



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: December 6, 2018

Staff Contact: Ryan Henry, Bond Counsel for Carson City (Sherman & Howard LLC)

Agenda Title: For Possible Action: To grant a waiver of conflict of interest by executing a proposed waiver as requested by Sherman & Howard, LLC, bond counsel for the City and contract counsel for the Carson City Finance Department, relating to the law firm's concurrent representation of Verizon Wireless in matters relating to cell towers and real estate.

Staff Summary: Rule 1.7 of the Nevada Rules of Professional Conduct prohibits a lawyer from representing a client if the representation involves a concurrent conflict of interest unless each client gives informed consent, confirmed in writing. The Reno office of the law firm Sherman & Howard LLC represents Carson City on finance matters and as bond counsel. The firm's Denver office also represents Verizon Wireless on cell tower and related real estate matters, and such business may come before Carson City in the future. Sherman & Howard is requesting that the Board waive the firm's concurrent conflict of interest with its representation of both Carson City and Verizon Wireless. The waiver, if granted, would only apply to the negotiation of a cell tower master lease agreement and zoning related matters, and would not extend to litigation or dispute resolution regarding such matters. Sherman & Howard is requesting that the Board waive the firm's concurrent conflict of interest with its representation of both Carson City and Verizon Wireless. Verizon has similarly waived the conflict.

Agenda Action: Formal Action/Motion

Time Requested: 10 mins

Proposed Motion

I move to grant the waiver of conflict of interest of Sherman & Howard, LLC by executing the proposed waiver as requested.

Board's Strategic Goal

N/A

Previous Action

N/A

Background/Issues & Analysis

The Reno office of Sherman & Howard LLC has been the City's bond counsel on finance-related matters since the mid-1970s. Sherman & Howard's Denver office represents Verizon Wireless in connection with negotiating master lease agreements with cities and towns throughout the country to help them place small cell nodes (i.e. small antennas on light poles, traffic poles, utility poles and stand alone poles) in public rights-of-way. Such agreements will be necessary to accommodate upcoming new technologies (i.e., 5G) that may substantially increase capacity. Along with the master lease agreement negotiation, municipalities may re-write their zoning codes to ensure an application and permitting process is in place for the nodes in the rights-of-way. At this time, Verizon Wireless has no specific plans involving Carson City but has directed Sherman & Howard to open a file in preparation for negotiating a master lease agreement and code review in the future. Sherman & Howard currently has approximately 75 of these type of files open throughout the country, mostly in the West.

Applicable Statute, Code, Policy, Rule or Regulation

Rule 1.7 of the Nevada Rules of Professional Conduct

Financial Information

Is there a fiscal impact? Yes No

If yes, account name/number:

Is it currently budgeted? Yes No

Explanation of Fiscal Impact: N/A

Alternatives

1. Decline to grant waiver of conflict of interest.
2. Refer matter back to Staff.

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)