

FILED

2020 SEP 15 P 12:14
JUSTICE COURT
LAS VEGAS NEVADA
BY _____ AMC
DEPUTY

1 **MSDM**
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11 **JUSTICE COURT, LAS VEGAS TOWNSHIP**
12
13 **CLARK COUNTY, NEVADA**

10 STATE OF NEVADA,
11
12 Plaintiff,
13 vs.
14 BRANDON SUMMERS,
15 Defendant.

Case No.: 20T00883
Dept.: 8
MOTION TO DISMISS
Hearing Date: September 30, 2020
Hearing Time: 09:30 A.M.

16 Defendant Brandon Summers, by and through his counsel of record, hereby moves
17 this Court for an order dismissing this matter. This motion is made and based upon the
18 attached memorandum of points and authorities.

19 DATED this 15th day of September, 2020.

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21 
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This Motion to Dismiss involves a citation wrongfully issued to Defendant Brandon Summers for alleged obstructive use of a sidewalk on the Las Vegas Strip pursuant to Clark County Code §§ 16.11.070 and 16.11.090 (“CCC” or “the Code”). As detailed below, Mr. Summers—a violinist and street performer—was cited for obstructive use because he temporarily stored his violin case next to him as he performed. The Code, however, clearly permits Mr. Summers to temporarily place his violin case on the sidewalk during his street performance, so long as it does not actually obstruct the sidewalk. CCC § 16.11.070. As the facts of this case illustrate, Mr. Summers did not obstruct the sidewalk on which he performed.

While the Code explicitly permits Mr. Summers to store his violin case next to him while her performs, the Las Vegas Metropolitan Police Department (“Metro”) and its officers ignored its provisions. Specifically, the Code permits the use of items tied to artistic performance uncles the performer *actually obstructs* the sidewalk, which Mr. Summers did not. In so doing, Metro has violated Mr. Summers’ right to be free from unreasonable searches and seizures and Mr. Summers’ right to free speech under the United States and Nevada Constitutions. Accordingly, the Citation issued to Mr. Summers must be dismissed.

II. FACTS

A. Relevant Background Regarding Mr. Summers and His Street Performance.

Mr. Summers is a classically trained violinist who first began playing the violin at age six.¹ Mr. Summers primarily earns his living playing violin at private events and special events, including at restaurants, hotels, trade shows, and governmental events.² In addition to these events, Mr. Summers also works occasionally as a street performer on the Las Vegas Strip. Mr. Summers accepts tips and donations, but never charges a fee for pedestrians to

¹ <https://www.brandonsummersviolin.com/about> (last accessed September 15, 2020).

² <https://www.brandonsummersviolin.com/past-events> (listing past performances at private and public events) (last accessed September 15, 2020).

1 listen to him play.

2 Shortly before 6:00 p.m. on November 24, 2019, Mr. Summers was on the pedestrian
 3 bridge connecting the Fashion Show Mall to the Wynn Las Vegas. At approximately 6:21
 4 p.m., he was approached by Las Vegas Metropolitan Police Department (“Metro”) Officer
 5 G. Reyes and another officer. (Exh. A³.) When Officer Reyes told Mr. Summers that he was
 6 not allowed to play on the pedestrian bridge, Mr. Summers explained that he was not
 7 lowering the level of service on the pedestrian bridge, and that he was allowed to be there.
 8 (*Id.*) Officer Reyes reiterated that Mr. Summers was not allowed to be there, and Mr.
 9 Summers responded that he disagreed and would take a citation rather than leave. (*Id.*)
 10 Officer Reyes then issued him a citation.

11 As the body camera footage recorded by Mr. Summers demonstrated, he was
 12 positioned at the guard rail the entire time he was engaged in his street performance. (*See*
 13 *generally* Exh. A.) During the approximately 20 minutes he was performing before the
 14 officers arrived, the few people using the pedestrian bridge were able to pass by Mr.
 15 Summers without any issues. Thus, at the time Officer Reyes cited Mr. Summers for
 16 obstructive use of the sidewalk, Officer Reyes lacked reasonable suspicion—much less
 17 probable cause—to confront and cite Mr. Summers.

18 **B. The Code**

19 In the November 24, 2019 Citation (Exh. B), Mr. Summers was charged with
 20 obstructive use of a public sidewalk pursuant to CCC § 16.11.090. As a preliminary matter,
 21 CCC § 16.11.090 only addresses the penalty for obstructive use. It provides as follows:

22 Any person who violates any provisions of this chapter is guilty of a
 23 misdemeanor and upon conviction shall be punished by imprisonment in
 24 the county jail for a term not to exceed six months or by a fine not to exceed
 one thousand dollars, or by both such fine and imprisonment.

25 Thus, it is unclear what Mr. Summers is actually charged with in the Citation. The Citation

26 _____
 27 ³ Due to the size of the video file, counsel for Mr. Summers was unable to include Exhibit A
 28 with the filing of this Motion. Mr. Summers will supplement this Motion to include a copy
 of the video file denominated as Exhibit A as soon as practicable.

1 could be dismissed on those grounds alone.

2 The Citation, under “violation” does note “obstructive use of public
 3 sidewalk/storing materials” and under “to wit” it notes “did block, hinder or interfere with
 4 pedestrian traffic on any public sidewalk in the resort corridor, which resulted in a threat or
 5 degradation to the safety of the pedestrians.” (Exh. B, p. 1.) Additionally, in the citing
 6 officer’s declaration of arrest, it states that Mr. Summers was “leaning against bridge railing,
 7 playing a violin with an open case, obstructing the public right away [sic] from Fashion Show
 8 to the Wynn.” (Exh. C.) CCC § 16.11.070(a) is the provision that addresses storage on the
 9 sidewalk. It provides as follows:

10 (a) No equipment, materials, parcels, containers, packages, bundles or
 11 other property may be stored, placed or abandoned in or on the public
 12 sidewalk. **This provision shall not apply to materials or property held**
 13 **or stored in a carry bag or pack which is actually carried by a**
 14 **pedestrian or items such as a musical instrument case or a backpack**
 15 **which is temporarily placed next to a street performer for that street**
 16 **performer’s use unless said musical instrument actually obstructs the**
 17 **sidewalk in violation of this chapter.**

18 (Emphasis added.) Thus, CCC § 16.11.070 prohibits the storage of materials on a public
 19 sidewalk **unless the materials are temporarily placed there by a street performer and**
 20 **are not obstructing pedestrian traffic.**

21 In this case, Mr. Summers was doing exactly what the Code permits—he was
 22 standing in a nonobstructive location (leaning against the bridge railing, *see Exh. C*) engaged
 23 in a street performance by playing his violin with his instrument case temporarily placed next
 24 to him.

25 **C. History of the Code**

26 The current version of CCC § 16.11.070 is the result of civil rights litigation
 27 addressing issues very similar to the ones presented in the instant matter. On July 9, 2009,
 28 two street performers filed suit in federal court alleging constitutional violations after Metro
 officers cited them for storing materials or obstructing the sidewalks on the Las Vegas Strip.
See Banasik et al. v. Clark County et al., U.S. Dist. Ct. Case No. 2:09-cv-01242-LDG-GWF.

1 In the course of the litigation, the parties—which included the Metro and individual Metro
 2 officers as defendants—entered into a Memorandum of Understanding (attached hereto as
 3 **Exhibit D**) in which the parties agreed that street performing is expressive speech or conduct
 4 protected by the First Amendment and that street performing was not a violation of, *inter*
 5 *alia*, the provisions of Chapter 16.11 of the Clark County Code of Ordinances. (**Exhibit D**
 6 at p. 2, ¶¶ 3-4.) Further, as part of the Memorandum, the parties agreed to pursue amendments
 7 to various provisions of the Clark County Code, including Code 16.11.070. (*Id.*, p. 3 at ¶ 1.)

8 On November 16, 2010, the Clark County Board of County Commissioners voted
 9 to amend Chapter 16.11 of the Clark County Code to include the definition of “street
 10 performer” and to clarify that materials can be placed on public sidewalks. (**Exhibit E** (Bill
 11 No. 11-3-10-4); *see also* **Exhibit F** (summary of Final Action 2010.11.16) at p. 19.)

12 **III. ARGUMENT**

13 **A. CCC § 16.11.070 Specifically Exempts Mr. Summers’ Conduct.**

14 CCC § 16.11.070 has a specific exemption for “materials or property held or stored
 15 in a carry bag or pack which is actually carried by a pedestrian or *items such as a musical*
 16 *instrument case or a backpack which is temporarily placed next to a street performer for*
 17 *that street performer’s use unless said musical instrument actually obstructs the sidewalk.”*

18 CCC § 16.11.070(a) (emphasis added). In this case, Mr. Summers’ temporary storage of his
 19 violin case next to his person while engaging in a street performance falls squarely within
 20 this exemption. Thus, Mr. Summers’ conduct was specifically exempted by the Code, and
 21 the Citation must be dismissed.

22 **B. It Is Not Possible That Mr. Summers Was Obstructing Pedestrian Traffic.**

23 CCC § 16.11.070 only prohibits street performers from temporarily storing items on
 24 the sidewalk if those items “actually obstruct[]” the sidewalk. It is not possible that Mr.
 25 Summers was actually obstructing pedestrian traffic merely by engaging in a street
 26 performance in the exact manner permitted by the Code. Indeed, Mr. Summers intentionally
 27 positioned himself against the railing of the pedestrian bridge to allow pedestrians to pass by
 28 without hindrance, and a violin case is by nature quite small. Given the size of the pedestrian

1 bridge and the small area needed to temporarily store a violin case, it is just not possible that
 2 Mr. Summers was actually obstructive.

3 Because Mr. Summers was not actually obstructing pedestrian traffic, Officer Reyes
 4 lacked probable cause to issue the Citation. The Fourth Amendment to the United States
 5 Constitution provides that the “right of the people to be secure in their persons, houses,
 6 papers, and effects, against unreasonable searches and seizures, shall not be violated, and no
 7 Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and
 8 particularly describing the place to be searched, and the persons or things to be seized.”
 9 Similarly, Article 1, Section 18 of the Nevada Constitution provides that the “right of the
 10 people to be secure in their persons, houses, papers and effects against unreasonable seizures
 11 and searches shall not be violated; and no warrant shall issue but on probable cause,
 12 supported by Oath or Affirmation, particularly describing the place or places to be searched,
 13 and the person or persons, and thing or things to be seized.” It is well-established that an
 14 arrest or citation must be based upon probable cause. *See, e.g., Keesee v. State*, 110 Nev.
 15 997, 1001–02, 879 P.2d 63, 66–67 (1994) (citing *Draper v. United States*, 358 U.S. 307
 16 (1959)). “‘Probable cause’ requires that law enforcement officials have trustworthy facts and
 17 circumstances which would cause a person of reasonable caution to believe that it is more
 18 likely than not that the specific items to be searched for are: seizable and will be found in the
 19 place to be searched.” *Keesee*, 110 Nev. at 1002, 879 P.2d at 67 (citing *Carroll v. United*
 20 *States*, 267 U.S. 132 (1925)).

21 Because Officer Reyes lacked probable cause to believe that Mr. Summers was
 22 actually obstructing the flow of pedestrian traffic during his performance, the Citation
 23 violated the Fourth Amendment to the United States Constitution and Article 1, Section 18
 24 of the Nevada Constitution. Accordingly, the Citation must be dismissed.

25 **C. Applying the Code and Citing Mr. Summers Violates the First Amendment.**

26 **1. The Sidewalk Where Mr. Summers Performed is a Traditional Public**
 27 **Forum.**

28 The First Amendment to the United States Constitution, as applied to state

1 governments through the Fourteenth Amendment, prohibits a state from “abridging the
 2 freedom of speech.” U.S. Const. Amend. I. The First Amendment prohibits “restrict[ing]
 3 expression because of [expression’s] message, its ideas, its subject matter, or its content.”
 4 *Ashcroft v. American Civil Liberties Union*, 535 U.S. 564, 573 (2002). Similarly, Article 1,
 5 Section 9 of the Nevada Constitution protects the general right of the people to engage in
 6 expressive activities in this state.⁴

7 For “[t]ime out of mind public streets and sidewalks have been used for public
 8 assembly and debate, the hallmarks of a traditional public forum” *Frisby v. Schultz*, 487 U.S.
 9 474, 480 (1988) (quotation omitted). They are the “archetype” of a traditional public forum.
 10 *Id.* As the United State Court of Appeals for the Ninth Circuit has explained, “[t]he
 11 protections afforded by the First Amendment are nowhere stronger than in streets and parks,
 12 both categorized for First Amendment purposes as traditional public fora.” *Berger v. City of*
 13 *Seattle*, 569 F.3d 1029, 1035–36 (9th Cir. 2009) (citations omitted). Public sidewalks are
 14 also a traditional public forum and are open to the public for expressive activities. *United*
 15 *States v. Grace*, 461 U.S. 171, 179 (1983).

16 In traditional public fora, “the government’s ability to permissibly restrict
 17 expressive conduct is very limited.” *United States v. Grace*, 461 U.S. 171, 177 (1983). In
 18 such locations, First Amendment protections are strongest, and regulation is most suspect.
 19 *Grossman v. City of Portland*, 33 F.3d 1200, 1204 (9th Cir. 1994). “Public fora have achieved
 20 a special status in our law; the government must bear an extraordinarily heavy burden to
 21 regulate speech in such locales.” *N.A.A.C.P., Western Region v. City of Richmond*, 743 F.2d
 22 at 1355.

23 Accordingly, a municipality’s ability to restrict speech in public fora like sidewalks
 24 is “sharply circumscribed.” *Perry Educ. Ass’n v. Perry Local Educators’ Ass’n*, 460 U.S. 37,

25
 26 ⁴ The Nevada Supreme Court has held that the free speech protections of Article 1, Section
 27 9 of the Nevada Constitution are coextensive to those of the First Amendment to the United
 28 States Constitution. *See, e.g., S.O.C., Inc. v. Mirage Casino-Hotel*, 117 Nev. 403, 415, 23
 P.3d 243, 251 (2001).

1 46 (1983); accord *Am. Civil Liberties Union of Nevada v. City of Las Vegas*, 333 F.3d 1092,
 2 1098 (9th Cir. 2003). Although a municipality may place reasonable time, place, and manner
 3 restrictions on speech in public fora, those restrictions must be content neutral and narrowly
 4 tailored to serve a significant government interest. *A.C.L.U. of Nevada v. City of Las Vegas*,
 5 466 F.3d 784, 792 (9th Cir. 2006); see also *Univ. & Cmty. Coll. Sys. of Nevada v. Nevadans*
 6 *for Sound Gov't*, 120 Nev. 712, 723, 100 P.3d 179, 188 (2004) (“Speech in a public forum
 7 may be regulated by content-neutral time, place, and manner restrictions that are narrowly
 8 tailored to serve a significant government interest, and leave open ample alternative channels
 9 of communication.”) (quotation omitted).

10 Thus, the First Amendment protects persons engaged in expressive activity on the
 11 sidewalks along the Las Vegas Strip. Indeed, in several opinions, the Ninth Circuit has
 12 expressly ruled that the sidewalks of the Las Vegas Strip constitute public fora subject to the
 13 protections of the First Amendment. See *Venetian Casino Resort, L.L.C. v. Local Joint Exec.*
 14 *Bd.*, 257 F.3d 937, 948 (2001); accord *Santopietro v. Howell*, 857 F.3d 980, 988 (9th Cir.
 15 2017).

16 **2. Mr. Summers Was Engaged in a Protected Activity.**

17 The Ninth Circuit has specifically held that engaging in street performance is
 18 protected by the First Amendment. A street performer is a person, who in the public,
 19 “engages in any performing art or the playing of any musical instrument, singing or
 20 vocalizing, with or without musical accompaniment.” *Berger v. City of Seattle*, 569 F.3d
 21 1029, 1036 (9th Cir. 2009). Mr. Summers’ violin playing clearly falls within this definition.
 22 At the time Officer Reyes cited Mr. Summers, he was engaged in a protected street
 23 performance. (See **Exh. A**) Thus, Mr. Summers’ activity falls squarely within the protections
 24 provide by the First Amendment and Article 1, Section 9 of the Nevada Constitution and it
 25 cannot be criminalized.

26 ///

27 ///

28 ///

1 **D. The Code is Unconstitutionally Vague and Overbroad.**

2 **1. CCC § 16.11.070 is Vague.**

3 The vagueness doctrine “requires that a penal statute define the criminal offense with
 4 sufficient definiteness that ordinary people can understand what conduct is prohibited and in
 5 a manner that does not encourage arbitrary and discriminatory enforcement.” *Kolender v.*
 6 *Lawson*, 461 U.S. 352, 357 (1983) (internal citations omitted). A statute is unconstitutionally
 7 vague and subject to facial attack if it (1) fails to provide notice sufficient to enable persons
 8 of ordinary intelligence to understand what conduct is prohibited and (2) lacks specific
 9 standards, thereby encouraging, authorizing, or even failing to prevent arbitrary and
 10 discriminatory enforcement. *Silvar v. Eighth Judicial Dist. Court ex rel. County of Clark*,
 11 122 Nev. 289, 293, 129 P.3d 682, 685 (2006) (citations omitted).

12 First, CCC § 16.11.070 is unconstitutionally vague both because it fails to provide
 13 street performers like Mr. Summers with adequate notice of prohibited conduct, and because
 14 it does not provide adequate law enforcement guidelines. Code 16.11.070 prohibits storing
 15 “equipment, materials, parcels, containers, coolers, packages, bundles or other property” on
 16 sidewalks on the Las Vegas Strip, but specifically provides that street performers may
 17 temporarily place those items on the sidewalk during their performance unless they are
 18 actually obstructive. A person of ordinary intelligence reviewing the Code would not
 19 understand that the nonobstructive storage of a violin case during a street performance would
 20 violate the Code. Thus, the Code is unconstitutionally vague.

21 Second, the Code is unconstitutionally vague because it does not provide law
 22 enforcement adequate guidelines to prevent arbitrary enforcement. *See Silvar*, 122 Nev. at
 23 294, 129 P.2d at 686. Without these adequate guidelines, the Code risks arbitrary and
 24 discriminatory enforcement—a fact that is evident here where, despite Mr. Summers’ efforts
 25 to conform to the requirements of the Code, Officer Reyes still cited him for violating it.
 26 Accordingly, the Code is unconstitutionally vague, and Mr. Summers’ citation must be
 27 dismissed.

28

1 **2. CCC § 16.11.070 is Unconstitutionally Overbroad.**

2 In addition to being unconstitutionally vague, CCC § 16.11.070 is also overbroad. A
 3 law is overbroad if it “does not aim specifically at evils within the allowable area of State
 4 control but, on the contrary, sweeps within its ambit other activities that in normal
 5 circumstances constitute an exercise of freedom of speech.” *Thornhill v. Alabama*, 310 U.S.
 6 88, 97 (1940); accord *Klein v. San Diego County*, 463 F.3d 1029,1038 (9th Cir 2006); see
 7 also *Clark v. City of Los Angeles*, 650 F.2d 1033, 1039 (9th Cir. 1981) (a “law is void on its
 8 face if it sweeps within its ambit not solely activity that is subject to governmental control,
 9 but also includes within its prohibition the practice of a protected constitutional right”).
 10 “Because an overbroad law will have a chilling effect on free expression and thus impact the
 11 ‘breathing space’ of First Amendment rights, an overbroad law is unconstitutional.” *Silvar*,
 12 122 Nev. at 298, 129 P.2d at 688.

13 Here, CCC § 16.11.070 is unconstitutionally overbroad because it chills protected
 14 conduct—namely, Mr. Summers’ constitutional right to engage his street performance. Even
 15 though, as discussed above, street performance is constitutionally protected expressive
 16 conduct, Mr. Summers has been cited for performing. Although Clark County may have a
 17 legitimate interest in ensuring the unimpeded flow of pedestrian traffic, the Code is
 18 substantially overbroad in relation to this interest because it prevents Mr. Summers from
 19 engaging in his street performance even when it does not impede the flow of pedestrian
 20 traffic. Thus, his citation must be dismissed.

21 **E. The Officer’s Decision to Cite Mr. Summers Was Retaliation for Engaging in
 22 Protected Expressive Activity.**

23 The United States Supreme Court has explained the nature of First Amendment
 24 protection from retaliation and reprisal: “Official reprisal for protected speech ‘offends the
 25 Constitution [because] it threatens to inhibit exercise of the protected right[’;] ... the First
 26 Amendment prohibits government officials from subjecting an individual to retaliatory
 27 actions, including criminal prosecutions, for speaking out.” *Hartman v. Moore*, 547 U.S. 250,
 28 256 (2006) (first alteration in original) (citation omitted) (quoting *Crawford–El v. Britton*,

1 523 U.S. 574, 588 n. 10 (1998)). To demonstrate a First Amendment violation, a plaintiff
2 “must provide evidence showing that by their actions, officers deterred or chilled an
3 individual’s speech, and that such deterrence “was a substantial or motivating factor in [the
4 defendant’s] conduct.” *Mendocino Env’tl. Ctr. v. Mendocino Cty.*, 192 F.3d 1283, 1300 (9th
5 Cir. 1999) (quoting *Sloman v. Tadlock*, 21 F.3d 1462, 1469 (9th Cir.1994)). An individual
6 claiming officers engaged in First Amendment retaliation “need not show his speech was
7 actually inhibited or suppressed.” *Lacey v. Maricopa Cty.*, 693 F.3d 896, 916 (9th Cir. 2012)
8 (quotation omitted). Instead, he need only demonstrate that “an official’s acts would chill or
9 silence a person of ordinary firmness from future First Amendment activities.” *Id.* (quotation
10 and citations omitted).

11 Here, Officer Reyes’ decision to cite Mr. Summers for a violation of the Code
12 would chill a person of ordinary firmness from engaging in street performance. If a street
13 performer like Mr. Summers is afraid that he might be cited every time he tries to perform
14 on the Strip—notwithstanding his scrupulous efforts to conform to the Code—he would
15 refrain altogether from performing. Accordingly, Officer Reyes’ decision to cite Mr.
16 Summers unconstitutionally chilled his speech.

17 **IV. CONCLUSION**

18 For these reasons, Mr. Summers respectfully requests that this Court enter an order
19 dismissing his Citation.

20 DATED this 15th day of September, 2020.

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22 

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INDEX OF EXHIBITS	
Exhibit	Description
A	Mr. Summers' Bodycam Video (<i>To be supplemented</i>)
B	Citation
C	Declaration of Arrest
D	Memo of Understanding Filed in <i>Banasik v. Clark County, Nevada et al.</i>
E	Bill No. 11-3-10-4
F	Board of County Commissioners Joint Meeting - Summary of Final Action dated November 16, 2010

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RECEIPT OF COPY

The above and foregoing **MOTION TO DISMISS** was served via hand delivery on this 15th day of September, 2020.

STEVEN B. WOLFSON, District Attorney
Office of the District Attorney
200 Lewis Avenue
Las Vegas, NV 89155
Counsel for Plaintiff, State of Nevada



EMPLOYEE, District Attorney's Office

EXHIBIT A

(To be Supplemented)

EXHIBIT B

20T00883
 In the Municipal Court of
 In the Justice Court of Clark County

State of Nevada
CLARK COUNTY
 Las Vegas Metropolitan Police Department

COURT

Event #: 191100113236

ID #: 2824846

Case # 19CC01841

Adult Juvenile

TRAFFIC/MISDEMEANOR CITATION/COMPLAINT

Traffic Accident
 Non-Traffic Meter #
 Parking

School Zone Hazmat
 Construction Zone S.T.E.P.

Injuries Crime Report
 Officer's Report

Evidence Logged Arrest

Aircraft Clock Number
 Radar Other
 Explain:

Travel Direction: N S E W Beav/ Area: M-3 Mile Marker:

At Location: 3100 BLOCK S LAS VEGAS BLVD, LV, NV 89109

Violation Date: 11-24-19 Time: 1653

Issue Date: 11-24-19 Time: 1700

Day Code: 1 2 3 4 5 6 7

Had Been Drinking: Yes No Unknown

Defendant Type: Driver Passenger Pedestrian

Test Type: PBT Blood Breath UA

Other Explain:

Drugs Suspected Results: %

THE UNDERSIGNED CERTIFIES AND SAYS THAT IN THE STATE OF NEVADA

NAME (Last, First, Middle): SUMMERS, BRANDON
 Social Security #: [REDACTED]
 Address: Physical Mailing City: LAS VEGAS State: NV Zip: [REDACTED] City: USA
 DOB: [REDACTED] Race: B Sex: M Height: 6'0 Weight: 150 Hair: BRN Eyes: BRN
 OLN/ID: [REDACTED] COL State: NV
 Vehicle has current proof of insurance? Yes No
 DID OPERATE THE FOLLOWING VEHICLE/MOTOR
 Commercial Vehicle US DOT #: [REDACTED] VIN #: [REDACTED]
 16+ Pass Vehicle
 Vehicle License: [REDACTED] Lic. State: NV Expiration: [REDACTED] Year: [REDACTED]
 Reg. Owner: Same

20T00883
 CITIM
 Citation Image
 12052327

DID THEN AND THERE COMMIT THE FOLLOWING OFFENSE(S):

1 Violation
 OBSTRUCTIVE USE OF THE PUBLIC SIDEWALK/STREET
 Posted Speed: [REDACTED] Actual Speed: [REDACTED] Cited Speed: [REDACTED] NRS CFR County Code Municipal Code
 To Wit: DEO OBSTRUCTIVE BLOCK HINDER
 OR INTERFERE WITH PEDESTRIAN PASSAGE ON ANY PUBLIC SIDEWALK
 IN THE PRESENT MATTER, WHICH RESULTED IN A THREAT OF
 DEGRADATION TO THE SAFETY OF THE PEDESTRIANS
 CODE
 To Wit: NRS CFR County Code Municipal Code
 NRS/County/City #

I certify (or declare) under penalty of perjury, that I have reasonable grounds/probable cause to believe and do believe that above named person committed the above offense(s) contrary to law.

Officer/Complainant's PRINTED Name: G REYLS Officer/Complainant's Signature: [Signature] P#: 171102 Bureau: 6633P

Las Vegas Municipal Court
 200 Lewis Ave.
 Las Vegas, NV
 702-382-8878
 1-800-654-4654

Las Vegas Township Community Impact Center
 3740 Royal Crest St. LV, NV 89119
 702-671-3811 (Twain & Swenson)

Township/Justice Court
 You are hereby notified to answer the complaint WITHOUT A DELAY.

Thursdays, December 19, 2019 at 8 AM

Defendant's Signature: [Signature] Phone: [REDACTED] Interpreter Needed? LANGUAGE

1-05874810 A

EXHIBIT C

LVMPO CONVENTION CENTER AREA COMMAND DECLARATION OF ARREST

On 11-24-19 at 1653 hours, I, Officer G. REYES, working as marked patrol unit observed SUMMERS, BRANDON on the resort corridor (zoned H-1) at NYNN FASHION SHOW BRIDGE, W. NV, 89109. The subject did engage in Obstructive Use CC 16.11.035 / Storage of Materials on Public Sidewalk CC 16.11.070 in direct violation of Clark County Title 16 by: LEARNING AGAINST PEOPLE
RAILING; PLAYING A VIOLIN WITH AN OPEN VIOLIN
CASE BEHIND THEM WITH MONKEY INSIDE THE CASE
OBSTRUCTING THE PUBLIC RIGHT AWAY FROM FASHION
SHOW TO THE NYNN
SUBJECT REFUSED TO LEAVE UNLESS CITED

It is the policy of Clark County that no obstructive use, other than a permitted obstructive use, shall be permitted upon any public sidewalk of the resort district of the Las Vegas Valley if the obstructive use, would: Cause the Level of Service for the sidewalk to decline or Result in a significant threat to or degradation of the safety of pedestrians.

No equipment, materials, parcels, containers, coolers, packages, bundles or other property may be stored, placed or abandoned in or on the public sidewalk. This provision shall not apply to materials or property held or stored in a carry bag or pack which is actually carried by a pedestrian or items such as a musical instrument case or a backpack which is temporarily placed next to a street performer for that street performer for that street performer's use unless said musical instrument case or backpack actually obstructs the sidewalk in violation of this chapter.

The Subject, through their actions, did obstruct, delay, hinder, block, hamper or interfere with pedestrian passage, including passage to or from private property or any use of the public sidewalk and did not have a permit issued by the Clark County and cannot operate in this capacity in Clark County. The Subject was issued a citation for the violation under Clark County Ordinance 16.11.090 and was advised on how to be in compliance. The subject had 0 priors for the same offense.

Prosecution please Subpoena LVMPO Officers CR. VERNON, PHOENIX 60 G. REYES

Photographs obstruction were taken: RTCC CAMERA BODY CAM

Impounded Evidence is as follows: _____

Event # 191100113236

CCAC Title 16 DOA - Rev. 09-16

20T00883
SDS
Supplemental Documentation Submitted v
12052328

JUVENILE'S PARENTS NOTIFIED Yes No Parent/Guardian Name _____

(REV. 2-15)



RECEIVED

FEB 04 2020

JUSTICE COUF

EXHIBIT D

1 ALLEN LICHTENSTEIN, NV BAR 03992
MARGARET A. MCLETCHE, NV BAR 10931
2 LEE B. ROWLAND, NV BAR 10209
JUDY C. COX, NV BAR 11093
3 AMERICAN CIVIL LIBERTIES UNION OF NEVADA
732 S. 6th St. Suite 200A
4 Las Vegas, NV 89101
Telephone 702-366-1536
5 Facsimile 702-366-1331

6
7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 Suzette Banasik, and William Jablonski,

Case No. 2:09-cv-1242

10 Plaintiffs,

11 v.

12 Clark County, Nevada; David Roger (in his official
capacity as District Attorney for Clark County); Las
13 Vegas Metropolitan Police Department; Sheriff Douglas
Gillespie (individually and in his official capacity as
14 Sheriff of the Las Vegas Metropolitan Police
Department); Captain Charles Hank (individually and in
15 his official capacity as Bureau Commander for the
Convention Center Area Command); Las Vegas
16 Metropolitan Police Department Officers Contreras
(Badge 9316), Goris (Badge 7520), Flannigan (Badge
17 3510), Anderson (Badge 6196); and (in their individual
18 capacities); and Catherine Cortez Masto (in her official
19 capacity as Attorney General of Nevada).

20 Defendants.

**INTERIM STIPULATED
MEMORANDUM OF
UNDERSTANDING**

21
22 **Interim Stipulated Memorandum of Understanding**

23 The above named parties, by and through their attorneys of record, having met on
24 September 22, 2009 to discuss an interim stipulated agreement and the possibility of settlement,
25 as required by Rule 26 of the Federal Rules of Civil Procedure, have come to the following
26 agreement.

27 I. Without admitting or denying any claims stated in Plaintiffs' Amended Complaint and
28

1 without admitting fault or waiving any claims, counterclaims, defenses, or arguments, the
2 parties agree that:

- 3 1. The sidewalks and pedestrian bridges along Las Vegas Boulevard ("the Strip") constitute
4 a traditional public forum for First Amendment purposes. See *Venetian Casino Resort,*
5 *L.L.C. v. Local Joint Executive Bd. of Las Vegas*, 257 F.3d 937, 943 (9th Cir. 2001).
- 6 2. A "street performer" is a member of the general public who engages in any performing
7 art or the playing of any musical instrument, singing or vocalizing, with or without
8 musical accompaniment, and whose performance is not an official part of a sponsored
9 event. See e.g., *Berger v. City of Seattle et. al.*, 569 F.3d 1029, 1036 (9th Cir. 2009).
10 "Street performing" is the act of engaging in performing art or the playing of any musical
11 instrument, singing or vocalizing, with or without musical accompaniment.
- 12 3. The Ninth Circuit Court of Appeals has determined that street performing is expressive
13 speech or expressive conduct protected under the First Amendment. See *Berger v. City of*
14 *Seattle et. al.*, 569 F.3d 1029 (9th Cir. 2009).
- 15 4. Street performing, including the acceptance of unsolicited tips and the non-coercive
16 solicitation of tips, is not a *per se* violation of any of the codes or statutes being
17 challenged in this action.
- 18 5. Street performers who are legitimately in violation of a county code, state statute, or other
19 law of general applicability are not immune from prosecution simply because they are
20 street performers.
- 21 6. The entirety of Chapter 6 of the Clark County Code, the business licensing codes, as
22 written, is inapplicable to the act of street performing.
- 23 7. Counsel for Defendant Clark County will propose amendments to the challenged County
24 codes as detailed below for consideration by the County Commission.
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8. By stipulating to this Memorandum of Understanding both parties have avoided actual argument on the probability of success or failure of the merits of Plaintiffs' claims and Defendants' defenses, thereby conserving judicial time and effort.

II. Based on the forgoing, the parties hereby stipulate that:

1. During the pendency of litigation in this action, counsel for Clark County and counsel for the ACLU of Nevada will pursue possible amendments, revisions, or notations to the following Clark County Codes:

- a. Clark County Code 11.04.020 (public nuisance/obscenity).
- b. Clark County Code 12.32.020(d) (begging/soliciting alms).
- c. Clark County Code 12.33.010(c) (disorderly conduct).
- d. Clark County Code 16.11.070 (storing material on a public sidewalk).

2. During the pendency of litigation in this action, Counsel for Clark County and DA David Roger agree to forebear prosecution against people for engaging in street performing..

3. During the pendency of litigation in this action, counsel for the Attorney General's Office agrees that the activity of street performing is not a per se violation of N.R.S. 202.450(3) and that the state will forebear enforcement of N.R.S. 202.450(3) against street performers.

4. During the pendency of litigation in this action, given that the parties are negotiating possible amendments to the provisions, the Las Vegas Metropolitan Police Department, including the Sheriff and all officers, agrees that it shall not issue a citation to, or effect an arrest of, a person solely based upon the person(s) being a "street performer" or engaged in "street performing"(as defined in Sec. I. ¶ 2 of this Agreement) or to otherwise criminalize "street performing," including issuing citations and/or arresting persons for the following codes and/or statutes solely for engaging in street performing

1 and/or being street performers:

- 2 a. Clark County Code 11.04.020 (public nuisance/obscenities).
3 b. Clark County Code 12.32.020(d) (begging/soliciting alms).
4 c. Clark County Code 12.33.010(c) (disorderly conduct).
5 d. Clark County Code 16.11.020 (obstructing a public sidewalk).
6 e. Clark County Code 16.11.070 (storing materials on a public sidewalk).
7 f. Nevada Revised Statute 202.450(3) (public nuisance).
8 g. Clark County Code Chapter 6 (business licenses).
9

10 5. All parties understand that street performers who are legitimately in violation of a County
11 code, State statute, or other law of general applicability for criminal conduct are not
12 immune from prosecution simply because they are street performers and paragraph 4
13 *surpa* does not limit LVMPD or any of its officers from properly enforcing Codes,
14 statutes and/or governing laws for people who actually violate said laws, by actions other
15 than simply being a street performer. However, the act of street performing in and of
16 itself does not constitute a violation of any code or statute. Thus, for example, street
17 performers cannot be required to obtain a business license to perform in public spaces,
18 even if people give them unsolicited tips. Furthermore, temporarily setting an item next
19 to the street performer, while s/he is performing, is not a *per se* violation of Clark County
20 Code 16.11.070 (storing materials on a public sidewalk). However, a street performer
21 who causes an actual obstruction of the sidewalk, as defined in Clark County Code
22 16.11.020(e)(1), may be cited, detained and/or arrested for obstructing.
23

24
25 6. In the event that any party believes that another party has failed to comply with the terms
26 of this Stipulation, the complaining party shall inform the other party in writing of the
27 specific grounds upon which non-compliance is alleged. Such written notification shall
28

1 include a statement of fact sufficient to identify the unintended result or ambiguous
2 interpretation. Upon receipt of said notice, the parties shall have 10 days to make a good
3 faith effort to meet, either in person or via telephone, to negotiate a resolution to the
4 problem. If the parties cannot reach an agreement within 7 days of the aforementioned
5 meeting, the issue may then be submitted to the Court.
6

7 7. This Interim Memorandum, along with any exhibits, appendices, addendums, and
8 amendments hereto, encompasses the entire agreement of the parties as it relates to the
9 Interim Memorandum, and supersedes all previous understandings and agreements
10 between the parties, whether oral or written. The parties hereby acknowledge and
11 represent, that said parties have not relied on any representation, assertion, guarantee,
12 warranty, collateral contract or other assurance, except those set out in this Interim
13 Memorandum, made by or on behalf of any other party or any other person or entity
14 whatsoever, prior to the execution of this Interim Memorandum. This Interim
15 Memorandum may only be amended by a written document duly executed by all parties.
16

17 8. It is the intention of the parties that, pursuant to the amendments of the above-referenced
18 Clark County Codes, in a form agreeable to all parties, that the parties shall enter into a
19 permanent agreement resolving all causes of action set forth in Plaintiffs' Complaint with
20 each party to bear its own attorney fees and costs.
21

22 9. This Memorandum shall remain in effect during the time the proposed amendments to the
23 aforementioned Codes are being drafted, discussed, and revised, presented to the County
24 Commission, and until such time as the County Commission approves the proposed
25 revisions to the Code(s). In the event the Code(s) are not approved by the County
26 Commission within 120 days, and the parties continue, in good faith, to draft and discuss
27 revisions to the Code(s) this Memorandum will automatically renew for a period of 60
28

1 days or until such time as the parties reach a final agreement or, alternatively, terminate
2 efforts to present revised Code(s) to the County Commission.

3 Dated this 27th day of January, 2010

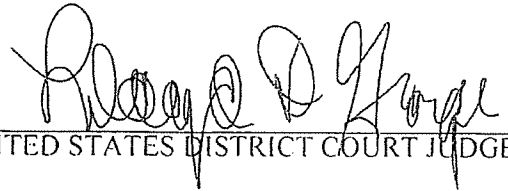
4 _____
5 /s/
6 Allen Lichtenstein
7 Nevada Bar No. 3992
8 Margaret A. McLetchie
9 Nevada Bar No. 10931
10 Lee B. Rowland
11 Nevada Bar No. 10209
12 Judy Carol Cox
13 Nevada Bar No. 11093
14 ACLU OF NEVADA
15 732 South Sixth Street, Ste 200A
16 Las Vegas, NV 89101
17 Telephone (702) 366-1902
18 Fax (702) 366- 1331
19 *Attorneys for Plaintiffs*

_____ /s/
Robert Gower
Nevada Bar No. 1868
500 S. Grand Central Parkway
Las Vegas, NV 89106
Telephone (702) 455-4761
Fax (702)382-5178
Robert.Gower@ccdavn.com
*Attorney for Clark County, Nevada
and District Attorney David Roger.*

14 _____
15 /s/
16 Nick D. Crosby
17 Nevada Bar No. 8996
18 10001 Park Run Drive
19 Las Vegas, NV 89145
20 Telephone (702) 382-0711
21 Fax (702) 382-5816
22 ncrosby@marquisaurbach.com
23 *Attorneys for LVMPD defendants*

_____ /s/
CATHERINE CORTEZ MASTO
Attorney General
C. WAYNE HOWLE
Solicitor General
Nevada Bar No. 3443
100 N. Carson Street
Carson City, Nevada 89701
Telephone 775-684-1227
Facsimile 775-684-1108
Attorneys for Catherine Cortez Masto

20 **IT IS SO ORDERED:**

21 
22 _____
23 UNITED STATES DISTRICT COURT JUDGE

24
25 Dated: 28th 2010
26
27
28

EXHIBIT E

[Bracketed] material is that portion being deleted
Underlined material is that portion being added

BILL NO. 11-3-10-4

SUMMARY – An Ordinance to amend Title 16, Chapter 16.11, of the Clark County Code to include a definition of “street performer” and to clarify the materials that can be placed on the public sidewalk.

ORDINANCE NO. _____
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 16, CHAPTER 16.11, TO INCLUDE A DEFINITION OF “STREET PERFORMER” AND TO CLARIFY THE MATERIALS THAT CAN BE PLACED ON PUBLIC SIDEWALKS OF THE CLARK COUNTY CODE; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK,
STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 16, Chapter 16.11, of the Clark County Code is amended as follows:

16.11.020 - General definitions. (a) "Pedestrian travel" includes nonvehicular travel by persons on foot, as well as vehicular travel by disabled persons in wheelchairs or similar devices.

(b) "Level of service" or "LOS" means a series of measures that define the relative degree of convenience for different pedestrian traffic volumes and densities, as determined by methodology set forth in Chapter 13 of the Highway Capacity Manual and the Las Vegas Boulevard South Pedestrian Walkway Study. Both documents are on file in the office of the clerk of Clark County, Nevada.

(c) "Crosswalk" means any above or below grade structure or surface portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by signs, lines or other markings on the surface.

(d) "Public sidewalk" means that portion of a highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians, and shall also include crosswalks, medians and traffic islands. For the purposes of this chapter, "public sidewalk" shall include private property upon which a limited easement of public access has been granted. However, no provision of this chapter shall be construed to limit any right of the private property owner to restrict or limit the use of that private property.

(e) "Obstructive use" means:

(1) Placing, erecting or maintaining an unpermitted table, chair, booth or other structure upon the public sidewalk, if the placing, erecting, or maintaining of the table, chair, or booth is not protected by the First Amendment or if the placing, erecting, or maintaining of the table, chair, or booth is protected by the First Amendment but is actually obstructive;

(2) Forming a cordon or line of persons across the public sidewalk;

(3) Carrying banners or signs, upon the public sidewalk which actually causes an obstruction on the sidewalk;

(4) Placing or storing equipment, materials, parcels, containers, packages, bundles or other property upon the public sidewalk which actually causes an obstruction on the sidewalk;

(5) Placing, erecting or maintaining an unpermitted fixed sign upon the public sidewalk;

(6) Sleeping upon the public sidewalk;

(7) Obstructing, delaying, hindering, blocking, hampering or interfering with pedestrian passage, including passage to or from private property; or

(8) Any use of the public sidewalk that causes the LOS for the public sidewalk to decline below LOS C, as determined by the methodology used in Chapter 13 of the Highway Capacity Manual and Las Vegas Boulevard South Pedestrian Walkway Study.

(f) "LOS C" means a pedestrian flow on a sidewalk of less than or equal to ten pedestrians per minute per foot as specified and defined in the Highway Capacity Manual, Special Report 209, a copy of which is filed with the office of the county clerk.

(g) "Permitted obstructive use" means:

(1) Any obstructive use of the public sidewalk by public safety equipment, including but not limited to, street signs, traffic signals, fire hydrants, utility poles and street and sidewalk lighting; and

(2) Any obstructive use of the public sidewalk for purposes of construction, maintenance or repair of the public safety equipment, right-of-way (or equipment therein) or adjoining private property, conducted by or pursuant to a valid construction permit issued by the Clark County department of public works, Clark County building department or Nevada Department of Transportation;

(3) Any obstructive use of the public sidewalk resulting from:

(A) An encroachment or structure constructed pursuant to the ordinances, rules, regulations or laws of the United States, the state of Nevada or Clark County,
or

(B) The construction, modification, addition or attraction upon abutting private property occurring or in place before May 1, 1994;

(4) Any newsrack licensed pursuant to Clark County Code Chapter 16.08 unless such newsrack causes a degradation of the LOS to LOS C or less as provided in Section 16.11.040(e);

(5) Any conduct "arguably protected" by the National Labor Relations Act until or unless such conduct is determined to be unprotected pursuant to a decision of the National Labor Relations Board;

(h) "Arguably protected" as used in subsection (g)(5) of this section has the same meaning as in *San Diego Building Trades Council v. Garmon*, 359 U.S. 236, 79 S. Ct. 773 (1959).

(i) "street performer" is a member of the general public who engages in any performing act or the playing of any musical instrument, singing or vocalizing, with or without musical accompaniment, and whose performance is not an official part of a sponsored event.

16.11.070 - Storing and unloading materials on public sidewalks.

(a) No equipment, materials, parcels, containers, packages, bundles or other property may be stored, placed or abandoned in or on the public sidewalk. This provision shall not apply to materials or property held or stored in a carry bag or pack which is actually carried by a pedestrian or items such as a musical instrument case or a backpack which is temporarily placed next to a street performer for that street performer's use unless said musical instrument case or backpack actually obstructs the sidewalk in violation of this Chapter;

(b) Except in designated loading zones, vehicles may not stop in traffic lanes to load or unload equipment, materials, parcels, containers, packages, bundles or other property onto the public sidewalk

SECTION 2. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 3. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby

repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 3rd day of November, 2010.

PROPOSED BY: Susan Brager

PASSED on the _____ day of _____ 2010.

AYES: _____

NAYS: _____

ABSTAINING: _____

ABSENT: _____

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

By: _____
Chair

ATTEST:

DIANA ALBA, County Clerk

This ordinance shall be in force and effect from and after the _____ day of
_____ 2010.

EXHIBIT F

SUMMARY OF FINAL ACTION

AGENDA

The Board of County Commissioners of Clark County, Nevada, met in joint regular session with the Clark County Water Reclamation District Board of Trustees, the University Medical Center of Southern Nevada Board of Trustees, and the Clark County Liquor and Gaming Licensing Board, in full conformity with law and bylaws of said Boards and the Nevada Revised Statutes, at the regular place of meeting in the Commission Chambers, Government Center, Las Vegas, Clark County, Nevada on Tuesday, the 16th day of November, 2010, at the hour of 9:15 a.m. The meeting was called to order at the hour of 9:19 a.m. by Chairman Reid and, on roll call, the following members were present, constituting a quorum of the members thereof:

9:30 A.M. TUESDAY, NOVEMBER 16, 2010

**CLARK COUNTY COMMISSION CHAMBERS, GOVERNMENT CENTER
500 SOUTH GRAND CENTRAL PARKWAY, LAS VEGAS, NEVADA**

This meeting has been properly noticed and posted in the following locations:		Agenda Also Available At:	
CC Government Center 500 S. Grand Central Pkwy. Las Vegas, NV (Principal Office)	Regional Justice Center 200 Lewis Ave, 1st Fl. Las Vegas, NV	City of Las Vegas 400 E. Stewart Ave. Las Vegas, NV	City of North Las Vegas 2200 Civic Center Dr. No. Las Vegas, NV
Third Street Building 309 S. Third St. Las Vegas, NV	Paradise Park Pool & Center 4775 McLeod Dr. Las Vegas, NV	City of Henderson 200 Water St. Henderson, NV	City of Boulder City 400 California Ave. Boulder City, NV
Winchester Park & Center 3130 S. McLeod Dr Las Vegas, NV	Desert Breeze Park & Community Ctr 8275 Spring Mtn. Rd Las Vegas, NV	City of Mesquite 10 E. Mesquite Blvd. Mesquite, NV	Clark County Reg. Govt. Center 101 Civic Way Laughlin, NV

Tune in to the County's news magazine "Chronicles" Tuesday, November 16, 2010, at 6:30 p.m. The min agenda is available on Clark County's Internet Web Site, <http://www.accessclarkcounty.com>. This meeting will be broadcast live on Clark County Television, Channel 4 (CCTV 4) and over the Internet, <http://www.accessclarkcounty.com>. It will be replayed over CCTV 4 on Tuesday, November 16, 2010, at 8:00 p.m. For more programming information, call the Public Communications Office at 455-6888.

SEC. 1. OPENING CEREMONIES

CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

- 1 Approval of Minutes of the regular Board of County Commission meeting on October 19, 2010 and the regular University Medical Center of Southern Nevada Board of Hospital Trustees meeting on September 22, 2010. (Available in the County Clerk's Office, Commission Division)

MOVED BY: Susan Brager
ACTION: APPROVED SUBJECT MINUTES AS RECOMMENDED
VOTE: 6-0
VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown
VOTING NAY: NONE
ABSTAINING: NONE
ABSENT: Chris Giunchigliani

- 2 Approval of Agenda with the Inclusion of Any Emergency Items and Deletion of Any Items

MOVED BY: Susan Brager
ACTION: APPROVED AGENDA WITH INCLUSION OF ITEM NO. 72 (ADDENDUM); DELETION OF ITEM NOS. 41, 47 & 49; HOLDING OF ITEM NO. 51 TO DECEMBER 21, 2010 MEETING; AND HOLDING OF ITEM NOS. 60 & 61 TO JANUARY 18, 2011 MEETING AS RECOMMENDED
VOTE: 6-0
VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown
VOTING NAY: NONE
ABSTAINING: NONE
ABSENT: Chris Giunchigliani

SEC. 2. CONSENT AGENDA: Items No. 3 through No. 47

NOTE: All items listed on this agenda are for action by the Board/Trustees unless otherwise noted. Action may consist of any of the following: approve, deny, condition, hold, or table.

Consent Agenda - All matters in this sub-category are considered by the Board of County Commissioners, Board of Trustees, Licensing Board and Agency to be routine and may be acted upon in one motion. Most agenda items are phrased for a positive action. However, the Board/Trustees may take other actions such as hold, table, amend, etc.

COMMENTS BY THE GENERAL PUBLIC

According to Nevada's Open Meeting Law, it is the Board's/Trustees' discretion to take Public Comment during times other than during a Public Hearing or during the Public Comment Session. In all other instances, a citizen may speak on any matter before the Board/Trustees for consideration, after receiving recognition and consent of the Chairman of the Board. Public Comment will be limited to three minutes. If any member of the Board/Trustees wishes to extend the length of a presentation, this will be done by the Chairman, or the Board/Trustees by majority vote.

If you wish to speak on a matter not listed as a public hearing or on a matter not posted on the agenda, you may do so during the Public Comment Session. Please step up to the speaker's podium, clearly state your name and address -- please spell your name for the record -- and limit your comments to no more than three minutes. No vote may be taken on any matter not listed on the posted agenda.

Consent Agenda items are routine and can be taken in one motion unless a Commissioner/Trustee/Licensing member requests that an item be taken separately. For all items left on the Consent Agenda, the action taken will be staff's recommendation as indicated on the item.

Items taken separately from the Consent Agenda by Commission/Trustees/Licensing members at the meeting will be heard following the Commissioners'/County Manager's Recognition Section.

MOVED BY: Tom Collins

ACTION: APPROVED CONSENT AGENDA ITEM NOS. 3 THROUGH 47 EXCLUDING ITEM NO. 8, 13, 21, 26, 29, 31, 36 & 41 (WITH COMMISSIONER WEEKLY VOTING NAY ON ITEM NO. 18) AS RECOMMENDED

VOTE: 6-0

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Chris Giunchigliani

Purchasing & Contracts

- 3 Approve the contract with TMCx Solutions, LLC, to provide for Recertification of the Mechanical Smoke Control System in Clark County Regional Justice Center, contingent upon submission of the required insurance and final approval of business license; and authorize the Chief Financial Officer or his designee to sign the contract; or take other actions as appropriate.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [C602106-10 Disclosure.pdf](#)

ATTACHMENT: [C602106-10 Contract.pdf](#)

ATTACHMENT: [3287 C602106-10 AIDR TMCx.U.pdf](#)

- 4 Approve the contract with AWA Architecture, Inc., to provide architecture and engineering services for the Selected Energy Audit Improvements to the Clark County Information Technology (I.T.) Building; and authorize the Chief Financial Officer or his designee to sign the contract; or take other action as appropriate.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [C602110-10 Contract Exhibits.pdf](#)

ATTACHMENT: [C602110-10 Contract.pdf](#)

ATTACHMENT: [C602110-10 Disclosure.pdf](#)

- 5 Approve the contract with Westar Architectural Group/Nevada, Inc., to provide architecture and engineering services for the Selected Energy Audit Improvements to the Clark County Coroner's Building; and authorize the Chief Financial Officer or his designee to sign the contract; or take other action as appropriate.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [C602112-10 Contract Exhibits.pdf](#)

ATTACHMENT: [C602112-10 Contract.pdf](#)

ATTACHMENT: [C602112-10 Disclosure.pdf](#)

- 6 Approve the contract with Westar Architectural Group/Nevada, Inc., to provide architecture and engineering services for the Selected Energy Audit Improvements to the Desert Breeze Recreation Center; and authorize the Chief Financial Officer or his designee to sign the contract; or take other action as appropriate.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [C602113-10 Contract Exhibits.pdf](#)

ATTACHMENT: [C602113-10 Contract.pdf](#)

ATTACHMENT: [C602113-10 Disclosure.pdf](#)

- 7 Approve the selection of Embarq Payphone Systems, Inc., dba CenturyLink, to provide Inmate Telephone Services; and authorize the Chief Financial Officer or his designee to negotiate a contract; or take other action as appropriate.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [P601972-10 Disclosure.pdf](#)

ATTACHMENT: [3288 P601972-10 AIDR Embarq.U.pdf](#)

- 8 Sitting as the University Medical Center of Southern Nevada Board of Hospital Trustees, approve the contract with CSI Identity Corporation, to provide Professional Services for Data Breach Management Services; and authorize the Chief Financial Officer or his designee to sign the contract; or take other action as appropriate.

MOVED BY: Steve Sisolak

ACTION: HELD TO DECEMBER 7, 2010 MEETING (FOR CLARIFICATION OF CHARGES FOR INBOUND/OUTBOUND CALLS & CREDIT MONITORING) AS RECOMMENDED

VOTE: 6-0

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Chris Giunchigliani

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [P601856-10-Disclosure.pdf](#)

ATTACHMENT: [P601856-10 Contract.pdf](#)

ATTACHMENT: [3289 AIDR P601856-10 CSI Identity.U.pdf](#)

Town Services (Minutes to be noted, available in the County Clerk's Office, Commission Division)

- 9 Note for the record the following Town Advisory Board (TAB) and Citizens Advisory Council (CAC) Minutes: Goodsprings Citizens Advisory Council - September 28, 2010; Lone Mountain Citizens Advisory Council - September 28, 2010; Red Rock Citizens Advisory Council - September 29, 2010; Paradise Town Advisory Board - October 12, 2010; Spring Valley Town Advisory Board - October 12, 2010; and Enterprise Town Advisory Board - October 13, 2010.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

Business License

- 10** Refer the appeal of the licensing decision to a Hearing Officer for Heath Beard (Owner 100%) dba Natural Health Center, located at 9575 West Tropicana Avenue, Suite 8, Las Vegas, Nevada 89148. (Tropicana/Fort Apache) Commission District: F - Brager

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

- 11** Refer the appeal of the licensing decision to a Hearing Officer for Green Healing, Inc., Amit Sahgal (Owner 100%), located at 3560 Polaris Avenue, Suite 21, Las Vegas, Nevada 89103. (Spring Mountain/Polaris) Commission District: F - Brager

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

- 12** Refer the appeal of the licensing decision to a Hearing Officer for Compassion and Wellness Centers of Nevada dba Medicated Janes, Inc., Rhonda Shade (Owner 100%), located at 3139 South Eastern Avenue, Las Vegas, Nevada 89169. (Desert Inn/Eastern) Commission District: E - Giunchigliani

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

Air Quality & Environmental Management

- 13** Receive the recommendations report of the Desert Conservation Program Community Advisory Committee regarding the amendment of the Multiple Species Habitat Conservation Plan and Incidental Take Permit; and approve, adopt, and authorize the Chairman to sign a resolution in support of the committee's recommendations; or take other action as appropriate.

MOVED BY: Tom Collins

ACTION: APPROVED AS RECOMMENDED

VOTE: 5-0

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Rory Reid , Chris Giunchigliani

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [CAC Recommendation Report Final 10272010.pdf](#)

ATTACHMENT: [Rathbun Notes 10072010.pdf](#)

ATTACHMENT: [Resolution amendment.doc](#)

ATTACHMENT: [3291 AIDR Desert Conservation.U.pdf](#)

(MOTION FOR APPROVAL ALSO MADE BY COMMISSIONER WEEKLY)

Parks & Recreation

- 14** Approve and authorize the Chairman to sign an interlocal agreement between Clark County and the City of Las Vegas for the reciprocal use of parks, park facilities, community centers and related equipment.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [Interlocal Agreement - Parks and Recreation.pdf](#)

Aviation

- 15** Approve and authorize the advertising of the intent to enter into a Retail Concession Permit between Clark County and Ayala's, Inc. dba Everything's \$10! (Dan R. Ayala, President) for the operation of a concession at McCarran International Airport.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [B-Ayala.pdf](#)

- 16** Approve and authorize the Director of Aviation to sign the First Amendment to Lease Agreement between Clark County and Elite Aviation VGT, LLC (Jason Duncan, Managing Member) to allow aircraft rentals and sales as an approved use under the agreement at North Las Vegas Airport.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [B-EliteAviation.pdf](#)

- 17** Approve and authorize the Director of Aviation to sign the General Aviation Operating Permit between Clark County and Las Vegas Glider Rides (J. Michael

Henderson, Owner) for the purpose of operating a commercial soaring, glider ride, and glider flight instruction business at Jean Airport.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [B-LasVegasGliderRides.pdf](#)

- 18 Approve and authorize the Director of Aviation to sign the concession agreement between Clark County and Lee's Runway Liquor, LLC (Hae Un Lee, Managing Member) for the operation of a concession at McCarran International Airport.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [B-LeesRunwayLiquor.pdf](#)

(NOTE: COMMISSIONER SISOLAK ADVISED FOR THE RECORD HIS INTENT TO VOTE NAY IN ORDER TO BE CONSISTENT WITH PREVIOUS VOTE ON ITEM)

- 19 Approve and authorize the advertising of the intent to enter into a concession agreement between Clark County and S.L.B., Inc. dba Goodfellows Shoeshine of Las Vegas (Shelley L. Bonner-Carson, CEO/President) for the operation of a concession at McCarran International Airport.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [B-SLB.pdf](#)

- 20 Approve and authorize the Director of Aviation to sign the Second Amendment to the concession agreement between Clark County and Valor Development LLC dba O2 Bar and Spa (Valerie Sanchilli, President).

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [B-ValorDevelopment.pdf](#)

- 21 Approve the award of Project 2262-3, Roof Replacement - A & B Concourses, Cluster Buildings and Airport Rescue & Fire Station (ARFF); and authorize the Director of Aviation to sign the contract, contingent upon the contractor providing both a labor and material bond and a performance bond as required by the contract documents. Staff recommends award to Commercial Roofers, Inc. (Dennis Conway, President), the best bidder per NRS 338.147.

MOVED BY: Tom Collins
ACTION: APPROVED AS RECOMMENDED
VOTE: 6-0
VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown
VOTING NAY: NONE
ABSTAINING: NONE
ABSENT: Chris Giunchigliani

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [C-CommercialRoofers.pdf](#)

(MOTION FOR APPROVAL ALSO MADE BY COMMISSIONER SISOLAK)

- 22 Approve and authorize the Director of Aviation to sign a Construction Manager at Risk (CMAR) Contract for preconstruction services (2395PC) between Clark County and Sletten Construction of Nevada, Inc. (Ron McCullough, Executive Vice President); and establish a guaranteed maximum price for the future construction contract for the C-Gates Modernization Project at McCarran International Airport.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [C-SlettenConstruction.pdf](#)

- 23 Approve and authorize the Director of Aviation to sign the contract (CBE-638) between Clark County and ISS Facility Services Inc. (Amber K. Claunch, Business Development Director) to provide custodial services at McCarran International Airport Child Development Center; or take other action as appropriate.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [P-ISSFacility.pdf](#)

Public Works

- 24 Approve and authorize the County Manager or her designee to sign a revocable license agreement between Clark County and Nevada Power Company d/b/a NV Energy, allowing NV Energy to construct, operate, and maintain underground electrical facilities within the Northern Clark County 215 Bruce Woodbury Beltway, in the vicinity of the North 5th Street Interchange, upon and over portions of Assessor's Parcel Numbers 124-14-499-001, 124-15-899-001, 124-22-599-002, and 124-23-199-001.

ACTION: APPROVED AS RECOMMENDEDATTACHMENT: [Clark County Agenda Item Template.doc](#)ATTACHMENT: [Revocable License Agreement with Nevada Power Company dba NV Energy NoCC215BWBeltwayNorth5thSt.pdf](#)**Comprehensive Planning**

- 25 Authorize the Chairman to sign the Certification of Expenditure for Yucca Mountain Oversight Funding.

ACTION: APPROVED AS RECOMMENDEDATTACHMENT: [Clark County Agenda Item Template.doc](#)ATTACHMENT: [CertificationofExpenditures 2010.doc](#)**Real Property Management**

- 26 Approve and authorize the Director of Real Property Management to send notice to The Nature Conservancy of Clark County's exercise of its option to purchase ±12.73 acres of land in Moapa (Assessor's Parcel Numbers 030-22-501-004 and 030-22-501-022, previously known as 030-22-501-006) according to the Grant of Option approved by the Board on September 17, 2002; and authorize the Director to sign any documents necessary to complete the transaction.

MOVED BY: Tom Collins**ACTION: APPROVED AS RECOMMENDED****VOTE: 5-1****VOTING AYE: Tom Collins , Larry Brown , Rory Reid , Susan Brager , Lawrence Weekly****VOTING NAY: Steve Sisolak****ABSTAINING: NONE****ABSENT: Chris Giunchigliani**ATTACHMENT: [Clark County Agenda Item Template.doc](#)ATTACHMENT: [Alamo Ranch.pdf](#)

- 27 Approve and authorize the Director of Real Property Management to sign a lease with Villas at Dolphin Bay, LLC for the rental of five apartments during the 2011 Legislative Session.

ACTION: APPROVED AS RECOMMENDEDATTACHMENT: [Clark County Agenda Item Template.doc](#)ATTACHMENT: [Carson City Apts.pdf](#)

Budget & Finance

- 28 In accordance with NRS 244.210 and 354.220 through 354.250, approve, adopt, and authorize the Chairman to sign a resolution to authorize refunds as shown on Exhibit "A."

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [agenda reso & backup.pdf](#)

- 29 In accordance with NRS 354.598005, authorize the July 2010 and September 2010 transfer of appropriations between functions within various funds as shown on Exhibit B.

MOVED BY: Steve Sisolak

ACTION: APPROVED AS RECOMMENDED

VOTE: 6-0

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Chris Giunchigliani

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [bx-FuncAdjTemplateJuly10 and September10.pdf](#)

- 30 Approve and authorize the Chairman to sign the interlocal agreement between Clark County and the Southern Nevada Regional Housing Authority (SNRHA) to receive and use \$500,000 in Low Income Housing Trust Funds (LIHTF) money from the Housing Division, Department of Business and Industry of the State of Nevada for a Tenant Based Rental Assistance Program (TBRA) to help homeless, homeless mentally ill, homeless disabled, homeless dually diagnosed and other low-income residents of Clark County rent decent, safe and sanitary housing.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [SNRHA.bak.pdf](#)

- 31 Approve a Long Term Disability benefit payment under the International Association of Fire Fighters, Local 1908, Collective Bargaining Agreement.

MOVED BY: Susan Brager

ACTION: APPROVED AS RECOMMENDED

VOTE: 6-0

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Chris Giunchigliani

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

- 32 Approve, adopt, and authorize the Chairman to sign a resolution to rescind the prior authorization and dissolve the imprest account in the amount of \$25,000 established for the District Court, Court Clerk’s Office.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [pcx-RescindDistrictCourtImprestResolution.pdf](#)

General Administration

- 33 Approve and authorize the Chairman to sign the correction of the 2007-2008 through 2010-2011 Secured and the 2008-2009 through 2010-2011 Unsecured Assessment Rolls AR-1116-10-22 and order the corrections to be made.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [AR-1116-10-22.pdf](#)

ATTACHMENT: [AR-1116-10-22 Owner.pdf](#)

- 34 Pursuant to the Nevada Revised Statutes, note for the record that the Official Reports and Documents received from various County offices are on file in the County Clerk’s Office, Commission Division.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

- 35 Approve and authorize the Chairman to sign an interlocal agreement between Clark County and the Clark County School District for their participation in the FY10 (IECGP) Interoperable Emergency Communications Grant Program.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [Document \(7\).pdf](#)

- 36 Approve and authorize the Chairman to sign an interlocal agreement between Clark County, City of Las Vegas, City of North Las Vegas, and the City of Henderson to regionalize the emergency driver training program.

MOVED BY: Steve Sisolak

ACTION: APPROVED AS RECOMMENDED

VOTE: 6-0

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Chris Giunchigliani

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: ADT_Interlocal Agreement.pdf

ATTACHMENT: ADT_Agmt_Exhibit.pdf

- 37 Accept the donation of thirteen (13) FC10 Portable Breath Testers valued in the amount of \$5,139.45 from the State of Nevada Enforcing Underage Drinking Laws Program. These devices will be used by Juvenile Probation Officers when conducting field contacts.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: Lifeloc.pdf

- 38 Accept the sub-grant awards of \$65,295 from the Nevada Department of Health and Human Services-Division of Child and Family Services(DCFS) to the Clark County Department of Family Services (DFS) for Case Worker Visit; effective from October 1, 2010 through September 30, 2011; and accept any funds awarded.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: Case Worker Visits Grant Award Doc.pdf

- 39 Approve, adopt, and authorize the Chairman to sign a resolution joining in the request of the District Attorney's Office for assistance from the Attorney General's Office in the prosecution of Case No. 10F17699A-B, State of Nevada v. Marissa Lalli.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: [m lalli resolution.pdf](#)

- 40 Approve and authorize a settlement with Life-Giving Spring Retreat Center to resolve pending litigation by accepting payment of \$66,780.52 as payment in full of property taxes, interest, and penalties through the current fiscal year; and authorize the District Attorney to execute documents necessary to effect the settlement.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

- 41 Accept an Offer of Judgment in L.V. Stacy, LLC v. McCarran International Airport, Case No. A-09-593658-C and authorize the Director of Aviation or the District Attorney to sign all necessary documents.

ACTION: DELETED FROM AGENDA AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

- 42 Approve, adopt and authorize the Chairman to sign a resolution authorizing notice of sale of properties subject to the lien of a delinquent assessment in the following special improvement districts (SIDs): SID #97B - 7506 - Strip Maintenance; SID #121 - 7524 - Southern Highlands Area; SID #121 - 7586 - Southern Highlands Area; and provide for other matters properly relating thereto.

ACTION: APPROVED (RESOLUTION NO. 11-16-10-1) AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [Sale resolution for 01-27-11.pdf](#)

- 43 Direct the County Treasurer to apportion, combine, or reapportion the unpaid balances of special assessments for Special Improvement District Number 81 (Gateway - Russell Road Interchange) on original Assessor's Parcel Numbers; and approve the apportionment, combination, or reapportionment to current Assessor's Parcel Numbers as follows: 162-29-601-007, 162-29-601-009, 162-29-701-001 thru 002, 162-29-801-001 to 162-29-710-001; as applicable, and that the Board find that the combining or reapportioning of assessments will not materially or adversely impair the obligation of the County with respect to any outstanding bond secured by assessments; or increase the principal balance of any assessment to an amount such that the aggregate amount which is assessed against a tract exceeds the minimum benefit to the tract that is estimated to result from the project which is financed by the assessment.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [SID 81 Reapportionment Oct 2010.pdf](#)

- 44 Direct the County Treasurer to apportion, combine, or reapportion the unpaid balances of special assessments for Special Improvement District Number 97A (Las Vegas Boulevard Beautification) on original Assessor's Parcel Numbers; and approve the apportionment, combination, or reapportionment to current Assessor's Parcel Numbers as follows: 162-29-503-001, 162-29-601-001, 162-29-601-004, 162-29-601-006, 162-29-601-008 to 162-29-510-002; as applicable, and that the Board find that the combining or reapportioning of assessments will not materially or adversely impair the obligation of the County with respect to any outstanding bond secured by assessments; or increase the principal balance of any assessment to an amount such that the aggregate amount which is assessed against a tract exceeds the minimum benefit to the tract that is estimated to result from the project which is financed by the assessment.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [SID 97A Reapportionment Oct 2010.pdf](#)

- 45 Direct the County Treasurer to apportion, combine, or reapportion the unpaid balances of special assessments for Special Improvement District Number 97B (Strip Maintenance) on original Assessor's Parcel Numbers; and approve the apportionment, combination, or reapportionment to current Assessor's Parcel Numbers as follows: 162-29-503-001, 162-29-601-001, 162-29-601-004, 162-29-601-006, 162-29-601-008 to 162-29-510-002; as applicable, and that the Board find that the combining or reapportioning of assessments will not materially or adversely impair the obligation of the County with respect to any outstanding bond secured by assessments; or increase the principal balance of any assessment to an amount such that the aggregate amount which is assessed against a tract exceeds the minimum benefit to the tract that is estimated to result from the project which is financed by the assessment.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [SID 97B Reapportionment Oct 2010.pdf](#)

- 46 Direct the County Treasurer to apportion, combine, or reapportion the unpaid balances of special assessments for Special Improvement District Number 114B South Strip Maintenance (Mandalay Bay Road to Russell Road) on original Assessor's Parcel Numbers; and approve the apportionment, combination, or reapportionment to current Assessor's Parcel Numbers as follows: 162-29-601-007, 162-29-601-009, 162-29-701-001 thru -002, 162-29-801-001 to 162-29-710-001; as applicable, and that the Board find that the combining or reapportioning of assessments will not materially or adversely impair the obligation of the County with respect to any outstanding bond secured by assessments; or increase the principal balance of any assessment to an amount such that the aggregate amount

which is assessed against a tract exceeds the minimum benefit to the tract that is estimated to result from the project which is financed by the assessment.

ACTION: APPROVED AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [SID 114B Reapportionment Oct 2010.pdf](#)

- 47 Approve, adopt, and authorize the Chairman to sign a resolution setting a public hearing for Tuesday, December 21, 2010 at 10:00 a.m., regarding the Service Plan which has been filed for the proposed Coyote Springs Fire and Emergency Service General Improvement District.

ACTION: DELETED FROM AGENDA AS RECOMMENDED

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [Coyote_Springs_GID.pdf](#)

END OF CONSENT AGENDA

SEC. 3. COMMISSIONERS' / COUNTY MANAGER'S RECOGNITION

- 48 Present a proclamation to Trevon Cacha Barnes for being selected to travel to Washington, DC to accept the 2010 National Arts and Humanities Youth Program Award presented by First Lady Michelle Obama, the highest honor award to such programs in the United States, for the New Directions Youth Arts Program.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

PRESENTED AS RECOMMENDED

SEC. 4. ITEMS TAKEN SEPARATELY FROM CONSENT AGENDA

SEC. 5. PUBLIC HEARINGS - 10 AM

- 49 Conduct a public hearing; and approve, adopt, and authorize the Chairman to sign an ordinance to initiate the formation of the Fire Protection and Medical Service General Improvement District (GID) For Coyote Springs, pursuant to NRS 318; and providing for other matters properly relating thereto.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: Coyote Springs Fire Protection Backup.pdf

DELETED FROM AGENDA

- 50 Conduct a public hearing; accept the reformat of the Comprehensive Plan Volume 1; and authorize the Chairman to sign a resolution amending the Plan.

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: CPLAN Reformat BCC Resolution 111610.doc

ATTACHMENT: PRINT VERSION COMPREHENSIVE PLAN PC 101910.pdf

MOVED BY: Lawrence Weekly

ACTION: APPROVED AS RECOMMENDED

VOTE: 4-0

VOTING AYE: Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Tom Collins , Steve Sisolak , Chris Giunchigliani

- 51 Conduct a public hearing; accept the Flood Control Master Plan Update; and authorize the Chairman to sign a resolution updating the Master Plan.

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: CC Flood BCC Resolution 111610.doc

ATTACHMENT: CCRFCO Coyote Springs MPA September2010.pdf

HELD TO DECEMBER 21, 2010 MEETING

- 52 Conduct a public hearing; and approve, adopt, and authorize the Chairman to sign an ordinance to amend Clark County Air Quality Regulations (AQR) Sections 0 and 12.2 to correct citations; provide for the authority to regulate emissions of certain Greenhouse Gases (GHG) at major stationary sources; and provide for other matters related thereto; authorize the DAQEM Director or his designee to make a record of comments and responses made and accepted by the Board at the public hearing; authorize the Director or his designee to compile, finalize and submit, no earlier than December 2, 2010 and no later than January 31, 2011, the approved ordinance and all related documentation in accordance with AQR Section 2 to the Nevada Division of Environmental Protection for the United States Environmental Protection Agency's (EPA) approval into the Nevada State Implementation Plan (SIP); and authorize the Director to request from EPA a deadline of July 1, 2011 to submit this corrective SIP revision so that EPA may impose a Federal Implementation Plan to permit GHG sources by July 1, 2011 if EPA fails to approve the SIP revision by that date.

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: [12.2 Air Quality CCC Reclear.pdf](#)

ATTACHMENT: [3290 AIDR Greenhouse Gases.U.pdf](#)

MOVED BY: Susan Brager

ACTION: APPROVED (INCLUDING ADOPTION OF ORDINANCE NO. 3913) AS RECOMMENDED

VOTE: 4-0

VOTING AYE: Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Tom Collins , Steve Sisolak , Chris Giunchigliani

- 53 Conduct a public hearing; and approve, adopt, and authorize the Chairman to sign an ordinance amending Chapter 2.39, Section 2.39.020 of the Clark County Code regarding the definition of a lobbyist who has to register and disclose communications with County Commissioners; and providing for other matters properly relating thereto.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [2.39 CCC Reclear.pdf](#)

MOVED BY: Tom Collins

ACTION: HELD FOR 30 DAYS (TO DECEMBER 21, 2010)

VOTE: 5-0

VOTING AYE: Tom Collins , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Steve Sisolak , Chris Giunchigliani

- 54 Conduct a public hearing; and approve, adopt, and authorize the Chairman to sign an ordinance amending Chapter 12.32 of the Clark County Code regarding the definition of unlawful vagrancy; and providing for other matters properly relating thereto.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [12.32 CCC Reclear.pdf](#)

MOVED BY: Susan Brager

ACTION: APPROVED (INCLUDING ADOPTION OF ORDINANCE NO. 3914) AS RECOMMENDED

VOTE: 5-0

VOTING AYE: Tom Collins , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Steve Sisolak , Chris Giunchigliani

- 55 Conduct a public hearing; and approve, adopt, and authorize the Chairman to sign an ordinance amending Chapter 12.33 of the Clark County Code to update the definition of disorderly conduct; and providing for other matters properly relating thereto.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [12.33 CCC Reclear.pdf](#)

MOVED BY: Lawrence Weekly

ACTION: APPROVED (INCLUDING ADOPTION OF ORDINANCE NO. 3915) AS RECOMMENDED

VOTE: 4-0

VOTING AYE: Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Tom Collins , Steve Sisolak , Chris Giunchigliani

(TAKEN WITH ITEM NO. 56)

- 56 Conduct a public hearing; and approve, adopt, and authorize the Chairman to sign an ordinance amending Chapter 16.11 of the Clark County Code to provide a definition for a "street performer" and to clarify the type of materials that can be placed on public sidewalks; and providing for other matters properly relating thereto.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [16.11 CCC Reclear.pdf](#)

APPROVED (INCLUDING ADOPTION OF ORDINANCE NO. 3916) AS RECOMMENDED (SEE ITEM NO. 55 FOR MOTION/VOTE)

- 57 Conduct a public hearing; and approve, adopt, and authorize the Chairman to sign an ordinance to delete Title 22, Chapter 22.05; adopt a new Title 22, Chapter 22.05 entitled the Residential Code of Clark County; adopt the International Residential Code, 2009 and the Southern Nevada Amendments to the 2009 International Residential Code as the Residential Code of Clark County; providing penalties for violations thereof; and providing for other matters relating thereto.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [Residential Code.pdf](#)

ATTACHMENT: [2009 IRC_R313 Backup.pdf](#)

MOVED BY: Tom Collins

ACTION: APPROVED (INCLUDING ADOPTION OF ORDINANCE NO. 3917 AS AMENDED TO EXCLUDE RESIDENTIAL FIRE SPRINKLER

PROVISION) AS RECOMMENDED

VOTE: 6-0

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Chris Giunchigliani

MOVED BY: Tom Collins

ACTION: HELD PORTION OF ORDINANCE

CONCERNING RESIDENTIAL FIRE SPRINKLER FOR SIX MONTHS

VOTE: 6-0

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Chris Giunchigliani

COUNTY MANAGEMENT STAFF DIRECTED TO MEET WITH STAKEHOLDERS [TO DISCUSS TRUE COSTS OF OVERALL IMPLEMENTATION (SUCH AS INSTALLATION, INSURANCE, WATER, AND INSPECTION FEES) & RECOMMENDATIONS, INCLUDING FINDING WAYS TO REDUCE/ELIMINATE COSTS OR OPTIONS TO HOMEBUILDERS IN LIEU OF PROVIDING PUBLIC SAFETY ITEMS] & REPORT BACK TO BOARD IN TIMELY FASHION

- 58** Sitting as the Liquor and Gaming Licensing Board, conduct a public hearing for the suitability of the location for a Class A Slot Machine License in conjunction with a Tavern within 1,500 feet of a school located at 1030 East Flamingo Road, Las Vegas, NV 89119, 702 ENTERTAINMENT GROUP, INC., dba Hookah Palace, Mazen Hamou (Director, President, Treasurer, 50% shareholder) and Luis Alonzo Bolanos-Portillo (Secretary, 50% shareholder). (Flamingo Road/Maryland Parkway) Commission District: E - Giunchigliani

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: Public Hearing L&G Hookah Palace (report).ag.pdf

ATTACHMENT: Visio-Pub Hearing Hookah Palace,(density drawing).ag.pdf

ATTACHMENT: Pub Hearing L&G Hookah Palace(Den Pg 2).ag.pdf

MOVED BY: Susan Brager

ACTION: APPROVED SUITABILITY OF LOCATION

VOTE: 4-0

VOTING AYE: Steve Sisolak , Lawrence Weekly , Susan Brager , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Tom Collins , Rory Reid , Chris Giunchigliani

- 59 Sitting as the Liquor and Gaming Licensing Board, conduct a public hearing for the suitability of the location for a Package Beer, Wine and Spirit Based Products Liquor License and a Class A Slot Machine License in conjunction with a convenience store within 1,500 feet of a church and a school located at 3310 South Nellis Boulevard, Las Vegas, NV 89122, Z AND G CORPORATION (A Nevada Corporation) dba Maria's Market #II, Zuhair Zora (Director, President, Treasurer, 50% Shareholder) and Ghassan Shamoun (Secretary, 50% Shareholder and Key Employee). (Nellis Boulevard/Desert Inn Road) Commission District: E - Giunchigliani

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: Pub Hearing L&G Marias Market II (report).ag.pdf

ATTACHMENT: Visio-Pub Hearing L&G Marias Market #II, (density drawing).ag.pdf

ATTACHMENT: Pub Hearing L&G Marias Market II (Den pg 2).ag.pdf

MOVED BY: Susan Brager

ACTION: APPROVED SUITABILITY OF LOCATION

VOTE: 4-0

VOTING AYE: Steve Sisolak , Lawrence Weekly , Susan Brager , Larry Brown

VOTING NAY: NONE

ABSTAINING: NONE

ABSENT: Tom Collins , Rory Reid , Chris Giunchigliani

SEC. 6. INTRODUCTION OF ORDINANCES

- 60 Sitting as the Clark County Liquor and Gaming Licensing Board, introduce an ordinance to amend Title 8, Chapter 8.20, Sections 8.20.020.081 and 8.20.020.265 of the Clark County Code to add neighborhood specialty grocery market to the list of establishments eligible for a package beer, wine and spirit based products liquor license; to require neighborhood specialty grocery markets with package beer, wine and spirit based products liquor licenses to limit retail space of alcohol to not more than 5% of the total square footage measured in cubic feet not to exceed 150 cubic feet; providing for other matters properly relating thereto; and set a public hearing.

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: Ordinance Chap 8 Neighborhood Specialty Grocery Market.pdf

HELD TO JANUARY 18, 2011 MEETING

- 61 Sitting as the Clark County Liquor and Gaming Licensing Board, introduce an ordinance to amend Title 8, Chapter 8.20, Sections 8.20.020.105 of the Clark

County Code to add a wine cellar business to the list of establishments eligible for a full bar liquor license; to amend Title 8, Chapter 8.20, Section 8.20.020.430 to allow a wine cellar business the eligibility for a full bar liquor license; providing for other matters properly relating thereto; and set a public hearing.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [Ordinance Chap 8 Wine Cellar Ordinance.pdf](#)

HELD TO JANUARY 18, 2011 MEETING

- 62 Sitting as the Clark County Liquor and Gaming Licensing Board introduce an ordinance to amend Title 8, Chapter 8.24 of the Clark County Code to eliminate redundancy of requirement for work cards for individuals registered pursuant to NRS 463.335 and ensure consistency in processing, denying, non-renewing, suspending or revoking work identification cards; providing for other matters properly relating thereto; and set a public hearing.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [Ordinance Chap 8.24.pdf](#)

BILL NO. L-11-16-10-1 INTRODUCED BY COMMISSIONER REID/PUBLIC HEARING SET FOR DECEMBER 7, 2010 AT 10:00 A.M.

- 63 Introduce an ordinance to amend Clark County Code Title 2, Chapter 48, Section 25 to replace the Social Service Policy Manual 2009 Edition with a 2011 Edition; providing for other matters properly relating thereto; and set a public hearing.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [Ord 2.48 for 2011 Policy Manual 11-16-10.doc](#)

ATTACHMENT: [CCSS Policy Manual Revision as of 11 1 10 cs Draft no-icons protected \(3\).doc](#)

BILL NO. 11-16-10-1 INTRODUCED BY COMMISSIONER REID/PUBLIC HEARING SET FOR DECEMBER 7, 2010 AT 10:00 A.M.

SEC. 7. BUSINESS ITEMS

- 64 Appoint thirty-three members with alternates to the Community Development Advisory Committee (CDAC); recognize the appointments of three members to CDAC made by the participating cities; and appoint a Chairperson and Vice Chairperson for the Committee.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [3285 AIDR CDAC Appts.U.pdf](#)

MOVED BY: Lawrence Weekly
ACTION: APPROVED (INCLUDING APPOINTMENT OF RECOMMENDED MEMBERS WITH ALTERNATES; AND APPOINTMENT OF CHARLENE PETERSON AS CHAIRPERSON & SUSAN STERN AS VICE CHAIRPERSON) AS RECOMMENDED
VOTE: 6-0
VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown
VOTING NAY: NONE
ABSTAINING: NONE
ABSENT: Chris Giunchigliani

- 65 Sitting as the Clark County Water Reclamation District Board of Trustees, receive the Clark County Water Reclamation District's Comprehensive Annual Financial Report for the fiscal year ended June 30, 2010.

ATTACHMENT: [Water Reclamation Agenda Item Template.doc](#)

ATTACHMENT: [2010 CCWRD CAFR 11-16-10 Agenda Attachment- McInally Final.pdf](#)

RECEIVED AS RECOMMENDED-NO ACTION TAKEN BY BOARD

- 66 Receive and accept a report on the Disparity Study prepared for concessions, goods and services, and construction at McCarran International Airport; and provide direction as appropriate.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

MOVED BY: Susan Brager
ACTION: APPROVED AS RECOMMENDED
VOTE: 6-0
VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown
VOTING NAY: NONE
ABSTAINING: NONE
ABSENT: Chris Giunchigliani

- 67 Provide direction regarding the status of the Parks and Recreation Advisory Commission.

ATTACHMENT: [Clark County Agenda Item Template.doc](#)

ATTACHMENT: [PRAC By laws.doc](#)

REPORT RECEIVED-STAFF REQUESTED TO BRING BACK ITEM TO RECOGNIZE LONG-TIME COMMISSION MEMBERS; BRING BACK (POSSIBLY IN DECEMBER) REVISED BYLAWS &

**ORDINANCE INCORPORATING SUGGESTED CHANGES; AND TO
ADVERTISE ONLINE FOR APPOINTMENTS**

- 68 Identify emerging issues to be addressed by staff or by the Board at future meetings; receive updates on the activities of the various regional boards and commissions; and direct staff accordingly.

ATTACHMENT: Clark County Agenda Item Template.doc

IDENTIFIED/RECEIVED AS RECOMMENDED

- 69 Review and discuss a report from staff relating to the 3-month moratorium on changes to fees and charges placed on specific County departments in August 2010; direct staff to prepare a policy that requires specific County departments to bring fee increases before the Board only from December to February during each year; or take any other action deemed appropriate.

ATTACHMENT: Clark County Agenda Item Template.doc

ATTACHMENT: Fee StudyUpdated.xls

ATTACHMENT: 3286 AIDR Fee Moratorium.U.pdf

REVIEWED/DISCUSSED/DIRECTED AS RECOMMENDED

- 70 Receive a report from staff on the Coroner's Inquest Review Panel; and take any other action deemed appropriate.

ATTACHMENT: Clark County Agenda Item Template.doc

**RECEIVED AS RECOMMENDED-STAFF DIRECTED TO PROVIDE
INFORMATION TO BOARD PRIOR TO DECEMBER 7, 2010
MEETING CONCERNING OMBUDSMAN'S DEALINGS WITH
FAMILIES & CONFUSION REGARDING QUESTION OF CREATING A
QUOTA WHEN SETTING UP PANEL; AND TO PROVIDE REPORT AT
BEGINNING OF DECEMBER 7, 2010 PUBLIC HEARING
REGARDING DISCUSSIONS OF CORONER'S INQUEST REVIEW
PANEL & HISTORY OF INQUEST PROCESS-DISTRICT ATTORNEY'S
OFFICE REQUESTED TO LOOK INTO QUESTION OF ENSURING
THAT A PERSON ON INQUEST PANEL HAS SAME BACKGROUND AS
VICTIM OF SHOOTING**

- 71 Confirm the appointment of George W. Stevens as Clark County Comptroller effective December 3, 2010.

ATTACHMENT: Clark County Late Item Template.doc

**MOVED BY: Tom Collins
ACTION: APPROVED AS RECOMMENDED
VOTE: 6-0**

VOTING AYE: Tom Collins , Steve Sisolak , Lawrence Weekly , Susan Brager , Rory Reid , Larry Brown
VOTING NAY: NONE
ABSTAINING: NONE
ABSENT: Chris Giunchigliani

- 72 Introduce an ordinance to amend Chapter 2.12 of Title 2 of the Clark County Code relating to the coroner's inquest process by amending sections 2.12.010, 2.12.020, 2.12.080, 2.12.090, 2.12.100, 2.12.110, 2.12.120, 2.12.130, 2.12.140, and 2.12.150, adding a new section 2.12.075, and repealing section 2.12.160; revising definitions, procedures relating to the inquest proceeding, and the manner of questioning at inquest proceedings; establishing when an inquest should be held in connection with an officer involved death; changing the term "jury" to "inquest panel"; eliminating the inquest "verdict" and substituting "interrogatories" for the purpose of establishing facts; adding provisions relating to an inquest ombudsperson, pre-inquest conferences, and public access to information relating to coroner inquests; providing for other matters properly relating thereto; and set a public hearing.

ATTACHMENT: Clark County Agenda Item Template

ATTACHMENT: InquestOrdinance.doc

BILL NO. 11-16-10-2 INTRODUCED BY COMMISSIONER REID AS AMENDED/PUBLIC HEARING SET FOR DECEMBER 7, 2010 AT 10:00 A.M.

PUBLIC COMMENTS
