

City of Carson City
Agenda Report

Item # 13

Date Submitted: May 6, 2008

Agenda Dates Requested: May 15, 2008

Time Requested: 10 minutes

To: Mayor and Supervisors

From: D.A.

Subject Title: Action to introduce on first reading, Bill No. _____, "An Ordinance Amending Carson City Municipal Code Title 2 Administration and Personnel, Adding Chapter 2.03 National Background Checks, Section 2.03.010 National Fingerprint-Background Check for Job Applicants to Require Certain Applicants for Employment with the City of Carson City of Submit to a National Fingerprint-Background Check with the Federal Bureau of Investigation and other Matters Properly Related Thereto."

Staff Summary: The Federal Bureau of Investigation ("FBI") has informed Carson City that, after August 29, 2008, the FBI will no longer accept fingerprint cards submitted for national, criminal-background checks unless there is an underlying local ordinance authorizing the practice. Nevada Revised Statute ("NRS") 239B.010 authorizes political subdivisions of the state to request of and receive from the FBI information on the background and personal history of persons seeking public employment. However, the FBI requires a more specific authorization that allows the fingerprint-background-check practice at the *ordinance level*. In particular, the FBI requires that such an ordinance express: (1) the specific employment occupations for which applicants must be fingerprinted; (2) specific authorization for the submission of the fingerprints for a national, criminal-background check; and (3) a reference to the authorizing state statute, NRS 239B.010. The proposed ordinance fulfills the requirements set forth by the FBI, so that Carson City may continue to submit fingerprint cards to the FBI for a national, criminal-background check of certain job applicants.

Type of Action Requested: (check one)

Resolution

Ordinance (1st Reading)

Formal Action/Motion

Other (Specify)

Does this action require a Business Impact Statement: () Yes (xx) No

Recommended Board Action: I move to introduce on first reading, Bill No. _____, "An Ordinance Amending Carson City Municipal Code Title 2 Administration and Personnel, Adding Chapter 2.03 National Background Checks, Section 2.03.010 National Fingerprint-Background Check for Job Applicants to Require Certain Applicants for Employment with the City of Carson City of Submit to a National Fingerprint-Background Check with the Federal Bureau of Investigation and other Matters Properly Related Thereto."

Explanation for Recommended Board Action: This ordinance will allow Carson City to continue to submit fingerprint cards to the FBI for a national, criminal-background check of certain job applicants.

Applicable Statute, Code, Policy, Rule or Regulation: NRS 239B.010 (b)

Fiscal Impact: n/a

Explanation of Impact: n/a

Funding Source: n/a

Alternatives: n/a

Supporting Material: (1) Draft (Version 2, dated 4/24/08) Amended Carson City Municipal Code, Title 2 Administration And Personnel, Chapter 2.03 National Background Checks, Section 2.03.010 National Fingerprint-Background Check For Job Applicants; (2) Open Letter to Nevada Municipal Agencies From Captain Philip K. O'Neill, Division Chief of the Nevada Department of Public Safety, dated November 20, 2007, explaining the need for Nevada Municipalities to promulgate ordinances authorizing FBI criminal-background, fingerprint checks.

Prepared By: *William Geddes* Date: MM46, 2008
William Geddes, Deputy D.A.

Reviewed By: *William Geddes* Date: 5/6/08
William Geddes, Deputy D.A.

: *[Signature]* Date: 5-6-08
Larry Werner, City Manager

: *Marie Poubetta* Date: 5-6-08
(District Attorney)

: *Unah Alouata* Date: 5-6-08
(Finance Director)

Board Action Taken:

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

(Vote Recorded By)

1 ORDINANCE NO. _____

2 BILL NO. _____

3 AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE
4 TITLE 2 ADMINISTRATION AND PERSONNEL, ADDING
5 CHAPTER 2.03 NATIONAL BACKGROUND CHECKS, SECTION
6 2.03.010 NATIONAL FINGERPRINT-BACKGROUND CHECK FOR
7 JOB APPLICANTS TO REQUIRE CERTAIN APPLICANTS FOR
8 EMPLOYMENT WITH THE CITY OF CARSON CITY TO SUBMIT
9 TO A NATIONAL FINGERPRINT-BACKGROUND CHECK WITH
10 THE FEDERAL BUREAU OF INVESTIGATION AND OTHER
11 MATTERS PROPERLY RELATED THERETO.

12 THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

13 SECTION I:

14 That Title 2 of the Carson City Municipal Code is hereby amended as follows:

15 **Title 2 ADMINISTRATION AND PERSONNEL ***

16 [Note to Title 2](#)

17 [Chapter 2.02 BOARD OF SUPERVISORS](#)

18 [Chapter 2.03 NATIONAL BACKGROUND CHECKS](#)

19 [Chapter 2.04 CLASSIFIED SERVICE](#)

20 [Chapter 2.06 UNCLASSIFIED COMPENSATION](#)

21 [Chapter 2.08 FIRE DEPARTMENT](#)

22 [Chapter 2.14 BOARD OF HEALTH](#)

23 [Chapter 2.16 CARSON CITY PARKS AND RECREATION COMMISSION](#)

24 [Chapter 2.18 SHADE TREE COUNCIL](#)

25 [Chapter 2.28 ELECTION BOARD OFFICERS](#)

26 [Chapter 2.29 PAYMENT OF BILLS](#)

27 [Chapter 2.32 LOST OR ABANDONED PROPERTY](#)

28 [Chapter 2.34 CODE OF ETHICS FOR ELECTED AND APPOINTED OFFICIALS](#)

[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](#)

[Chapter 2.36 FEES ON COURT ACTIONS TO SUPPORT PROGRAM OF MEDIATION](#)

[Chapter 2.37 FEES ON COURT ACTIONS TO SUPPORT PROGRAMS FOR
PREVENTION AND TREATMENT OF ABUSE OF ALCOHOL AND DRUGS](#)

1 Chapter 2.38 DEPARTMENT OF ALTERNATIVE SENTENCING

2 Chapter 2.39 ADDITIONAL ADMINISTRATIVE ASSESSMENT FOR MISDEMEANOR:
3 AUTHORIZATION; COLLECTION; DISTRIBUTION; LIMITATIONS ON USE

4 Chapter 2.40 COMMISSION ON PERSONAL PROPERTY TAX AND THE ACCOUNT
5 FOR THE ACQUISITION AND IMPROVEMENT OF TECHNOLOGY IN THE OFFICE OF
6 THE COUNTY ASSESSOR

7 Chapter 2.41 CARSON CITY CULTURAL COMMISSION

8 SECTION II:

9 That Chapter 2.03 of the Carson City Municipal Code is hereby added as follows:

10 Chapter 2.03 NATIONAL BACKGROUND CHECKS

11 2.03.010 National Fingerprint-Background Check for Job Applicants

12 SECTION III:

13 That Section 2.03.010 of the Carson City Municipal Code is hereby added as
14 follows:

15 2.03.010 National Fingerprint-Background Check For Job Applicants.

16 1. Before obtaining employment with the City of Carson City, every job-applicant
17 who seeks employment for a position or career specified in Subsection 2 shall submit to a
18 national background check with City of Carson City, for which the City of Carson City and its
19 authorized agents are authorized to submit to the Federal Bureau of Investigation ("FBI") the
20 job-applicant's fingerprints, and the City of Carson City and its authorized agents are further
21 authorized to submit and receive from the FBI information on the background and personal
22 history of the job applicant. [Reference NRS 239B.010 (b)]

23 2. The following City of Carson City employment positions or careers are subject to
24 the employment-background check specified in Subsection 1:

25 a. Positions/Careers in the District Courts: Court Administrator; Program
26 Services/Jury Commissioner; Clerk/Supervisor; Counter Clerk; Judicial
27 Assistant; Law Clerk; Court Reporter; Court Bailiff;

28 b. Positions/Careers in the Justice Courts: Court Administrator;
Administrative Services Manager; Information Technology/Budget Analyst;

1 Justice Court Supervisor; Justice Court Clerk; Justice Court Technician; Justice
2 Court Interpreter; Marshal;

3 c. Positions/Careers in the Juvenile Court: Juvenile Special Master; Court
4 Clerk; Legal Secretary;

5 d. Positions/Careers in the Juvenile Detention Center: Chief Juvenile
6 Probation Officer; Senior Juvenile Probation Officer; Probation Officer; Legal
7 Secretary; Management Assistant; Office Support Technician;

8 e. Positions/Careers in the Detention Center: Juvenile Detention Manager;
9 Senior Youth Counselor; Youth Counselor; Cook;

10 f. Positions/Careers in the Department of Alternative Sentencing: Chief of
11 Alternative Sentencing; Assistant Chief of Alternative Sentencing; Office Manager;
12 Alternative Sentencing Officer; Alternative Sentencing Technician; Office Support
13 Technician; Debt Recovery Technician;

14 g. Positions/Careers in the District Attorney's Office: Assistant District
15 Attorney; Chief Deputy District Attorney; Office Manager; Sr. Deputy District Attorney;
16 Deputy District Attorney; District Attorney-Investigator; Legal Secretary; Data Entry
17 Clerk;

18 h. Positions/Careers in the Parks & Recreation Department: Building
19 Maintenance Worker;

20 i. Positions/Careers in the Fire Department: Fire Chief / Emergency
21 Manager; Assistant Fire Chief / Fire Marshall; Battalion Chief; Fire Captain; Fire
22 Prevention Inspector; Firefighter / Paramedic; Pump Operator Driver; Firefighter;
23 Administrative Assistant; Management Assistant;

24 j. Positions/Careers in Information Technology Department: Director,
25 Information Technology; Project Leader; Business Systems Analyst; Information
26 Technology Help Desk;

27 k. Positions/Careers in the Recreation Department: Any adult (18 years of
28 age or older) who are assigned to supervise youth activities;

l. Positions/Careers in the Sheriff's Department: Under Sheriff; Chief
Deputy; Chief Administrative Officer; Records Clerk; Business Manager; Civil Division
Supervisor; Deputy Coroner; Sr. Forensic Specialist; Forensic Technician; Detective;
Lieutenant; Sergeant; Deputy Sheriff; Inmate Welfare Coordinator; Juvenile Programs
Coordinator; Management Assistant; Evidence Custodian; Records Supervisor;
Volunteer Coordinator; Communications Manager; Communications Supervisor;
Communications Operator; Service Technician; Support Technician; Account
Technician; Cook;

m. Positions/Careers as maintenance workers and building-custodian-
personnel who work in or have physical access to the:

1 (i) The Carson City Courthouse and Administrative Offices Complex,
2 located at 885 East Musser Street, Carson City, Nevada 89701;

3 (ii) The Carson City Sheriff's Office and Detention Center Complex,
4 located at 901 East Musser Street, Carson City, Nevada 89701;

5 (iii) The Carson City Juvenile Courthouse-Juvenile Detention Center
6 Complex, located at 1545 East 5th Street, Carson City, Nevada 89701.

7 SECTION IV:

8 That no other provisions of Chapter 2.03 are affected by this ordinance.

9 PROPOSED this _____ day of _____, 2008.

10 PROPOSED by Supervisor _____.

11 PASSED on the _____ day of _____, 2008.

12 VOTE:

AYES:

13 _____

14 _____

15 NAYES: _____

16 ABSENT: _____

17 ATTEST:

18 _____
19 ALAN GLOVER, Clerk/Recorder

20 _____
21 MARV TEIXEIRA, Mayor

22 This ordinance shall be in force and effect from and after the day of the month of _____
23 of the year 2008.

Jim Gibbons
Governor



Phillip A. Galeoto
Director

Captain Philip K. O'Neill
Division Chief

Records and Technology Division
333 West Nye Lane, Suite 100
Carson City, Nevada 89706
Telephone (775) 684-6262 – Fax (775) 684-6265
www.nvrepository.state.nv.us

November 20, 2007

First Name/Last Name, Title
Address
City, State ZIP

RE: Fingerprint-based Background Checks

Dear NAME:

The Nevada Department of Public Safety (DPS), Records Bureau has recently been informed by the Federal Bureau of Investigation (FBI) that effective **August 29, 2008** it will no longer accept fingerprint cards from your agency/local sheriff's office for national criminal background checks for employment and licensing purposes unless there is an underlying local statute or ordinance that has been reviewed and approved by the FBI for those purposes.

To give you some background on this issue, many local governments are using Nevada Revised Statutes (NRS) 239B.010 as their justification for national fingerprint-based background checks for employment and licensing purposes for everything from adult entertainment to work cards. The FBI notified the DPS Records Bureau in 2003 that local use of NRS 239B.010 was not allowed because the FBI had neither received nor approved local statutes/ordinances authorizing fingerprint-based background checks for such purposes. However, prior management within the Records Bureau took no action at that time.

In June 2007, the FBI again contacted the DPS Records Bureau and informed us that local use of NRS 239B.010 must be stopped *at once* unless it could be shown that the local statutes/ordinances specifically met the FBI's criteria allowing fingerprint-based background checks for employment/licensing purposes. The Records Bureau immediately started researching the issue, and in August 2007 presented the FBI's Access Integrity Unit with local statutes/ordinances we felt met the FBI's criteria. However, after review, the FBI determined in September 2007 that none of the local statutes/ordinances was acceptable. Therefore, the FBI would start rejecting all local government NRS 239B.010 fingerprint cards.

The DPS Records Bureau pleaded with the FBI not to cut our local governments off and instead give us time to work with the local governments to address the problem. We recognize the Records Bureau should have brought this issue to your attention years ago; however, we have

undergone several changes in management since 2003, and current management was not aware of this issue until the FBI contacted us over the summer. Shortly thereafter, I disseminated some preliminary information to the Sheriffs' and Chiefs' Association at their September meeting and told them that we would be sending a letter with additional information.

In order to conduct national fingerprint-based background checks for local employment/licensing purposes, your local government's statutes/ordinances must be revised to include the following components:

- Must include a requirement for applicants for a specific occupation or license to be fingerprinted;
- Must include authorization for submission of the fingerprints to the FBI for a national background check; and
- Must reference the authorizing state statute, NRS 239B.010(a).

For example, Elko City Code 5-11-4 requires applicants for a bar license to be fingerprinted. However, the Code fails to authorize submission to the FBI for a national background check and fails to reference the state authorizing statute NRS 239B.010(a). If the City of Elko wanted to require a national fingerprint-based background check for bar employees, it would have to amend City Code 5-11-4 to include those missing components. Absent all three components, the FBI will reject the fingerprint submissions effective August 29, 2008.

The DPS Records Bureau is committed to helping our local governments to address this issue and comply with the FBI's requirements within the deadline. Please submit your revised statute/ordinance to Mindy McKay, Program Officer, at the address above as soon as possible so that we may forward your revision to the FBI for review and approval. Please contact Ms. McKay at (775) 684-6205 or Julie Butler, Interim Records Bureau Manager, at (775) 684-6201 if you have any questions regarding this letter or about this issue. Thank you in advance for your attention to this important matter.

Sincerely,



Captain Philip K. O'Neill
Division Chief

PKO/jb

cc: Local Sheriffs and Chiefs
Agency TACs and ATACs
Nevada Association of Counties
Nevada League of Cities
Phil Galeoto, Director
John Douglas, Deputy Director
Kathalie Koche, Deputy Chief of Staff

A. Name
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Julie Butler, Interim Records Bureau Manager
Mindy McKay, Program Officer
Records Bureau Administrative Officers