

**MINUTES OF THE CITY OF LAS VEGAS SPECIAL CITY COUNCIL MEETING HELD ON
TUESDAY OCTOBER 27, 2015 AT 10:00 A.M. IN THE CITY COUNCIL CHAMBERS**

MAYOR: Alfonso E. Ortiz, Jr.- Absent

COUNCILORS: Tonita Gurule-Giroń - Mayor Pro-Tem
Joey Herrera
David L. Romero
Vincent Howell

ALSO PRESENT: Elmer J. Martinez – City Manager
Casandra Fresquez – City Clerk
Danelle Smith – Acting City Attorney
Juan Montano – Sergeant at Arms

CALL TO ORDER

Mayor Pro Tem Gurule-Giron called the meeting to order at 10:00 a.m.

ROLL CALL

PLEDGE OF ALLEGIANCE

MOMENT OF SILENCE

Councilor Howell asked for a moment of silence to reflect on the incident that occurred in our state regarding road rage and how quickly our lives can be affected by that behavior.

APPROVAL OF AGENDA

Councilor Howell made a motion to approve the agenda as is. Councilor Romero seconded the motion.

Mayor Pro Tem Gurule-Giron asked for roll call. Roll Call Vote was taken and reflected the following:

| | | | |
|---------------------|-----|-----------------|-----|
| Tonita Gurule-Giron | Yes | David L. Romero | Yes |
| Joey Herrera | Yes | Vincent Howell | Yes |

City Clerk Fresquez re-read the motion and advised the motion carried.

PUBLIC INPUT

None at this time.

BUSINESS ITEMS

1. Approval/Disapproval of Resolution 15-53, Repealing and Replacing all previous resolution and adopting a City of La Vegas (zero tolerance) Drug and Alcohol Policy and DOT Compliance Plan.

City Clerk Fresquez briefed the Governing Body on the presentation that was made by her and City Attorney Romero a few years ago. City Clerk Fresquez added that during that presentation she recommended a zero tolerance drug and alcohol policy in order to ensure the safety, health and welfare of the employees and the citizens of Las Vegas.

City Clerk Fresquez further stated that it was determined by the Governing Body to move forward with a zero tolerance drug and alcohol policy.

City Clerk Fresquez also stated that in September of 2013, the Public Regulation Commission (PRC) conducted an audit of the City's drug and alcohol policy and found several violations and they recommended that the City retain a professional contractor to create a drug and alcohol policy to ensure compliance as well as assisting in other areas such as administering collections, conducting and maintaining current random selection data basing, quarterly and annual reporting and regulatory audit assistance.

City Clerk Fresquez explained the definition of a zero tolerance policy and briefly went over the differences between the current drug and alcohol policy and the proposed drug and alcohol policy and mentioned that when an employee is terminated for whatever reason, the City allows the employee due process to include a contemplated termination hearing, giving the employee the opportunity to give his/her side of the contemplated action.

City Clerk Fresquez further explained that when an employee is tested and the employee is found positive for drugs and or alcohol, in the City's current policy, the employee is referred to an employee Assistance Program (EAP) and not terminated, however with the proposed policy, the employee will be terminated and not given a second chance.

Mayor Pro Tem Gurule-Giron asked about how the City handles an employee who self identifies that they have a drug and/or alcohol problem.

City Clerk Fresquez stated that an employee will not be terminated if they self identify prior to any type of drug or alcohol test, they will be allowed to go through the EAP program. City Clerk Fresquez further stated that employees who test positive and are terminated will also be referred to an EAP program and may re-apply with the City in a year if they complete the EAP program.

City Clerk recommended approval of the zero tolerance drug and alcohol policy and compliance plan to first and foremost ensure the safety, health and welfare of the employees and the citizens and secondly to ensure compliance with PRC regulations who oversees the federal and state entities to maintain compliance.

City Clerk Fresquez then asked that Shawna and Kelly with White Sands Compliance to go over the error that needed to be corrected in the proposed policy.

Ms. Shawna with White Sands Compliance referred to the error on page 15, B Random Testing (ii) (a), (b), (c) and (d), which should read;

(a) Company employees (non-DOT) are randomly selected for urine drug testing and the alcohol testing at an annual minimum ratio of 50% for drug testing and 15% for alcohol testing;

(b) DOT-PHMSA (pine) employee randomly selected for urine drug testing at an annual minimum ratio of 25%. Per federal regulations the percentage may increase;

(c) DOT-FMCSA employees are randomly selected for urine drug testing and alcohol testing at an annual minimum ratio of 50% for drug testing and 15% for alcohol testing. Per federal regulations the percentage may increase;

(d) To calculate the total number of covered employees' eligible for random testing throughout the year, as an operator, you must add the total number of covered employees' eligible for random testing throughout the year, as an operator, you must add the total number of covered employees eligible for testing during each random testing period for the year and divide that total by the number of random testing periods. All covered employees are to be in an employer's random testing pool.

Acting City Attorney Smith was unclear and asked for further clarification on that section of the policy.

After much discussion and questions from the Governing Body and Acting Attorney Smith, the section in question was clarified and understood.

Mayor Pro-Tem asked if the Mayor and Council were on the drug and alcohol policy list to be tested and if not could they be added.

City Clerk Fresquez stated Mayor and Council were not on the drug and alcohol policy list as they were elected officials.

Mayor pro tem and Councilors had no objections to being placed on the drug and alcohol policy list.

Acting City Attorney Smith mentioned that she could not find anything in the law that stated they could not be on the list for drug and alcohol testing, however she did state that the Municipal City Charter would need to be amended prior to placing the elected officials on our drug and alcohol testing list as there are no guidelines on how an elected official would be terminated if found positive for drugs and/or alcohol.

Acting City Attorney Smith stated that the Drug and Alcohol Policy included all employees and inquired if the summer youth that are hired each year are also drug tested as they are employees for a short period of time. Acting City Attorney Smith added that if they are not drug tested then the policy would need to be amended with an exception.

City Manager Elmer Martinez stated that the City would explore that further and if need be, the resolution would be amended at a later time.

Mayor Pro Tem asked what the pleasure of the Council was if there were no further questions.

Councilor Herrera moved to approve Res# 15-53 Repealing and Replacing all previous resolutions and adopting the City of Las Vegas zero tolerance Drug and Alcohol Policy and DOT Compliance Plan with the recommended changes. Councilor Herrera asked that the recommended changes be read into the record.

Personnel Risk Management Coordinator Victoria Lovato read the following changes into the record;

Page 15, B Random Testing (ii) (a), (b), (c) and (d), which should read;

(a) Company employees (non-DOT) are randomly selected for urine drug testing and the alcohol testing at an annual minimum ratio of 50% for drug testing and 15% for alcohol testing;

(b) DOT-PHMSA (pine) employee randomly selected for urine drug testing at an annual minimum ratio of 25%. Per federal regulations the percentage may increase;

(c) DOT-FMCSA employees are randomly selected for urine drug testing and alcohol testing at an annual minimum ratio of 50% for drug testing and 15% for alcohol testing. Per federal regulations the percentage may increase;

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Councilor Romero seconded the motion. Mayor Pro Tem Gurule-Giron asked for roll call. Roll Call Vote was taken and reflected the following:

| | | | |
|---------------------|-----|-----------------|-----|
| Tonita Gurule-Giron | Yes | David L. Romero | Yes |
| Joey Herrera | Yes | Vincent Howell | Yes |

City Clerk Fresquez re-read the motion and advised the motion carried.

EXECUTIVE SESSION

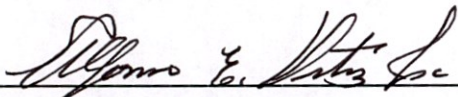
There were no items for executive session.

ADJOURN

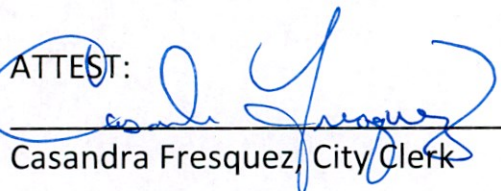
Councilor Herrera made a motion to adjourn. Councilor Romero seconded the motion. Mayor Pro Tem Gurule-Giron asked for roll call. Roll Call Vote was taken and reflected the following:

| | | | |
|-----------------|-----|---------------------|-----|
| Joey Herrera | Yes | Tonita Gurule-Giron | Yes |
| David L. Romero | Yes | Vincent Howell | Yes |

City Clerk Fresquez re-read the motion and advised the motion carried.



Mayor Alfonso E. Ortiz, Jr.

ATTEST: 

Casandra Fresquez, City Clerk