

STAFF REPORT

Date: December 6, 2017

To: Mayor and City Council

Thru: Sabra Newby, City Manager

Subject: **J.2. Staff Report (For Possible Action): Discussion and potential direction to the City Attorney's Office to sign on to an amicus curiae brief supporting the State of Nevada's Petition for Writ of Mandamus or Prohibition filed in State of Nevada, Division of Forestry v. District Court, Supreme Court Case No. 74271 (Little Valley Fire).**

From: Karl Hall, City Attorney

Summary: Staff recommends that City Council direct the City Attorney's Office to sign on to an amicus curiae brief supporting the State of Nevada's Petition for Writ of Mandamus or Prohibition filed in *State of Nevada, Division of Forestry v. District Court*, Supreme Court Case No. 74271.

Discussion: The State of Nevada, Division of Forestry (the "State") is litigating a group of claims arising out of the Little Valley Fire that allege the act of intentionally starting a controlled burn on state-controlled property effectuated a taking of property when the fire escaped and damaged private property in Washoe Valley. The State filed a motion to dismiss arguing that under Nevada law property damage and economic loss do not constitute a taking under the circumstances of the case. The district court denied the motion, seemingly collapsing the standards of takings law and tort theory – which creates a serious issue of unfettered liability for local governments. The State has filed a petition for mandamus seeking clarification from the Nevada Supreme Court.

Attached for City Council consideration is the State's Petition for Writ of Mandamus or Prohibition.

Financial Implications: None at this time.

Legal Implications: None at this time.

Recommendation: Staff recommends that City Council direct the City Attorney's Office to sign on to an amicus curiae brief supporting the State of Nevada's Petition for Writ of Mandamus or

Prohibition filed in *State of Nevada, Division of Forestry v. District Court*, Supreme Court Case No. 74271.

Proposed Motion: I move to approve staff recommendation.

Attachments:

- State of Nevada Writ of Mandamus (PDF)