



Reno City Attorney

MEMORANDUM

Date: May 9, 2023
To: Mayor, City Council and City Manager
cc: JW Hodge, Assistant City Manager
Calli Wilsey, Director of Policy and Strategy
Through: Karl S. Hall, City Attorney
From: Jonathan D. Shipman, Assistant City Attorney
Subject: Redistricting Questions

Q: When happens to the At Large seat held by Devon Reese (“Reese”) on January 1, 2024?

Today, the City is divided into five wards. Reno City Charter (“RCC”), Art. 1, § 1.050(1). The Mayor and one Council Member represent the City at large, and one Council Member represents each ward. RCC, Art. 2, § 2.010(3). In 2017, the Nevada Legislature enacted Assembly Bill 36 (“AB 36”), which eliminated the office of At Large Council Member on January 1, 2024, and directed the creation of a sixth ward.

In general, when construing a statute, a court gives effect to the legislature's intent by looking first to the plain language of the statute. If the statutory language is ambiguous or fails to address the issue, a court construes the statute according to that which “reason and public policy would indicate the legislature intended.” *Cnty. of Clark v. Sun State Properties, Ltd.*, 119 Nev. 329, 334, 72 P.3d 954, 957 (2003) (internal citations omitted). Moreover, it is a well-recognized tenet of statutory construction that multiple legislative provisions be construed as a whole, and where possible, a statute should be read to give plain meaning to all parts. *Gilman v. Nevada State Bd. of Veterinary Medical Examiners*, 89 P.3d 1000, 1006 (Nev. 2004). The Legislature has expressly declared the Charter should be liberally construed to effect the purposes and objects for which this Charter is intended. Reno City Charter, Art. 1, § 1.019(2).

Here, the plain language of AB 36 directs that effective January 1, 2024, the City must be divided into six wards, RCC, Art. 1, § 1.050(1), with the Mayor representing the City at large and one Council Member representing each ward. RCC, Art. 2, § 2.010(3). The plain language of AB 36 also directs that on the date fixed by the election laws of the State for the statewide general election in November 2024, and at each successive interval of 4 years, there must be elected at the general election a Council Member from the sixth ward, who holds office for a term of 4 years and until his or her successor has been elected and qualified. RCC, Art. 5, § 5.010(5).

In creating the sixth ward, AB 36 fails to address whether Reese loses his seat by operation

of law on January 1, 2024, or serves out the remainder of his term until conclusion of the election in November 2024. Because the plain language of AB 36 does not address this issue, legislative intent must be inferred from reason and public policy, with the Charter being liberally construed to effect the intent of AB 36.

Under a scenario where the legislature intended Reese to lose his seat, City Council would have to redistrict to create a sixth ward, and then appoint a new council member or conduct a special election under RCC, Art. 1, § 1.070 to fill the vacancy. From the outside looking in, removing and replacing Reese for the 10 months leading up to the general election in 2024 appears to be a waste of time, money, and municipal resources. It does not advance any obvious public purpose or benefit. Also, a vacancy could inadvertently disenfranchise voters in the sixth ward until a new Council member is appointed or elected.

In contrast, under a scenario where the legislature intended Reese serve out the remainder of his term of office, City Council would not have to spend time, money, and municipal resources appointing a new council member or conducting a special election, and voters in the sixth ward could not be inadvertently disenfranchised until a new Council member is appointed or elected.

Construing multiple charter provisions as a whole supports a statutory construction consistent with the latter scenario. First, AB 36 did not change the term of office for Council Members, RCC, Art. 2, § 2.010(3) (four years). Second, AB 36 directs that the council member from the sixth ward be elected in November 2024, which coincides with the expiration of Reese's term of office under RCC, Art. 2, § 2.010(3). Third, AB 36 did not set an express deadline for creation of the sixth ward, or otherwise modify the requirement that the boundaries of the wards must be established and changed by ordinance, passed by a vote of at least five-sevenths of the City Council. RCC, Art. 1, § 1.050(2).

In light of the above, plain meaning, reason, and public policy dictate that the Legislature intended that city voters elect a City Council member from the sixth ward in November 2024, not before. In the interim, Reese serves out the remainder of his term.

Q: Legally, how and when is the sixth ward created?

Under RCC, Art. 1, § 1.050(2), the boundaries of the wards must be established and changed by ordinance, passed by a vote of at least five-sevenths of the City Council.

Based on conversations with the Washoe County Registrar of Voters, the ordinance establishing the sixth ward and changing the boundaries of the existing five wards must be adopted before **September 1, 2023**. Candidates for office of City Council file their declarations of candidacy on March 4, 2024. See, NRS 293C.175(2).

Consistent with the Legislature's declaration that the Charter should be liberally construed to effect the purposes and objects for which this Charter is intended, the ordinance shall specify the following:

For all purposes necessary and appropriate to conduct, administer, and effectuate the general election in November 2024, this Ordinance shall be in effect from and after its passage, adoption and publication in one issue of a newspaper printed and published in the City of Reno.

However, for all other purposes not necessary and appropriate to conduct,

administer, and effectuate the general election in November 2024, this Ordinance shall take effect on the date and time the City Council and City Manager meet within the time set forth in NRS 293C.387 after the 2024 general election, and canvass the returns and declare the result.