

**Carson City Board of Supervisors
Agenda Report**

Date Submitted: June 21, 2013 **Agenda Date Requested:** July 3, 2013
Time Requested: Consent Agenda

To: Mayor and Board of Supervisors

From: Randal Munn, Chief Deputy District Attorney

Subject Title: For Possible Action: To adopt a Resolution pursuant to NRS 228.130 concurring in the request of the Carson City District Attorney in requesting that the Attorney General of the State of Nevada, or her duly appointed deputy, proceed to evaluate and, if necessary, prosecute the referenced allegations against Kenneth Steel. *(Mark Krueger and Randal Munn)*

Staff Summary: The District Attorney of Carson City, Nevada has determined that due to an actual or perceived conflict of interest in this matter, the case requires the immediate evaluation, and if necessary, the prosecution of alleged criminal conduct of a Carson City Sheriff's Office sworn peace officer by the Attorney General of the State of Nevada or her duly appointed deputy.

Type of Action Requested:

☒ Resolution	☐ Ordinance- First Reading
☐ Formal Action/Motion	☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to adopt Resolution 2013-R-_____ pursuant to NRS 228.130 concurring in the request of the Carson City District Attorney in requesting that the Attorney General of the State of Nevada, or her duly appointed deputy, proceed to evaluate and, if necessary, prosecute the referenced allegations against Kenneth Steel.

Explanation for Recommended Board Action: Sergeant Kenneth Steel has resigned his employment with the Carson City Sheriff's Office. The reason for such a request of the Attorney General is to avoid an actual or perceived conflict of interest by the Office of the District Attorney and the City of Carson due to nature of the allegations made by the alleged victim, an employee of the Sheriff's Office within the City, and concerns about cooperation of criminal matter witnesses with the District Attorney, who foreseeably may also be called upon to defend the Sheriff's Office and the City in any civil litigation arising out of the same alleged facts.

Applicable Statute, Code, Policy, Rule or Regulation:

NRS 228.130 District attorney may request assistance from Attorney General in criminal prosecutions; appointment of special prosecutor under certain circumstances; compensation.

1. In all criminal cases where, in the judgment of the district attorney, the personal presence of the Attorney General or the presence of a deputy attorney general or special investigator is required in cases mentioned in subsection 2, *before making a request upon the Attorney General for such assistance the district attorney must first present his or her reasons for making the request to the board of county commissioners of his or her county and have the board adopt a resolution joining in the request to the Attorney General.* [Emphasis added.]

2. In all criminal cases where assistance is requested from the Attorney General's Office, as described in subsection 1, in the presentation of criminal cases before a committing magistrate, grand jury, or district court, the board of county commissioners of the county making such request shall, upon the *presentation to the board of a duly verified claim setting forth the expenses incurred, pay from the general funds of the county the actual and necessary traveling expenses of the Attorney General or his or her deputy attorney general or his or her special investigator from Carson City, Nevada, to the place where such proceedings are held and return therefrom, and also pay the amount of money actually expended by such person for board and lodging from the date such person leaves until the date he or she returns to Carson City.* [Emphasis added.]

3. This section must not be construed as directing or requiring the Attorney General to appear in any proceedings mentioned in subsection 2, but in acting upon any such request the Attorney General may exercise his or her discretion, and his or her judgment in such matters is final.

4. In addition to any payment of expenses pursuant to subsection 2, the Attorney General *may charge for the costs of providing assistance in the prosecution of a category A or B felony pursuant to this section. Such costs must be agreed upon by the Attorney General and the district attorney* for the county for which the Attorney General provides assistance. [Emphasis added.]

5. If the Attorney General:

(a) Is requested, pursuant to subsection 1, to provide assistance to a district attorney in the presentation of a criminal case before a committing magistrate, grand jury or district court; and

(b) Determines at any time before trial that it is impracticable or uneconomical or could constitute a conflict of interest for the Attorney General or a deputy attorney general to provide such assistance, ➤ the Attorney General may, with the concurrence of the board of county commissioners and the district attorney, appoint a special prosecutor to present the criminal case.

6. Except as otherwise provided in subsection 7, compensation for a special prosecutor appointed pursuant to subsection 5 must be fixed by the Attorney General, subject to the approval of the State Board of Examiners.

7. For the prosecution of a category A or B felony, compensation and other terms and conditions must be agreed upon by the Attorney General and the district attorney of the county for which the special prosecutor is appointed to provide assistance.

Fiscal Impact: Pursuant to NRS 228.130(2) and (4), the costs of a Class A or B felony prosecution may be charged back to the to the City by the Attorney General upon the concurrence of the District Attorney regarding those costs.

Explanation of Impact: N/A

Funding Source: General Fund

Alternatives: 1) Refer back to District Attorney's office for further review
2) Do not adopt the Resolution

Supporting Material: N/A

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

Reviewed By: *Al M. Bruhette* Date: 6/25/13
(Public Works)
Marena Woods Date: 6/25/13
(City Manager)
Randy Allen Date: 6/25/13
(District Attorney)
Michael Smith Date: 6/25/13
(Finance Director)

Board Action Taken:

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

(Vote Recorded By)

RESOLUTION NO. _____

**A RESOLUTION PURSUANT TO NRS 228.130
CONCURRING IN THE REQUEST OF THE CARSON CITY
DISTRICT ATTORNEY IN REQUESTING THAT THE
ATTORNEY GENERAL OF THE STATE OF NEVADA, OR
HER DULY APPOINTED DEPUTY, PROCEED TO
EVALUATE AND, IF NECESSARY, PROSECUTE THE
REFERENCED ALLEGATIONS AGAINST KENNETH
STEEL.**

WHEREAS, the District Attorney of Carson City, Nevada has determined that there exists a certain case that requires the immediate evaluation, and if necessary, the prosecution of alleged criminal conduct of a Carson City Sheriff's Office sworn peace officer by the Attorney General of the State of Nevada or her duly appointed deputy; and

WHEREAS, a case has been investigated by the Douglas County Sheriff's Office, and is further identified as case number 13-SO-05129 and asserts allegations against Kenneth Steel while on duty as a Sergeant of the Carson City Sheriff's Office; and

WHEREAS, the reason for such a request to be made upon the Attorney General is to avoid an actual or perceived conflict of interest by the Office of the District Attorney and the City of Carson due to the nature of the allegations made by the alleged victim, an employee of the Sheriff's Office within the City, and concerns about cooperation of criminal matter witnesses with the District Attorney, who foreseeably may also be called upon to defend the Sheriff's Office and the City in any civil litigation arising out of the same alleged facts; and

NOW, THEREFORE, IT IS HEREBY RESOLVED that pursuant to NRS 228.130 the Board of Supervisors of Carson City concurs with the District Attorney of Carson City and hereby joins with the District Attorney in requesting that the Attorney General of the State of Nevada, or her duly appointed deputy, proceed in the evaluation of and, if necessary, the prosecution of the above referenced case.

IT IS FURTHER RESOLVED that the Carson City Clerk is hereby directed to forward a copy of this Resolution to the Attorney General of the State of Nevada.

IT IS FURTHER RESOLVED that upon presentation to the Board of Supervisors of Carson City of a duly verified claim setting forth the expenses incurred, Carson City agrees to pay from the general fund of Carson City, the actual and necessary traveling expenses of the Attorney General or her deputy or her special investigator from Carson City, Nevada, to the place where such proceedings are held and return therefrom, and to also pay the amount of money actually expended by such person for board and lodging from the date such person leaves until the date such person returns to Carson

City, and to pay any costs of the prosecution claimed by the Attorney General pursuant to NRS 228.130.

Upon motion by Supervisor _____,
seconded by Supervisor _____, the foregoing
Resolution was passed and adopted this **3rd day of July, 2013** by the following vote.

VOTE:	AYES:	_____

	NAYS:	_____

	ABSENT:	_____
	ABSTAIN:	_____

Robert Crowell, Mayor

ATTEST

Alan Glover, Clerk
Carson City, Nevada