

**Carson City
Agenda Report**

Date Submitted: February 4, 2011 Agenda Date Requested: Feb. 17, 2011

Time Requested: _10_ minutes

To: Mayor and Board of Supervisors

From: Randal Munn, Chief Deputy District Attorney

Subject Title: Action to introduce, on first reading, Bill. No.____, an ordinance amending the Carson City Municipal Code Title 2, Administration and Personnel, Chapter 2.35, Fees on Court Actions To Support Pro Bono Programs And To Provide Legal Services to Abused or Neglected Children or Victims of Domestic Violence, by changing the name of Chapter 2.35 to Fees on Court Actions To Support Programs for Legal Aid, Pro Bono Programs And To Provide Legal Services to Abused or Neglected Children or Victims of Domestic Violence, and by amending Section 2.35.010, Fees in District Court, and by amending Section 2.35.020, Fees in Justice Court, to provided for payment of fees to one or more eligible entities, and by amending Section 2.35.030, Collection-Payment to treasurer, to provide for pro-rata payment of fees to eligible entities and other matters properly related thereto. (*Randal Munn*)

Staff Summary: The original ordinance assumed the existence of only one organization the would provide pro bono legal aid services to the indigent and be eligible to be compensated from court fees collected pursuant to NRS 19.0312. Over time at least one other entity, that qualifies to share is such fees, has been serving the needs of Carson City residents. This amendment to the CCMC will allow for compensation based upon pro rata share of the actual services provided to the community by qualified entities. In the event of any disputes over the appropriate share of quarterly fees as originally determined by the City Treasurer, the matter may be appealed to the Board of Supervisors for a final decision.

Type of Action Requested:

- | | |
|---|--|
| <input type="checkbox"/> Resolution | <input checked="" type="checkbox"/> Ordinance- First Reading |
| <input type="checkbox"/> Formal Action/Motion | <input type="checkbox"/> Other (Specify) |

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to introduce, on first reading, Bill. No. _____, an ordinance amending the Carson City Municipal Code Title 2, Administration and Personnel, Chapter 2.35, Fees on Court Actions To Support Pro Bono Programs And To Provide Legal Services to Abused or Neglected Children or Victims of Domestic Violence, by changing the name of Chapter 2.35 to Fees on Court Actions To Support Programs for Legal Aid, Pro Bono Programs And To Provide Legal Services to Abused or Neglected Children or Victims of Domestic Violence, and by amending Section 2.35.010, Fees in District Court, and by amending Section 2.35.020, Fees in Justice Court, to provided for payment of fees to one or more eligible entities, and by amending Section 2.35.030, Collection-Payment to treasurer, to provide for pro-rata payment of fees to eligible entities and other matters properly related thereto

Explanation for Recommended Board Action: The Retired and Senior Volunteer Program of Carson City (RSVP), through its Executive Director Janice Ayres, has requested this amendment to the CCMC. It has solicited and received similar changes by other rural governments. As the Code is currently written it does not provide for a system of fair distribution of fees based upon a pro rata basis of services provided.

Applicable Statute, Code, Policy, Rule or Regulation: Nevada Revised Statutes 19.0312, Carson City Municipal Code Sections 2.35.010, 2.35.020, and 2.35.030.

Fiscal Impact: N/A

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: 1) Refer back to staff and District Attorney's office for further review
2) Do not introduce the ordinance (leave the code the same way it is now)

Supporting Material:

1) Ordinance

Prepared By: Randal Munn, Chief Deputy District Attorney, Civil Division

| | |
|---|---------------------|
| Reviewed By: _____ (Public Works) | Date: <u>2-8-11</u> |
| _____ | Date: <u>2/8/11</u> |
| (City Manager) | |
| _____ | Date: <u>2/8/11</u> |
| (District Attorney) | |
| _____ | Date: <u>2/8/11</u> |
| (Finance Director) | |

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____ _____

(Vote Recorded By)

ORDINANCE NO. _____

BILL NO. _____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 2, ADMINISTRATION AND PERSONNEL, CHAPTER 2.35, FEES ON COURT ACTIONS TO SUPPORT PRO BONO PROGRAMS AND TO PROVIDE LEGAL SERVICES TO ABUSED OR NEGLECTED CHILDREN OR VICTIMS OF DOMESTIC VIOLENCE, BY CHANGING THE NAME OF CHAPTER 2.35 TO FEES ON COURT ACTIONS TO SUPPORT PROGRAMS FOR LEGAL AID, PRO BONO PROGRAMS AND TO PROVIDE LEGAL SERVICES TO ABUSED OR NEGLECTED CHILDREN OR VICTIMS OF DOMESTIC VIOLENCE, AND BY AMENDING SECTION 2.35.010, FEES IN DISTRICT COURT, AND BY AMENDING SECTION 2.35.020, FEES IN JUSTICE COURT, TO PROVIDE FOR PAYMENT OF FEES TO ONE OR MORE ELIGIBLE ENTITIES, AND BY AMENDING SECTION 2.35.030, COLLECTION—PAYMENT TO TRESURER, TO PROVIDE FOR PRO-RATA PAYMENT OF FEES TO ELIGIBLE ENTITIES AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: Title 2 of the Carson City Municipal Code is hereby amended as follows:

Chapters:

- 2.02 Board of Supervisors
- 2.04 Classified Service
- 2.06 Unclassified Compensation
- 2.08 Fire Department
- 2.14 Carson City Audit Committee
- 2.16 Carson City Parks and Recreation Commission
- 2.18 Shade Tree Council
- 2.28 Election Board Officers
- 2.29 Payment of Bills
- 2.31 Fees on Court Actions to Support Programs for Court Security
- 2.32 Lost or Abandoned Property
- 2.33 Additional Fees for Dissolution of Marriage
- 2.34 Code of Ethics for Elected and Appointed Officials
- 2.35 Fees on Court Actions to Support Programs for Legal Aid, Pro Bono Programs and to Provide Legal Services to Abused or Neglected Children or Victims of Domestic Violence
- 2.36 Fees on Court Actions to Support Program of Mediation
- 2.37 Fees on Court Actions to Support Programs for Prevention and Treatment of Abuse of Alcohol and Drugs

- 2.38 Department of Alternative Sentencing
- 2.39 Additional Administrative Assessment for Misdemeanor: Authorization; Collection; Distribution; Limitations on Use
- 2.40 Commission on Personal Property Tax and the Account for the Acquisition and Improvement of Technology in the Office of the County Assessor
- 2.41 Carson City Cultural Commission
- 2.42 Carson City Building Permit Enterprise Fund Advisory Committee
- 2.43 Collection of Taxes on Personal Property

Section II: Section 2.35.010 of the Carson City Municipal Code is hereby amended as follows:

2.35.010 Fees in district court.

1. Pursuant to NRS 19.0312, the Carson City clerk recorder, in his capacity as clerk of the First Judicial District Court, shall, on the commencement of any civil action or proceeding in district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding collect and addition five dollar (\$5.00) filing fee to offset a portion of the costs of providing pro bono programs and of providing legal services without a charge to abused or neglected children of victims of domestic violence which fee is to be remitted to the [organization] entity or entities operating [the] a program that receives the fees charged pursuant to NRS 19.031 for programs for the indigent.

2. Pursuant to NRS 19.0312, the Carson City clerk recorder, in his capacity as clerk of the First Judicial District Court, shall, on the filing of any motion or other paper that seeks to modify or adjust a final order that was issued pursuant to Chapter 125, 125B or 125C or NRS and on the filing of any answer or response to such a motion or other paper collect an additional twenty-five dollar (\$25.00) fee to offset a portion of the costs of providing pro bono programs and of providing legal services without charge to abused or neglected children or victims of domestic violence which fee is to be remitted to the [organization] entity or entities operating [the] a program that receives the fees charged pursuant to NRS 19.031 for programs for the indigent.

3. An additional filing fee may not be imposed pursuant to subsection 2 for:

a. A motion filed solely to adjust the amount of support for a child set forth in a final order; or

b. A motion for reconsideration or for a new trial that is filed within ten (10) days after a final judgment or decree has been issued.

4. Any fees collected pursuant to the ordinance codified in this section must be used for the benefit of the persons to whom the [organization] entity or entities operating [the] a program for legal services that receives money pursuant to this section provides legal services with a charge.

Section III: Section 2.35.020 of the Carson City Municipal Code is hereby amended as follows:

2.35.020 Fees in justice court.

1. Pursuant to NRS 4.071, the Carson City justice court clerk, in his capacity as the clerk of the justice court of Carson City township, shall on the commencement of any action or proceeding in justice court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required collect an additional five dollar (\$5.00) filing fee to offset a portion of the costs of providing pro bono programs and of providing legal services without a charge to abused or neglected children and victims of domestic violence which fee is to be remitted to the [organization] entity or entities operating [the] a program for legal services that receives the fees charged pursuant to NRS 19.031 for programs for the indigent.

2. Any fees collected pursuant to the ordinance codified in this section must be used for the benefit of the persons to whom the [organization] entity or entities operating [the] a program for legal services that receives money pursuant to this section provides legal services without a charge.

Section IV: Section 2.35.030 of the Carson City Municipal Code is hereby amended as follows:

2.35.030 Collection--Payment to treasurer.

1. On or before the first Monday of each month, the clerk recorder of the First Judicial District Court and the justice of the peace shall account for and pay over to the county treasurer any [such] fees collected pursuant to NRS 19.031 and CCMC 2.35.010 and 2.35.020 during the preceding month.

2. The county treasurer shall remit quarterly to the [organization to which fees are to be paid] entity or entities eligible to receives fees collected pursuant to NRS 19.031 and CCMC 2.35.010 and 2.35.020 all the money received by him from the clerk recorder of the First Judicial District Court and the justice of the peace [.] on a pro-rata basis based on the amount of time a particular entity spent providing services for which fees collected pursuant to NRS 19.031 or CCMC 2.35.010 or 2.35.020 are entitled to be received as compared to the amount of time all entities spent providing services for which fees collected pursuant to NRS 19.031 or CCMC 2.35.010 or 2.35.020 are entitled to be received.

3. Any such entity may file an appeal with the Board of Supervisors within 15 calendar days of receipt of a disbursement from the county treasurer as to the distribution of the fees collected pursuant to NRS 19.031 or CCMC 2.35.010 or 2.35.020. The appeal must state how the distribution of the fees did not comply with all relevant state law or Chapter 2.35 of the Carson City Municipal Code. A copy of the appeal and notice of the date and time of the resulting hearing of the appeal shall be placed by the county treasurer in the mail to the last known address at least 7 calendar days prior to the hearing to all entities that may be subject to any resulting disbursement adjustment. The Board of Supervisors will review de novo the distribution of the fees collected pursuant to NRS 19.031 and CCMC 2.35.010 and 2.35.020 to determine whether the fees were properly distributed. Any disbursement adjustments determined by the Board of Supervisors' de novo review shall constitute a final decision

and subtracted from and added to one or more future respective disbursements as the case might require to adjust, or otherwise be reimbursed and corrected.

Section V: That no other provisions of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____ (month) _____ (day), 2011.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2011.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

ALAN GLOVER
CLERK/RECORDER.

This ordinance shall be in force and effect from and after the ___ day of the month of _____ of the year, 2011.