreparable harm because, by asserting control over the Municipal Court's management of its personnel and budget, the City had impeded the Municipal Court's ability to perform its ministerial functions. As examples, the Municipal Court noted, among other things, that it had been required to close for one hour each day due to budget constraints and that the City had prevented it from using certain volunteers to ensure that all of its functions were fulfilled.

After a hearing, the district court entered an order granting the Municipal Court's application for a preliminary injunction. Concluding that the Municipal Court has the inherent authority to independently manage its employees and its budget, the district court broadly enjoined the City from asserting any control over the Municipal Court's employees, including their selection, discipline, and termination,

and from applying either the civil service rules or certain Sparks City Charter provisions to the Municipal Court. The district court also prohibited the City from entering into or attempting to enforce collective bargaining agreements purporting to cover Municipal Court employees. Although the district court found that the Municipal Court's employees were never properly covered by the civil service rules or the collective bargaining agreements, and thus, did not have any property rights under those sources, the district court ordered the Municipal Court not to withdraw any of the protections purportedly supplied by such rules or agreements without giving its employees 30 days' notice to allow the employees to decide if they wanted to retain their employment under the new rules established by the Municipal Court. As to the budget, the district court enjoined the City from "interfering with the Municipal Court's ability to use, distribute, allocate, and make decisions regarding the budget adopted for it by the City." Finally, with regard to the Municipal Court's retention of special counsel, the district court enjoined the City from applying NRS 41.0344 or Sparks City Charter art. III, § 3.055 in the pending proceedings. This appeal followed.

DISCUSSION

Standard of review

A preliminary injunction is available when it appears from the complaint that the moving party has a reasonable likelihood of success on the merits and the nonmoving party's conduct, if allowed to continue, will cause the moving party irreparable harm for which compensatory relief is inadequate. NRS 33.010; *Univ. & Cmty. Coll. Sys. v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004). As a constitutional violation may be difficult or impossible to remedy through money damages, such a violation may, by itself, be sufficient to constitute

irreparable harm. *See Monterey Mech. Co. v. Wilson*, 125 F.3d 702, 715 (9th Cir. 1997). Whether to grant or deny a preliminary injunction is within the district court's discretion. *Nevadans for Sound Gov't*, 120 Nev. at 721, 100 P.3d at 187. In the context of an appeal from a preliminary injunction, we review questions of law de novo and the district court's factual findings for clear error or a lack of substantial evidentiary support. *Id.*

We begin our consideration of the issues presented in this appeal by examining the Nevada Constitution's impact on the parties' dispute over whether the City or the Municipal Court is properly vested with the authority to manage and control Municipal Court employees, before addressing the issues concerning the budget. As to the personnel issues, we must determine whether Article 15, Section 11 of the Nevada Constitution authorizes the City to control the hiring, supervision, and discipline of Municipal Court employees based on the inclusion of certain provisions to that effect in the Sparks City Charter. Because we conclude that the Constitution does not confer such authority on the City, we must next address whether the City's exercise of such control unconstitutionally interferes with the inherent powers possessed by the Municipal Court based on the separation of powers doctrine and by virtue of its sheer existence.

Article 15, Section 11

Initially, we note that the issues presented by this matter arose out of the City's request that the Municipal Court reduce the salaries of the court administrator and judicial assistant. The City concedes, as it must, that under Sparks City Charter art. IV, §§ 4.023 and 4.025, the Municipal Court has "virtually unfettered authority" over the hiring and firing of its court administrator and judicial assistant. Thus,

what is at issue here is whether the Municipal Court or the City may exercise control over the remaining Municipal Court employees, namely, the marshals, court clerk/interpreters, and court clerks I and II. The City claims authority to control certain aspects of the Municipal Court's personnel decisions based on provisions of the city charter, which it contends give the City authority to make decisions with regard to the hiring, supervision, and discipline of Municipal Court employees. But the charter cannot provide the City with authority that is otherwise unconstitutional.

The City attempts to find a viable constitutional basis for the authority to control Municipal Court employees, conferred by the charter, in Article 15, Section 11 of the Nevada Constitution, which provides that

> [t]he tenure of any office not herein provided for may be declared by law, or, when not so declared, such office shall be held during the pleasure of the authority making the appointment, but the Legislature shall not create any office the tenure of which shall be longer than four (4) years, except as herein otherwise provided in this Constitution. In the case of any officer or employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employee shall control.

The City more specifically contends that Article 15, Section 11 permits a municipality to enact charter provisions governing the tenure and dismissal of all city employees, including Municipal Court employees. The

Municipal Court asserts that Article 15, Section 11 applies only to city officers, as distinguished from city employees.[4]

This court has long recognized the distinction between an "officer" and an "employee." *Compare Eads v. City of Boulder City*, 94 Nev. 735, 736-37, 587 P.2d 39, 40-41 (1978) (holding that a position created and defined by law, which invested the person holding it with a "portion of the sovereign functions of government," was an office), *with Mullen v. Clark Cnty.*, 89 Nev. 308, 310-11, 511 P.2d 1036, 1037-38 (1973) (concluding that an individual was an employee and not an officer when his duties were defined by his superiors, "no tenure attached to his position," he could not hire or fire other employees, and "he was wholly subordinate and responsible to his superiors"); *see also State v. Cole*, 38 Nev. 215, 148 P. 551 (1915) (determining that a party was not an officer for the purpose of a constitutional provision prohibiting a senator from being appointed to an office created during the term in which the senator was elected). The parties do not dispute that the controversy in this action involves only employees of the Municipal Court, as opposed to officers. Thus, if Article 15, Section 11 applies only to officers, it has no application to this action. But if Article 15, Section 11 applies generally to employees as well as officers, the charter provisions provide a valid basis for the City to exercise control over the tenure and dismissal of Municipal Court employees.

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[4]The Municipal Court alternatively argues that its employees are not city employees. Because we conclude that Article 15, Section 11 generally does not apply to city employees, we need not reach the Municipal Court's alternative argument.

Determining whether Article 15, Section 11 applies to city employees requires us to interpret that constitutional provision. "The rules of statutory construction apply to the interpretation of a constitutional provision." *We the People Nev. v. Miller*, 124 Nev. 874, 881, 192 P.3d 1166, 1170 (2008). Thus, we look first to the plain language of the provision, and, if the meaning of that language is unambiguous, we do not look beyond it, *Beazer Homes Nev., Inc. v. Eighth Judicial Dist. Court*, 120 Nev. 575, 579-80, 97 P.2d 1132, 1135 (2004), unless it is clear that the ordinary meaning was not intended by the drafters. *City of Reno v. Bldg. & Constr. Trades Council of N. Nev.*, 127 Nev. ___, ___, 251 P.3d 718, 722 (2011). A provision is ambiguous if its language may be reasonably interpreted in two or more inconsistent ways. *Strickland v. Waymire*, 126 Nev. ___, ___, 235 P.3d 605, 608 (2010). In order to interpret an ambiguous constitutional provision, we consider "'the provision's history, public policy, and reason to determine what the voters intended.'" *Id.* (quoting *Miller v. Burk*, 124 Nev. 579, 590, 188 P.3d 1112, 1120 (2008)). "The goal of constitutional interpretation is to determine the public understanding of a legal text leading up to and in the period after its enactment or ratification." Id. ~~*Strickland*, 126 Nev.~~ at ___, 235 P.3d at 608 (internal quotations omitted).

On its face, the relevant language of Article 15, Section 11 is ambiguous. In particular, although the text refers to "any officer or employee" of a municipality, it also states that the charter will control as to the "tenure *of office* or the dismissal *from office*" of those officers or employees. Nev. Const. art. 15, § 11 (emphasis added). This creates an ambiguity because reading the provision to apply only to officers appears to render the phrase "or employee" meaningless, while reading it to apply

to both officers and employees seems to render the phrases "of office" and "from office" meaningless. *See Eads*, 94 Nev. at 736-37, 587 P.2d at 40-41 (holding that a position created and defined by law, which invested the person holding it with a "portion of the sovereign functions of the government," was an office). Additionally, as this court's cases have specifically associated "tenure" with officers in discussing the differences between officers and employees, *see Mullen*, 89 Nev. at 311, 511 P.2d at 1038 (concluding that an individual was an employee, rather than an officer, in part because "no tenure attached to his position"); *Cole*, 38 Nev. at 223, 148 P. at 553 (explaining that "[t]he great weight of authority holds the term 'office' to embrace the ideas of tenure, duration, fees, or emoluments, and duties"), reading the provision to apply to employees as well as officers also would arguably be contrary to the usual meaning of the term "tenure."

In the face of this ambiguity, we look beyond the language of the provision to determine the intent of the voters in approving the amendment that added this language to Article 15, Section 11. *See Strickland*, 126 Nev. at ___, 235 P.3d at 608. Prior to 1946, Article 15, Section 11 provided only that

> [t]he tenure of any office not herein provided for may be declared by law, or, when not so declared, such office shall be held during the pleasure of the authority making the appointment, but the legislature shall not create any office the tenure of which shall be longer than four (4) years, except as herein otherwise provided in this constitution.

1945 Nev. Const. art. 15, § 11, at 56. As originally drafted, Article 15, Section 11 plainly applied only to officers, as the provision did not even mention employees. In 1946, the provision was amended to add the final sentence, at issue here, stating that, "[i]n the case of any officer or

employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employee shall control." *See* 1943 Nev. Stat., Assembly Joint Resolution No. 19, at 325; 1945 Nev. Stat., Assembly Joint Resolution No. 10, at 505; 1947 Nev. Const. art. 15, § 11, at 56.

The stated purpose of the 1946 amendment was "to except [a] municipality from the present constitutional provision that the legislature shall not create any office the tenure of which shall be longer than four years." Legal Notice, *Amendment to the Constitution to Be Voted Upon in State of Nevada at General Election, November 5, 1946,* Nevada State Journal, October 5, 1946, at 9. Because the amendment was intended to create an exception to the existing rule, it follows that only those who had been subject to the pre-amendment provision were meant to be included in the exception. Applying this reasoning, the amendment would not have been intended to apply to employees, as they were not subject to the pre-amendment version of the provision.

This reasoning, however, leads to the question of why the drafters included the term employee in the amended provision if employees were not included within the rule or the exception. The answer to this query is that it appears that the drafters believed that certain city employees, particularly employees within the civil service, were considered to be officers, and thus, were subject to Article 15, Section 11. Editorial, *Question No. 1*, Nevada State Journal, November 2, 1946, at 4 (stating that "[e]mployees of cities, holding civil service status, are considered [to be] holding office and consequently it is contended their tenure of office would be limited to four years by strict application of the

constitution"). As a result, the drafters appear to have intended to exempt from the provision any such employees who were subject to the provision because, in the drafter's view, they were considered to be officers. But as is clear from our jurisprudence, officers are fundamentally different from employees, and thus the employees that this amendment sought to exempt from Article 15, Section 11 were never subject to that provision to begin with based upon the very nature of their roles as employees rather than officers. *See Eads*, 94 Nev. at 736-37, 587 P.2d at 40-41; *Mullen*, 89 Nev. at 311, 511 P.2d at 1038); *Cole*, 38 Nev. at 223, 148 P. at 553. Therefore, in seeking to clarify that employees were not subject to this provision, the amendment instead conflated the meaning of the terms "officers" and "employees" and created the very ambiguity in Article 15, Section 11 that we must now resolve here.

In advancing a literal reading of the text of the amendment to Article 15, Section 11, so that both officers and employees can be constitutionally subject to the charter provisions at issue here, our concurring and dissenting colleague ignores the purpose behind this amendment and the fundamental misapprehension regarding the applicability of the pre-amendment version of Article 15, Section 11 to employees that spurred the amendment's enactment. Adopting the approach taken by our colleague would require us to ignore the well-established distinctions between officers and employees and would only serve to perpetuate the conflation of these terms created by this amendment, which we will not do.

Based on the purpose of the amendment and the apparent intent of the drafters and voters, we conclude that, to the extent that Article 15, Section 11 may apply to city employees, it applies only to

employees who are also considered to be officers. In reaching this conclusion, we recognize that, given this court's precedent regarding the differences between officers and employees, it is not clear which, if any, city employees would be deemed to fall into this category. Nevertheless, as it is undisputed that the Municipal Court employees at issue in this case are not considered to be officers, and thus, would not fall under the ambit of Article 15, Section 11, it is not necessary to reach that question here. Thus, Article 15, Section 11 does not render the charter provisions authorizing the City to make decisions regarding the hiring, supervision, and discipline of Municipal Court employees constitutional, and we therefore turn to whether the inherent authority and separation of powers doctrines bar the application of these charter provisions to Municipal Court employees.

Inherent powers

This court has long recognized that "the judiciary, as a coequal branch of government, has the inherent power to protect itself and to administer its affairs." *City of N. Las Vegas ex rel. Arndt v. Daines*, 92 Nev. 292, 294, 550 P.2d 399, 400 (1976). "Inherent judicial powers stem from two sources: the separation of powers doctrine and the power inherent in a court by virtue of its sheer existence." *Blackjack Bonding v. City of Las Vegas Mun. Court*, 116 Nev. 1213, 1218, 14 P.3d 1275, 1279 (2000). Of particular importance here, municipal courts, as coequal branches of their local governments, *see Daines*, 92 Nev. at 295, 550 P.2d at 400, and a part of the state constitutional judicial system,[5] *see* Nev.

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[5]While municipal courts are included within the state constitutional judicial system, they are nonetheless primarily city entities, rather than an extension of the state. *See Nunez v. City of N. Las Vegas*, 116 Nev. 535,

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Const. art. 6, § 1 (authorizing the Legislature to establish municipal courts as part of the court system vested with the judicial power of the state); *Daines*, 92 Nev. at 295, 550 P.2d at 400, are protected by the constitutional separation of powers doctrine and possess inherent judicial powers to the same extent as the other courts of this state. *See* Nev. Const. art. 3, § 1; *Daines*, 92 Nev. at 295, 550 P.2d at 400; *see also Mowrer v. Rusk*, 618 P.2d 886 (N.M. 1980) (concluding that, although the constitutional separation of powers doctrine generally does not apply to local government entities, it does apply to the New Mexico municipal courts because they are a part of their state judicial system).

Under the separation of powers doctrine of the Nevada Constitution, each of the three branches of government is vested with authority to exercise its own functions, and no branch may exercise the functions of another unless expressly permitted to do so by the Nevada Constitution. *Galloway v. Truesdell*, 83 Nev. 13, 19, 422 P.2d 237, 241-42 (1967) (discussing Nev. Const. art. 3, § 1). Thus, the courts, whose judicial

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540, 1 P.3d 959, 962 (2000). Beyond this conclusion, we do not find it necessary in resolving this appeal to delineate, as the City asks us to do, the extent to which a municipal court is a part of the city, as opposed to a part of the state judicial system. Although the City contends that resolving this issue will determine the outcome of questions as to whether the Municipal Court is an employer, whether it is subject to NRS Chapter 288, and whether it is exclusively liable for employment-related lawsuits, we conclude that those questions are not properly presented here, as this situation does not involve any Municipal Court employees challenging employment-related decisions. *See Personhood Nev. v. Bristol*, 126 Nev. ___, ___, 245 P.3d 572, 574 (2010) (explaining that "[t]his court's duty is not to render advisory opinions but, rather, to resolve actual controversies by an enforceable judgment").

functions involve hearing and resolving legal controversies, possess the authority to take any actions that are inherent or incidental to that function. *Galloway*, 83 Nev. at 20, 422 P.2d at 242. Furthermore, any statutory scheme that would allow the executive or legislative branches of a municipal government to control or exercise the inherent powers of the municipal court would violate the separation of powers doctrine. *See id.* at 19, 422 P.2d at 241-42; *see also Mowrer*, 618 P.2d at 891.

Each governmental branch also has certain inherent powers, by virtue of its sheer existence and as a coequal branch of government, to carry out its basic functions. *Halverson v. Hardcastle*, 123 Nev. 245, 261, 163 P.3d 428, 439-40 (2007). This authority is "broader and more fundamental than the inherent power conferred by separation of powers." *Blackjack Bonding*, 116 Nev. at 1218, 14 P.3d at 1279. Thus, in addition to the specific powers assigned to the governmental branches, each branch has inherent ministerial powers, which include "methods of implementation to accomplish or put into effect the basic function" of that branch. *Galloway*, 83 Nev. at 21, 422 P.2d at 243. Within these ministerial functions, the powers of the branches sometimes appear to overlap. *Id.* at 21-22, 422 P.2d at 243. To the extent that any duplication of authority can be traced back to the individual branch's essential functions and basic source of power, the overlapping may be valid, but it is essential to the balance of powers that each branch is careful not to impinge on the authority of the other two branches, even in a small and seemingly harmless manner. *Id.*

When a court's inherent authority arises out of the court's management of its own affairs, this court has held that the court is "entitled to manage [its] internal affairs without interference from

separate governmental branches." *Nunez v. City of N. Las Vegas*, 116 Nev. 535, 540, 1 P.3d 959, 962 (2000). Put differently, even apart from any constitutional or statutory concerns, based solely on the court's inherent authority to manage its own affairs, the legislative and executive branches are strictly prohibited from infringing on the court's "incidental powers reasonable and necessary to carry out the duties required for the administration of justice." *Goldberg v. Eighth Judicial Dist. Court*, 93 Nev. 614, 616, 572 P.2d 521, 522 (1977). Thus, if an action falling under the court's inherent authority is part of the court's day-to-day functioning or regular management of its internal affairs, the court is empowered to perform that action without the need for further justification and without interference from the legislative or executive branch. *See id.* In contrast, if the court's need to exercise its inherent authority arises outside of the court's regular management of its affairs, the invocation of the court's inherent powers must be justified by demonstrating that some circumstance requires the court to invoke such authority in order to perform its constitutional functions. *See Halverson*, 123 Nev. at 263, 163 P.3d at 441.

The resolution of the controversy in this action turns on the parties' differing interpretations of the Municipal Court's ability to invoke its inherent powers under the present circumstances. On one side, the Municipal Court contends that it has the inherent power to exercise control over its employees and the budget appropriated to it by the City, and that the City cannot interfere with that power. Conversely, while conceding that the Municipal Court possesses certain inherent powers, the City contends that the Municipal Court may only act pursuant to those powers when it is reasonable and necessary to do so, and the City denies

that the Municipal Court has demonstrated that it is reasonable and necessary to use its inherent powers in this situation. The City further argues that the Municipal Court has not established a constitutional violation, insofar as it has not shown that any action of the City has impeded its ability to perform its core constitutional functions.

With this background in mind, we turn to the invocations of inherent authority involved in this case.

Management and control of employees

The district court's order enjoined the City from exercising any power over Municipal Court employees, including their selection, promotion, or termination. To the extent that both the Municipal Court and the City claim the authority to be involved in the Municipal Court's personnel decisions, this purported function of the two branches appears to overlap. *See Galloway*, 83 Nev. at 21-22, 422 P.2d at 243. In order to determine whether both branches validly claim this authority, the question that follows is whether the function can be traced back to each branch's essential functions and basic source of power. *Id.*

This court has recognized that municipal courts are the judicial branches of their respective city governments, and they possess all of the inherent powers enjoyed by this court, the district courts, and the justice courts. *Nunez*, 116 Nev. at 539-40, 1 P.3d at 962. As such, the Municipal Court's express function is to decide controversies and enforce judgments. *See Galloway*, 83 Nev. at 20, 422 P.2d at 242. It would be impossible for the Municipal Court to exist and fulfill this role without employees to manage the docket, process paperwork, provide administrative assistance, and monitor compliance with its orders, among many other ministerial duties. *See Halverson*, 123 Nev. at 261, 163 P.3d at 439-40 (explaining that some inherent ministerial powers arise out of

the sheer existence of the governmental branches). Furthermore, the Municipal Court must be able to exercise control over the employees who perform these tasks in order to ensure that the appropriate candidates are chosen for the jobs, the tasks are performed in a satisfactory manner, and proper sanctions and rewards are available when necessary. *See State ex rel. Harvey v. Second Judicial Dist. Court*, 117 Nev. 754, 770, 32 P.3d 1263, 1273 (2001) (recognizing that the provisions of the Nevada Constitution providing for an independent judiciary "would be seriously undermined if the judiciary were prohibited, under any circumstance, from exercising direct control over the personnel who were performing vital and essential court functions").

Thus, the Municipal Court's claim of inherent authority to manage its employees relates directly to its essential functions. *See Galloway*, 83 Nev. at 21-22, 422 P.2d at 243. Additionally, because the management of Municipal Court employees is a ministerial function that is implicated by the Municipal Court's everyday management of its internal affairs, we conclude that it is continuously present insofar as its removal would impair the Municipal Court's ability to fulfill its constitutional functions. *See Harvey*, 117 Nev. at 770, 32 P.3d at 1273. Here, the record shows that staffing shortages have led to the Municipal Court closing for one hour every judicial day and that disputes have arisen between the Municipal Court and the City with regard to the Municipal Court's use of volunteers, which the Municipal Court argues it needs to use to perform certain tasks that will otherwise be severely delayed if the Municipal Court must rely on its current employees. These issues go to the heart of the Municipal Court's ability to perform its core judicial

functions and demonstrate why the Municipal Court reasonably needs to maintain control over its employees.

The City's legislative function is to make and pass local laws and to control the power of the purse. *See generally* Sparks City Charter art. II; *see also* Sparks City Charter art. II, § 2.060(1) and (5); *State of Nevada Emps. Ass'n, Inc. v. Daines*, 108 Nev. 15, 21, 824 P.2d 276, 279 (1992); *Galloway*, 83 Nev. at 20, 422 P.2d at 242. Its executive function is to carry out and enforce those laws and to administer the affairs of the city. *See generally* Sparks City Charter art. III; *see also* Sparks City Charter art. III, § 3.020(1); *Galloway*, 83 Nev. at 20, 422 P.2d at 242. Thus, the act of managing Municipal Court employees does not itself relate to any of the City's express legislative or executive functions. Moreover, the City has not identified any reason why it would need to exert control over the Municipal Court's employees in order to fulfill its constitutional duties. In the absence of any valid basis for exercising control over these employees, the City's imposition of its influence on the Municipal Court's personnel decisions violates the separation of powers doctrine because it unconstitutionally infringes on the Municipal Court's authority to manage its employees. *See* Nev. Const. art. 3, § 1 (providing that no branch may perform the function of another branch unless expressly permitted to do so by the Nevada Constitution); Nev. Const. art. 6, § 1 (including municipal courts in the state judicial system); *see also Goldberg*, 93 Nev. at 616, 572 P.2d at 522; *Galloway*, 83 Nev. at 19, 422 P.2d at 241-42; *Mowrer*, 618 P.2d at 891.

In the underlying case, the district court enjoined the City from interfering in any way with the Municipal Court's personnel decisions, including the hiring, firing, and discipline of employees. In light

of our conclusions herein, the district court correctly found that the Municipal Court was likely to succeed on the merits of its action to prevent the City from interfering with its personnel decisions on the ground that doing so violated the Municipal Court's rights under the separation of powers doctrine. *See* Nev. Const. art. 3, § 1. Additionally, the harm from this constitutional violation is irreparable, as it would be difficult, if not impossible, to assign a monetary value to remedy the violation. *See Monterey Mech. Co. v. Wilson*, 125 F.3d 702, 715 (1997). We therefore affirm that portion of the district court's injunction prohibiting the City from interfering with the Municipal Court's management of its employees.[6] Additionally, because Article IX of the Sparks City Charter sets forth the civil service provisions, which authorize the hiring, supervision, and control of employees by the City, we affirm that portion of the district court's order preventing the City from applying Article IX to the Municipal Court and its employees.

Charter provisions

We next address the particular provisions of the Sparks City Charter that the district court found to be unconstitutional, specifically, Sections 1.080, 3.020, 3.120, 4.023, and 4.025.[7]

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[6]To the extent that the City has purported to enter into collective bargaining agreements affecting Municipal Court employees, the issue is moot with regard to the OE3, which voluntarily withdrew its representation of Municipal Court employees. As for any agreements between the City and the SPPA, we hold that such agreements are invalid because they unconstitutionally interfere with the Municipal Court's power to manage its employees for the reasons discussed above.

[7]In their appellate briefs, the parties discuss the Sparks City Charter as it read before the most recent amendments, which took effect on July 1, 2011. As the district court entered the preliminary injunction

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Under Section 1.080 of the Sparks City Charter, the city manager has the authority to appoint "any employee employed in a bona fide executive, administrative or professional capacity," except as otherwise provided in the charter. Sparks City Charter art. I, § 1.080(3). Two sections of the charter, Section 4.023 and Section 4.025, specifically provide for the appointment of two Municipal Court positions by the Municipal Court judges. Sparks City Charter art. IV, §§ 4.023 and 4.025. And the Municipal Court judges are chosen by election. Sparks City Charter art. V, § 5.010(6) and (7). Otherwise, the charter is silent as to appointment of Municipal Court employees. Although it is unclear whether any other Municipal Court employee would fall under the definition of an "executive, administrative or professional" employee, to the extent that they do, this provision of the charter is unconstitutional insofar as it permits the City to interfere with the Municipal Court's employment decisions. *See Harvey*, 117 Nev. at 770, 32 P.3d at 1273. Thus, we affirm that portion of the injunction prohibiting application of this provision to the Municipal Court.

Next, Section 3.020 of the city charter provides that the city manager must carefully supervise the City's affairs, exercise control over all departments of the City government, attend city council meetings, and recommend adoption of measures and bills to the city council. Sparks City Charter art. III, § 3.020(1).[8] Generally, this provision directs the city

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on August 31, 2011, this opinion analyzes the provisions in their current amended form.

[8]The pre-2011 amendment version of Section 3.020(1)(c) read: "The City Manager is responsible to the Council for the efficient administration

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manager to administer the affairs of the City, which largely do not appear to involve the Municipal Court. Nevertheless, the portions of this provision that allow the City to interfere with the Municipal Court's management of its operations are an impermissible infringement on the Municipal Court's inherent authority. *See Goldberg*, 93 Nev. at 616, 572 P.2d at 522. In particular, subsection (c) requires the city manager to "[e]xercise control over all departments of the City government and its officers and employees," and subsection (f)(2) directs the city manager to make investigations into any department of the City. Sparks City Charter art. III, § 3.020(1)(c) and (1)(f)(2). As these provisions permit the City to interfere with the Municipal Court's management of its operations and its employees, we affirm the district court's issuance of the injunction in this regard.[9]

Section 3.120 of the charter states that "[e]mployees in appointive positions are entitled to receive the salary designated by the City Manager within the range established for each position by the City Council." Sparks City Charter art. III, § 3.120. Additionally, Sections

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of all the affairs of the City. He shall . . . [e]xercise control over all departments of the City government and its officers and employees, *except any department whose chief executive officer is not appointed by the City Manager*." (Emphasis added.) *See* A.B. 97, 76th Leg. (Nev. 2011). Thus, prior to 2011, the Municipal Court would not have been included in Section 3.020(1)(c), as its chief executive officer, the administrative judge, is elected rather than appointed by the city manager.

[9]To the extent that sections of these provisions do not apply to the Municipal Court, they are unaffected by the district court's injunction, as the injunctive order only restricts the City from enforcing the provisions against the Municipal Court.

4.023 and 4.025 provide the city council with the authority to appropriate the money for the salaries of the Municipal Court's administrator and judicial assistant. Sparks City Charter art. IV, §§ 4.023 and 4.025. Although the City's budgeting power is implicated by these provisions, the Municipal Court's authority to manage its employees is also put at issue.

As noted above, the Municipal Court's ability to exercise direct control over its employees is necessary to ensure its survival as an independent governmental branch. *Harvey*, 117 Nev. at 770, 32 P.3d at 1273. Moreover, a court cannot effectively manage its employees if it is unable to determine the wages of those employees. *See Circuit Court of Jackson Cnty. v. Jackson Cnty.*, 776 S.W.2d 925, 927 (Mo. Ct. App. 1989) (explaining that Missouri law provides the circuit court with statutory authority to fix the salaries of its employees because, in the absence of this authority, "the legislative department could determine the extent to which the judicial department would perform its judicial function by limiting the number of employees of the Circuit Court, or providing for no employees at all"); *see also Ottawa Cnty. Controller v. Ottawa Probate Judge*, 401 N.W.2d 869, 873 (Mich. Ct. App. 1986) (concluding that the probate court had the inherent authority to set reasonable salaries for its necessary employees within the court's total budget appropriation). Thus, so long as the Municipal Court can provide for the salaries of its employees within the budget appropriated to it by the City, we conclude that it may do so consistently with its power to manage its internal affairs without interference from the other governmental branches.[10] *See Nunez*, 116

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[10]As discussed in the next section, to the extent that the Municipal Court would need additional funding to pay wages set by it, the Municipal Court would be required to establish that such requests were reasonable

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Nev. at 540, 1 P.3d at 962. As a result, we also affirm that portion of the district court's order of injunction preventing the City from applying these charter provisions to the Municipal Court.

Control over budget

With regard to the budget, the district court enjoined the City from "interfering with the Municipal Court's ability to use, distribute, allocate, and make decisions regarding the budget adopted for it by the City." Neither party disputes that the City has the authority, pursuant to its legislative powers, to appropriate a budget to the Municipal Court. *See* Sparks City Charter art. II, § 2.060(5); *State of Nev. Emps. Ass'n, Inc. v. Daines*, 108 Nev. 15, 21, 824 P.2d 276, 279 (1992). Moreover, although the Municipal Court, in the communications leading up to these proceedings, asked the City to stop itemizing its budget, the Municipal Court has not argued in this appeal that the City was required to provide it with a lump sum appropriation. Even if it had raised this argument, neither the judicial function of resolving legal controversies nor the Municipal Court's power to manage its internal affairs provides it with a general power to be involved with the Sparks budgeting process. Moreover, state law requires the City to prepare a detailed budget, NRS 354.600, and it is difficult to imagine how the City could arrive at a general amount for an appropriation without considering specific categories of expenditures to be made by the Municipal Court.

That said, the Municipal Court does have certain specific powers to influence the budget appropriated to it. For instance, if the

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and necessary to allow it to carry out its constitutional functions. *See Young v. Bd. of Cnty. Comm'rs*, 91 Nev. 52, 56, 530 P.2d 1203, 1206 (1975).

Municipal Court needs funds for particular items or expenses, it can compel such funding on a showing that the requests are "reasonable and necessary to carry out [its] powers and duties in the administration of justice." *Young v. Bd. of Cnty. Comm'rs*, 91 Nev. 52, 56, 530 P.2d 1203, 1206 (1975). Moreover, once the Municipal Court's general budget is appropriated to it by the City, the Municipal Court possesses the power to make independent financial decisions as to how to allocate the funds within that budget pursuant to its inherent authority to manage its internal affairs.[11] *See Nunez*, 116 Nev. at 540, 1 P.3d at 962.

While we recognize these general principles, we note that the parties have failed to develop the record or define the scope of the question presented by the budget issue in this case. For instance, the record is devoid of evidence as to how the City determines the Municipal Court's budget, how the budget is implemented and distributed, whether the Municipal Court has attempted to use money appropriated to it in a manner that varied from the City's itemization, or whether the City has prevented the Municipal Court from making independent internal budget decisions. In particular, there is no evidence that the City has required the Municipal Court to administer its budget in any specific manner. Instead, the record demonstrates only that the conflict in this case arose in response to the City's request that the Municipal Court reduce the salaries of two of its employees. As the parties have not identified any other actual

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[11]We note that if the City makes a specific appropriation to the Municipal Court apart from the general budget, such an appropriation must be used for its designated purpose, so long as doing so does not interfere with the Municipal Court's ability to carry out its constitutional functions. *See Galloway v. Truesdell*, 83 Nev. 13, 21-22, 422 P.2d 237, 243 (1967).

conflict with regard to the budget, this requested reduction is the only budget issue that is properly before this court. *See Personhood Nev. v. Bristol*, 126 Nev. ___, ___, 245 P.3d 572, 574 (2010) (explaining that "[t]his court's duty is not to render advisory opinions but, rather, to resolve actual controversies by an enforceable judgment").

Even as to this issue, however, the parties have not sufficiently developed the record to demonstrate whether an actual controversy exists in this regard. Based on the timing of the request, it appears likely that it was made in the context of the City's preparation of its annual budget, *see* NRS 354.596(2) (requiring a city's tentative budget under the Local Government Budget and Finance Act to be submitted annually by April 15); NRS 354.598 (requiring a city's final budget under the Local Government Budget and Finance Act to be approved annually by June 8), but the parties have not explained the circumstances surrounding the requested budget reduction. Moreover, the Municipal Court initially asserted that it had instructed its employees not to execute any documents to effectuate a salary reduction, but later stated that it had complied with the City's budget request. Nothing in the record demonstrates that the Municipal Court sought to reduce its budget by means other than through the salary reduction or that the City refused to allow the Municipal Court to do so.[12] Without this information, it is impossible to determine whether

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[12]At oral argument before this court, the Municipal Court represented that it had sought to reduce the budget other than by reducing the identified salaries and had been precluded from doing so by the City. The City denied that the situation had occurred as described by the Municipal Court, asserting that as long as the budget was reduced, the manner of reducing it was irrelevant. This court asked the Municipal Court to supplement the briefing to identify any specific record evidence

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the City impermissibly interfered with the Municipal Court's inherent authority to manage its internal affairs by administering its budget in the manner it saw fit. Therefore, we conclude that the district court's issuance of the preliminary injunction on budget issues was overbroad and premature. Accordingly, we reverse that portion of the injunction prohibiting the City from interfering with the Municipal Court's budget and remand this matter to the district court for further proceedings consistent with this opinion.

On remand, the district court must initially consider whether any actual controversy is presented with regard to the budget, given that the Municipal Court apparently complied with the requested budget reductions and there is no indication in the record as to the manner of compliance or the City's response to the Municipal Court's proposed method of compliance. *See Personhood Nev.*, 126 Nev. at ___, 245 P.3d at 574. If the case does present an actual controversy, the district court should then decide whether any action the Municipal Court seeks to take would be a permissible exercise of the Municipal Court's ability to manage its internal affairs, *see Nunez*, 116 Nev. at 540, 1 P.3d at 962, or would be an assertion of inherent power that would overlap with the City's legislative power over the budget. *See Galloway*, 83 Nev. at 21-22, 422 P.2d at 243. Finally, if the district court determines that the Municipal Court's proposed action does not fall under the management of its internal

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supporting its claim that the City had refused to allow it to proceed with a budget reduction as proposed by the Municipal Court. Although the Municipal Court filed the requested supplement, it failed to point to any record evidence demonstrating that it had made, or the City had denied, any such request.

affairs, the district court must evaluate whether the Municipal Court's intended action is reasonable and necessary to allow it to carry out its constitutional duty to administer justice. *See Young*, 91 Nev. at 56, 530 P.2d at 1206; *see also Halverson*, 123 Nev. at 263, 163 P.3d at 441.

Special counsel

Finally, the district court enjoined the City from applying NRS 41.0344 or Section 3.055 of the Sparks City Charter to this case. The district court did not issue any further ruling with regard to the Municipal Court's ability to retain counsel or compel payment of counsel generally.

Section 3.055 of the Sparks City Charter provides that the city council may "employ attorneys to perform any civil or criminal duty of the City Attorney." Sparks City Charter art. III, § 3.055. This provision further states that counsel retained pursuant to this provision is responsible only to the city council. *Id.* NRS 41.0344 permits a political subdivision's attorney to employ special counsel if he or she determines that it could constitute a conflict of interest for the legal services to be rendered by that attorney. Based on the language of these provisions, we conclude that they are not applicable to this case, as counsel in this situation was retained by the Municipal Court, rather than by the city attorney, and, as the representative of the Municipal Court, counsel was responsible to the Municipal Court and not to the city council. Thus, we affirm the district court's order to the extent that it found that these provisions were inapplicable. Moreover, the City agreed that the Municipal Court needed to hire independent counsel, and we conclude that, pursuant to its inherent power to protect its ability to perform its constitutional functions, the Municipal Court had the right to hire the

counsel of its choosing, without interference from the City. *See Nunez*, 116 Nev. at 540, 1 P.3d at 962.

As the district court did not take any further action in regard to the special counsel issue, we decline to issue any additional ruling in this regard. We note, however, that to the extent that the Municipal Court seeks any appropriation to pay special counsel's fees, the City, pursuant to its legislative budgetary authority, may review the reasonableness of counsel's hourly rate when determining whether to make such an appropriation, but may not make a more specific review of the cost of the representation, as permitting the City to review and question the reasonableness of particular expenditures connected with the instant action would impermissibly infringe on the attorney-client relationship and the Municipal Court's right to seek legal advice and to make decisions regarding its legal strategy.

CONCLUSION

In light of the foregoing, as to the Municipal Court's administrator, administrative assistant, marshals, court clerk/interpreters, court clerks I and II, and volunteers, we affirm the portions of the district court's order prohibiting the City from interfering with the Municipal Court's management of its employees, enforcing or entering into collective bargaining agreements on behalf of Municipal Court employees, and applying Sparks City Charter art. I, § 1.080; art. III, §§ 3.020, 3.120; art. IV, §§ 4.023 and 4.025; and art. IX to the Municipal Court and its employees. We reverse, however, that portion of the district court's order preventing the City from taking certain actions with regard to the Municipal Court's budget, and we remand the matter to the district court for further proceedings. Finally, we affirm that portion of the

district court's order permitting the Municipal Court to retain and pay special counsel.

_____, J.
Hardesty

We concur:

_____, J.
Gibbons

_____, J.
Parraguirre

_____, J.
Douglas

_____, J.
Cherry

_____, J.
Saitta

PICKERING, C.J., concurring in part and dissenting in part:

I respectfully disagree with the majority's decision to the extent that it invalidates the Sparks City Charter provisions that apply to court employees besides the court administrator and judicial assistants. In my view, the holding with respect to civil service and union employees is inconsistent with the express terms of the Nevada Constitution, Article 15, Section 11, and the Sparks City Charter, which the Legislature and the City of Sparks adopted according to the political process specified in the Nevada Constitution, Article 8, Section 8. That process, and these charter provisions, induced reliance interests on the part of those involved that I would not disturb, particularly not on the inadequate record thus far presented in this case.

The Sparks City Charter vests the power to hire, fire, and discipline the court administrator and judicial assistants in the Municipal Court's Administrative Judge, not the City Council. *See* Sparks City Charter art. IV, §§ 4.023 and 4.025. *But it makes no similar provision for other employees providing service to the Sparks Municipal Court. Id.* Sections 4.023 and 4.025 recognize, *legislatively*, that employees who occupy the positions of court administrator or judicial assistant "perform[ ] vital and essential court functions," and so answer to the Municipal Court directly, not the City. *State ex rel. Harvey v. Second Judicial Dist. Court*, 117 Nev. 754, 770, 32 P.3d 1263, 1273 (2001) (court clerk); *AFSCME v. Wayne Cnty.*, 811 N.W.2d 4, 20-21 (Mich. Ct. App. 2011) (court clerk); *Barland v. Eau Claire Cnty.*, 575 N.W.2d 691, 702-03 (Wis. 1998) (judicial assistant). Notably, the Sparks City Charter does *not* extend this status to other personnel who provide services to the Municipal Court. Rather, such other personnel are governed by the Sparks Civil Service

Commission and the regulations promulgated pursuant to the Charter. *See* Sparks City Charter art. IX, § 9.020(1) and (2).

The inherent-powers doctrine allows the judicial branch "to administrate its own procedures and to manage its own affairs . . . when *reasonable and necessary* for the administration of justice." *Halverson v. Hardcastle*, 123 Nev. 245, 261, 163 P.3d 428, 440 (2007) (internal quotation omitted).[1] But "such inherent powers must be exercised with discernment and circumspection." *Angell v. Eighth Judicial Dist. Court*, 108 Nev. 923, 926, 839 P.2d 1329, 1331 (1992). Proper respect for coordinate branches of government limits resort to inherent judicial powers to situations in which the judicial branch has exhausted other executive and legislative avenues available and the need is such that the "efficient administration of justice [will be] destroyed or seriously impaired" if left unfulfilled. *Bd. of Cnty. Comm'rs v. Devine*, 72 Nev. 57, 60, 294 P.2d 366, 367 (1956). Put another way, "inherent [judicial] power should be exercised only when established methods fail or in an emergency situation[, and] ceases when the court's ability to carry out its constitutional duty to ensure the administration of justice no longer is in jeopardy." *Halverson*, 123 Nev. at 263, 163 P.3d at 441 (footnotes omitted). Also, "because inherent power arises from the constitution's operation, constitutional clauses may remove or modify that power" from the purview of the judiciary. *Id.*

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[1]Although legislatively, as opposed to constitutionally, created, Nev. Const. art. 6, § 1, municipal courts possess the same inherent powers as constitutionally created courts do. *City of N. Las Vegas v. Daines*, 92 Nev. 292, 295, 550 P.2d 399, 400 (1976).

I respectfully submit that, under the Nevada Constitution, the Sparks City Charter provisions control. Exercising its constitutional prerogative, the Legislature approved the Sparks City Charter. Nevada Const. art. 8, § 8. Another section of the Nevada Constitution specifies that, when a municipality (Sparks) has a "legally adopted charter" (the Sparks City Charter), the charter controls the city's employment relationships, certainly as to tenure and dismissal: "In the case of any officer or employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employee shall control." Nev. Const. art. 15, § 11. Since the Sparks City Charter divides authority over Municipal Court employees between the Municipal Court (court administrator and judicial assistants) and the Civil Service Commission (all others), *constitutionally*, those provisions "*shall* control." *Id.* (emphasis added). Thus, under *Halverson*, it appears that the inherent-judicial-power doctrine should not apply because another, more specific constitutional provision displaces it.

The majority argues that Article 15, Section 11 uses "officer" and "employee" to mean the same thing, such that the provision only applies to elected or appointed officials, not employees generally. But this gives the word "employee" a singular meaning unique to Article 15, Section 11. Elsewhere, the Nevada Constitution distinguishes between "officers" and "employees." *Compare, e.g.*, Nev. Const. art. 15, § 10 ("All officers whose election or appointment is not otherwise provided for, shall be chosen or appointed as may be prescribed by law.") *with* Nev. Const. art. 15, § 15 ("The legislature shall provide by law for a state merit system governing the employment of employees in the executive branch of state

government."). Basic rules of statutory and constitutional interpretation teach that "[a] word or phrase is presumed to bear the same meaning throughout a text," and that

> [i]f possible, every word and every provision is to be given effect (*verba cum effectu sunt accipienda*). None should be ignored. None should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence.

Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 170, 174 (2012) (footnote omitted) (Canons 25 and 26). Given these basic rules, I disagree that "officer" and "employee" mean the same thing—"officer"—in the Nevada Constitution, Article 15, Section 11, even though they are not used in that sense anywhere else in Article 15 or the Nevada Constitution as a whole.

Nor does the legislative history support the majority's conclusion that Article 15, Section 11 has no application to Sparks civil service employees doing work for the Municipal Court.

As the majority notes, the voters amended the Nevada Constitution in 1946 to add the italicized language to Article 15, Section 11 shown below:

> The tenure of any office not herein provided for may be declared by law, or, when not so declared, such office shall be held during the pleasure of the authority making the appointment, but the Legislature shall not create any office the tenure of which shall be longer than four (4) years, except as herein otherwise provided in this Constitution. *In the case of any officer or employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal*

> *from office of any such officer or employee shall control.*

Nev. Const. art. 15, § 11. The majority reasons that, because the first sentence refers to "office[s]," the second sentence should be taken to apply only to "officers," not civil service employees, when it refers to "any officer *or employee* of any municipality." As support, it cites an editorial that appeared in the Nevada State Journal on November 2, 1946. But the Nevada State Journal editorial on which the majority relies says the exact opposite. It notes that, as originally adopted, Article 15, Section 11 "provide[d] that the legislature cannot create any office the tenure of which shall be longer than four years," and reasons that, "[s]ince the state constitution governs, a city cannot create an office the tenure of which [is] longer than four years." Editorial, *Question No. 1*, Nevada State Journal, November 2, 1946, at 4. According to the 1946 editorial writer, this created problems for *municipal civil service employees* that the amendment was designed to fix:

> *Employees of cities, holding civil service status, are considered holding office* and consequently it is contended their tenure of office would be limited to four years by strict application of the constitution. *Civil service is designed to protect employees and make permanent their tenure of office.*
>
> The proposed amendment adds the following sentence to Section 11 of Article 15 of the constitution:
>
> "In the case of any officer or employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employee shall control."

> *The amendment simply broadens the field for municipal charters* and in no other way directs the legislature to change the four-year provision of the constitution with respect to state officers.
>
> . . . *Its purpose is to remove ambiguities from the law which might cause unexpected trouble.*

Id. (emphasis added). Thus, according to the source relied on by the majority, the final sentence of Article 15, Section 11 was added to ensure that, when it comes to municipal civil service employees, if the city has a "legally adopted" charter, that charter controls their "tenure or . . . dismissal." This makes inexplicable the majority's decision to invalidate the Sparks City Charter civil service provisions that, by their express terms, apply to all city employees except the Municipal Court's court administrator and judicial assistants, authority over whom is vested in the Municipal Court.

The majority's recitation of the history of this dispute demonstrates that the parties' first instinct was correct. Thus, they originally looked to the political process of amending the Sparks City Charter to clarify the status of the employees besides the court administrator and judicial assistants who provide service to the Municipal Court. But they abandoned that avenue and turned to the courts for relief instead. By means of this shortcut, the tenure and dismissal of municipal employees whose employment, previously, was controlled by the Sparks City Charter civil service provisions is now controlled by the Municipal Court. Basic rules of construction do not permit express constitutional terms to be overridden that easily by concepts of implicit or inherent, but unwritten, authority.

I also note that, even if the Municipal Court could overcome Article 15, Section 11, the record assembled does not, in my estimation, make the threshold showings of impasse and need required for the judicial branch to exert its inherent authority against another, coordinate branch. Thus, while impasse and need are *argued*, the evidence does not establish such basic information as the positions involved, the services the affected employees provide, the impact the City Charter provisions have on their performance, or the threat having the City Charter provisions apply to them poses to the administration of justice in the Sparks Municipal Court. Only a few examples are given, one dating back to 2002; the others do not establish "the destruction or serious impairment of the administration of justice" and the failure of other alternatives that our case law requires. *Devine*, 72 Nev. at 60-61, 294 P.2d at 367-68 (reversing mandamus requiring the county to appoint a bailiff; although "the court or the judge has inherent power to secure an attendant for his court, at public expense, if the regular, orderly, statutory methods fail, or if the officials charged by the legislature arbitrarily or capriciously fail or neglect to provide the necessary attendant, whereby the efficient administration of justice is destroyed, or seriously impaired," the record did not adequately establish impasse or need).

For these reasons, I would vacate the preliminary injunction issued by the district court, insofar as it applies to Municipal Court employees other than the court administrator and judicial assistants. As to the court administrator and judicial assistants, I agree with the

majority's reversal and remand. I therefore, respectfully, concur in part and dissent in part.

Pickering, C.J.
Pickering