

**AGENDA**  
**CITY OF FALLON – CITY COUNCIL**  
**55 West Williams Avenue**  
**Fallon, Nevada**  
**June 1, 2020 – 9:00 a.m.**

The Honorable City Council will meet in a regularly scheduled meeting on June 1, 2020 at 9:00 a.m. in the City Council Chambers, 55 West Williams Avenue, Fallon, Nevada.

Items on the agenda may be taken out of order. The Council may combine two or more agenda items for consideration. The Council may remove an item from the agenda or delay discussion relating to an item on the agenda at any time. Unless otherwise allowed by the City Council, public comments by an individual will be limited to three minutes.

1. Pledge of Allegiance to the Flag.
2. Certification of Compliance with Posting Requirements.
3. Public Comments: General in nature, not relative to any agenda items.  
No action may be taken on a matter raised under this item until the matter has been specifically included on an agenda as an item upon which action will be taken. **(For discussion only)**
4. Consideration and approval of Council meeting minutes for May 4, 2020. **(For possible action)**
5. Approval of Warrants: **(For possible action)**
  - A) Accounts Payable
  - B) Payroll
  - C) Customer Deposit
6. Public hearing for Bill No. 783: An ordinance adding a new Chapter to Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code in order to establish a City misdemeanor offense of “Battery Which Constitutes Domestic Violence,” along with corresponding penalties, and for other matters properly related thereto. **(For discussion only)**
7. Consideration and possible adoption of Bill No. 783 as Ordinance No. 764: An ordinance adding a new Chapter to Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code in order to establish a City misdemeanor offense of “Battery Which Constitutes Domestic Violence,” along with corresponding penalties, and for other matters properly related thereto. **(For possible action)**
8. Public Comments **(For discussion only)**

9. Council and Staff Reports **(For discussion only)**

10. Executive Session (closed):

Discuss Litigation Matters **(For discussion only)** (NRS 241 et.seq.)  
Negotiations with Operating Engineers Local Union No. 3 **(For discussion only)**  
Negotiations with Fallon Peace Officers Association **(For discussion only)**

Pursuant to Governor Sisolak's Declaration of Emergency Directive 006 entered on March 22, 2020, and extended by Emergency Directive 016 entered on April 29, 2020 and by Emergency Directive 018 entered on May 7, 2020, this agenda has been posted on or before 9:00 a.m. on May 27, 2020 to the City's website (<https://fallonnevada.gov>) and the State of Nevada public notice website (<https://notice.nv.gov/>). Members of the public may request the supporting material for this meeting by contacting Elsie M. Lee, Deputy City Clerk, at (775) 423-5104 or [elee@fallonnevada.gov](mailto:elee@fallonnevada.gov). The supporting material for this meeting is also available to the public on the City's website (<https://fallonnevada.gov>) and the State of Nevada public notice website (<https://notice.nv.gov/>).

  
Elsie M. Lee

NOTICE TO PERSONS WITH DISABILITIES: Reasonable effort will be made to assist and accommodate physically handicapped persons desiring to attend the meeting. Please call the City Clerk's Office at 423-5104 in advance so that arrangements may be conveniently made.



June 1, 2020

## Agenda Item 4

Consideration and approval of Council meeting minutes for May 4, 2020. **(For possible action)**



**MINUTES  
CITY OF FALLON  
55 West Williams Avenue  
Fallon, Nevada  
May 4, 2020**

The Honorable City Council met in a regularly scheduled Council meeting on the above date in the Council Chambers, 55 West Williams Avenue, Fallon, Nevada.

**Present:**

Mayor Ken Tedford  
City Councilman, James D. Richardson  
City Councilwoman, Kelly Frost  
City Councilwoman, Karla Kent  
Legal & Administrative Director, Robert Erquiaga  
Police Chief, Kevin Gehman  
Public Works Director, Brian Byrd

The meeting was called to order by Mayor Tedford at 9:00 a.m.

Mayor Tedford led the Pledge of Allegiance.

Mayor Tedford inquired if the agenda had been posted in compliance with NRS requirements.

Legal and Administrative Director Erquiaga advised that the agenda was posted in compliance with Governor Sisolak's Declaration of Emergency Directive 006, and as extended by Directive 016, the agenda and the supporting materials were posted on the City's website and the State of Nevada's public notice website on or before 9:00 a.m. on April 29, 2020.

**Public Comments**

Mayor Tedford inquired if there were any public comments. He noted that comments are to be general in nature, not relative to any agenda items. No action may be taken on a matter raised under this item until the matter has been specifically included on an agenda as an item upon which action will be taken.

No public comments were noted.

**Approval of Warrants**

- A) Accounts Payable
- B) Payroll
- C) Customer Deposit

Mayor Tedford inquired if there were any comments regarding the accounts payable, payroll and customer deposit warrants.

No comments were noted.

Councilwoman Frost motioned to approve the accounts payable, payroll and customer deposit warrants and authorize the Mayor to sign the same; seconded by Councilwoman Kent and approved with a 3-0 vote by the Council.

**Consideration and possible action to approve a construction contract with Q&D Construction of Sparks, Nevada in order to complete the Fallon Municipal Airport Rehabilitate Airport Pavements project, PWP-CH-2020-189, in the amount of Five Hundred Eighty-Nine Thousand Dollars and Zero Cents (\$589,000.00), contingent upon final approval of FAA grant funding, while rejecting the two lowest bids for being non-compliant with Chapter 338 of NRS**

Public Works Director Byrd stated that the City has been tentatively approved for an FAA grant to complete the Rehabilitate Airport Pavements project at the Fallon Municipal Airport. The project was previously designed by Atkins North America, Inc. The project was advertised during the week of April 1, 2020 and a non-mandatory pre-bid meeting was held on April 16, 2020 at which two potential bidders were in attendance. Three bids were received and opened on April 23, 2020 as further described in the agenda packet. The lowest bid received, submitted by CR Contracting, in the amount of \$445,683.53 is being recommended for rejection as the bid amount is over CR Contracting's approved bid limit. In accordance with NRS 338.13895, a local government awarding a contract for a public work shall not award the contract to a person if the contract would exceed the limit of the person's license. The next lowest bid received, submitted by Maxwell Asphalt, in the amount of \$448,703.30 is also being recommended for rejection as Maxwell Asphalt failed to list sub-contractors and material suppliers within their bid submission. Pursuant to NRS 338.141, potential bidders must supply the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. FAA procedures provide final grant approval only after bid opening and contract award approval by the City Council. City staff recommends approval of a construction contract with Q&D Construction as the lowest responsive and responsible bidder, contingent upon final approval of FAA grant funding. This project will be funded by the FAA at 100%.

Mayor Tedford inquired if the Council had any comments or questions.

Councilwoman Frost asked how long it would take for the FAA to approve grant funding and start construction.

Public Works Director Byrd stated that it would occur this calendar year, probably eight weeks or so.

Legal and Administrative Director Erquiaga added that they usually like that Summer construction schedule, now this year, it may be different, but we have not heard otherwise from the FAA. They are treating things as business as usual as far as timelines are concerned. We would anticipate receiving approval in the form of an actual grant agreement and be in line with a Summer schedule. The 100% funding was a component of the CARES Act, so the City has no required match on this project which is a really nice benefit.

Mayor Tedford inquired if there were any public comments or questions.

No comments were noted.

Councilwoman Kent motioned to approve a construction contract with Q&D Construction of Sparks, Nevada in order to complete the Fallon Municipal Airport Rehabilitate Airport Pavements project, PWP-CH-2020-189, in the amount of Five Hundred Eighty-Nine Thousand Dollars and Zero Cents (\$589,000.00), contingent upon final approval of FAA grant funding, while rejecting the two lowest bids for being non-compliant with Chapter 338 of NRS; seconded by Councilman Richardson and approved with a 3-0 vote by the Council.

**Consideration and possible approval of a Professional Services Contract with Atkins North America, Inc. for construction administration support services relating to the Fallon Municipal Airport Rehabilitate Airport Pavements project, PWP-CH-2020-189, in an amount not to exceed Sixty Thousand Eight Hundred Dollars (\$60,800.00), contingent upon final approval of FAA grant funding**

Public Works Director Byrd explained that the City has been tentatively approved for an FAA grant to complete the Rehabilitate Airport Pavements project at the Fallon Municipal Airport. The project was previously designed by Atkins North America, Inc. This follow-on professional services contract is needed to provide construction support services, inspection, and materials testing during the construction phase of the project, which are required by the FAA. Atkins North America, Inc. was previously awarded an open-ended contract to provide a variety of engineering services for the airport and this particular contract would be Task Order Number 9. City staff recommends approval of a Professional Services Contract with Atkins North America, Inc., contingent upon final approval of FAA grant funding. This project will be funded by the FAA at 100%.

Mayor Tedford inquired if the Council had any comments or questions.

No comments were noted.

Mayor Tedford inquired if there were any public comments or questions.

No comments were noted.

Councilman Richardson motioned to approve a Professional Services Contract with Atkins North America, Inc. for construction administration support services relating to the Fallon Municipal Airport Rehabilitate Airport Pavements project, PWP-CH-2020-189, in an amount not to exceed Sixty Thousand Eight Hundred Dollars (\$60,800.00), contingent upon final approval of FAA grant funding; seconded by Councilwoman Frost and approved with a 3-0 vote by the Council.

**Presentation of the Police Department Report for March 2020**

Chief Gehman presented the March monthly report. He added that the March incidents and activities were primarily in line with previous months with no exceptional variances.

- Staff participated in minimal hours of training.
- Detective Decker provided the indoctrination lecture to newly stationed Navy personnel.
- Officers assisted with handing out meals to children at bus stop areas during the school closure.
- Police Explorers assisted in serving food at Fallon Daily Bread.
- The citizen survey results were positive.

Mayor Tedford reminded Chief Gehman that he would like to see the results of the speed survey trailer set on Tedford Lane. He directed Public Works Director Byrd to check to see if

Tedford Lane had 25 MPH signs posted; if there are no signs, he did not see a problem with installing some. Everyone should know every street in the City is 25 MPH unless you are by a park or in a school zone, then it drops to 15 MPH. You cannot go over 25 MPH in the City except on Williams Avenue.

Mayor Tedford inquired if the Council had any comments or questions.

No comments were noted.

Mayor Tedford thanked Chief Gehman for the report.

### **Public Comments**

Mayor Tedford inquired if there were any public comments.

No public comments were noted.

### **Council and Staff Reports**

Mayor Tedford inquired if there were any Council or staff reports.

Legal and Administrative Director Erquiaga advised that the Council had been provided a copy of the City of Fallon and Churchill County Joint COVID-19 Mitigation and Reopening and Return to Work Plan. He wanted to take a couple minutes to introduce it this morning. Governor Sisolak released his Nevada United Roadmap to Recovery last Thursday. The City, specifically the Mayor and himself, have been engaged with Churchill County on a frequent basis. Every day they speak with Churchill County Commission Chairman Pete Olsen and County Manager Jim Barbee and some days it is many times a day. We have been proactive in attempting to address and analyze Fallon and Churchill County's ability to reopen and move to phase 1. In a lot of cases, we have done that without guidance or information from the State or the Governor's Office. We hear the Governor's plans the same as you do, and as the public does, in his press conferences as they get announced. It has really been a process that is county-driven, as the Governor is reaching out to counties and looking for them to provide him with information. The same invitation has not been extended to cities, so we are working through Churchill County as best we can, and as best they can, to get information from the Governor and some insight as to what is occurring so we can, in turn, make the best decisions for the citizens of our community. In so doing, at the end of last week, we had anticipated the Governor extending the Stay at Home Order, based on information that was out on social media and then released on *Good Morning America* prior to it being released to citizens of the State of Nevada; but in that effort, we were also able to glean that there may be a possibility for individual counties to report in to the Governor and/or a committee that we thought he might be appointing, which ultimately turned out to be the LEAP Committee, the Local Empowerment Advisory Panel, that the Governor announced on Thursday. For several weeks, and with a heightened focus last week, he and the Mayor worked back and forth with Churchill County on a draft of this plan. There were probably in excess of 20 drafts back and forth; that was a good reflection of how difficult the task was. There was no playbook to follow and it was also difficult as they were flying a bit blind, not knowing exactly what the Governor was going to do Thursday night or what his plan was going to look like. So this began as our best effort to, first, identify the situation locally, we were aware of certain criteria that may need to be met in order for a county or somebody to move to phase 1 of a reopening plan and the first part of the plan covers what we believe to be the criteria set out in the fact that this community could meet all of those criteria. The plan then moves to three phases. Phase 1 was drafted in line with both President

Trump's Guidelines for Reopening America and phase 1 of what had been identified by the Governor through his previous press conferences as the criteria and the individuals and the businesses and the specific employers that the restrictions would apply to in phase 1. From there, we looked at phase 2 and phase 3, at the time this was drafted we had no information as to what the Governor's plan would look like and we went with phases 2 and 3 after a lot of thought and discussion to stay in line with President Trump's Guidelines to Reopening America. We also have discussed in the plan, timelines, as we were hopeful each phase could be accomplished in an approximately 14-day period. So, there is some reference in the plan to that, moving to phase 2 and to phase 3, as long as we do not see a significant spike in the number of new cases. We have also discussed throughout, the importance of keeping numbers in context, and so our hope is that we will be able to continue to do that moving forward. As everyone is aware, the push to have enhanced access to Coronavirus testing is on. Churchill County has been in conversation with the State and is hopeful that they can begin doing what they are calling surveillance testing, it is really random testing, in our community to get a better grip and hopefully provide better data about how prevalent the virus may or may not be in this community. But as we do that, of course, the increased testing could potentially lead to more positives so keeping the context of the percentage of people testing positive versus negative will be important to track. It will also be important to track that totally randomized testing and screening which is a different category than symptomatic testing. So thus far, we have just had symptomatic testing in Churchill County which means you have to present to a healthcare provider and have a series of symptoms that meet both the State of Nevada's criteria and the CDC's criteria to get a Coronavirus test. As we expand into that random testing where anybody could potentially sign up and be tested, it will be important to maintain two sets of data and understand the differences between the two and we are told, through Churchill County, that is what the State intends to do. The plan itself is our best effort, with everything that has happened with Coronavirus and as we try to respond accordingly, it is subject to change. It will probably change many more times as we go forward, as we learn more, as more data is gathered, and certainly as we hear more from the Federal government including the President, and as we hear more from Governor Sisolak. Churchill County did take up this plan in a Commission meeting on Friday and adopted it. They adopted it with the idea that it would change and that their ultimate goal was to get the plan and a series of information submitted to the Governor's Office on Friday. That was the first opportunity for them to submit that and our understanding is that the Governor's Office and the LEAP committee will review each counties' response and then evaluate the State's readiness to move to phase 1. The Commission meeting also highlighted that they hope the timeline is very soon. If it is not, the City and Churchill County intend to have further meetings and discussions about advancing that timeline to the fullest extent that we can. Legal and Administrative Director Erquiaga added that he, Mayor Tedford, Chairman Olsen, and Jim Barbee have worked really well together through this process, not only in all the discussions but in developing this plan. We are trying to follow Churchill County's lead. They have a health authority, or a health board. They have health officers; Jim Barbee is appointed as a Deputy Health Officer and Dr. Tedd McDonald is the County's Health Officer. Those are assets that we do not have in the City. We have been trying to follow their lead, especially medically related, and they have been easy and good to work with and they are doing an amazing job and it has been a pleasure working together with them to try to move forward and safely advance all the interests of the citizens of our community.



Councilwoman Kent asked, in regard to entering phase 1, if the Governor was going to have the entire State begin together as a whole if we reach the numbers, or was he going to consider doing it county by county.

Legal and Administrative Director Erquiaga explained that the Governor's statement and his plan both indicate that the State will move together to phase 1 as a whole when he determines that it is appropriate. At the same time, counties have submitted their information and they intend to continue to press the issue if a growing group of counties are able to move to phase 1 and it ultimately ends up being that only one or two are not, he knew there was a group of people willing to press that issue with the Governor. He has given no indication that counties cannot move to phase 1 without his approval and without his say. He did indicate that once you get to phase 1, it seemed that he left open that counties could proceed at different paces at that point. But, as far as getting to phase 1, he has been clear and there is a growing group of people that are evaluating how to move forward if that timeline of the Governor's and the State's does not meet theirs.

Mayor Tedford noted that there has been a good deal of discussion about that – what you do if you have met all the parameters – which are: if you had enough PPE in your storage to meet a surge, your hospital would have enough room to handle a surge of which we have 37 beds in Fallon, and trace testing so if someone gets the virus you have the ability through your health department to do trace testing back to where they got it. Jim Barbee, as Deputy Health Officer, would be the lead and he would have the Sheriff's Department and he would have Shannon Ernst in Social Services to do that. So, we have met those three parameters. What Council was handed today was another issue that had to be done in this mitigation and reopening plan. The 17 counties were supposed to submit these plans by 5:00 p.m. Friday and this plan of ours was submitted at 1:00 p.m. Friday. We are not aware of the submission status of the other 16 counties. That is probably something we will learn this afternoon. We thought at the time, we would be able to go county by county or maybe even region by region because people travel region by region. But Thursday night that changed to all 17 counties needing to meet these parameters. One of which, as you read in the first line, is a downward trajectory of cases over a 14-day period. Which we knew Clark County and possibly Washoe County may not meet. That is why Legal and Administrative Director Erquiaga said there was a lot of discussion and thought of what we do if we have a nice trajectory and other places do not. Our goal was to get people back to work and businesses open. We only have three cases and they were pretty limited in their scope of where they were. That is something he and Legal and Administrative Director Erquiaga were working pretty hard on with Jim Barbee and Chairman Olsen. But they realized it would be better if they had a consortium of three or four counties with them. Legal and Administrative Director Erquiaga was right in that this was all about counties, cities have been totally overlooked and it probably is okay because geographically 17 counties cover the entire State and if you were talking to cities – we do not cover all of Churchill County so – he was okay with that. As you follow those League of Cities memos, they could not even get a meeting with the Governor. What it really comes down to – and he did not think he was speaking anything public that should not be – would Churchill County want to step out on its own and have the target on their back from the Governor. Some people who do not know things say, "What can he do to you?" He has some emergency powers right now that Governors have not had in a long time. He has some regulators that are sitting at home right now that could be in your business tomorrow shutting you down and any of these other ones that have opened up. None of us at this table like the term non-essential because every business is essential. So, while we would like to open all of them up, or at least have them find a way that they are essential under the terms of either his rules or the Attorney General's rules,

especially under that Homeland Security list which is a lot longer or at least a need for a support of one of those essential businesses. The four of us felt – if you understand what we did – we set up just as we set up for the flood with this, an incident command which he and Chairman Olsen are at the top of the heap making critical decisions and using Legal and Administrative Director Erquiaga and Jim Barbee to get there. Then you have logistics and all these guys play a role, the Chief and the Sheriff, in how we go get products and PPE, things the hospital and jail need. Shannon Ernst is doing an awesome job too. We set this up as if it were a disaster and that is how we meet. This is a very difficult thing right now but we are headed down the right path and Legal and Administrative Director Erquiaga laid it out pretty well in how it is working but he added that it is a little frustrating – the process in which we find ourselves. There are States that are opening area by area like we want to do, which seems to make some sense. There are States that are doing it with lawsuits with different government entities suing each other to get there. We do not particularly want to do that because we have been down that route and we know how much money that costs to be the plaintiff in. He read a book years ago by Mark Hatfield, who opposed the Vietnam War during the Nixon administration. Mark Hatfield was a Senator from Oregon who was Republican. The book was called *Between a Rock and a Hard Place*, and it was all about civil disobedience and when it is necessary and how hard it is to do. That is where we are really close to if you decide to go out on your own, or with some consortium of cities and counties. It is a rough time we are at right now with this. He knows how much closed businesses are hurting. Even ones that are open are hurting because of people being home. We have been fortunate with the number of cases we have, and others have not been so fortunate. We should pray we stay that way.

Councilwoman Kent mentioned for the record that we all know there are business owners and citizens that really feel that we should push the envelope and she believed all we could do was just really reinforce to them that it is very critical that we follow the Governor's guidelines so that we keep it as stable as possible.

Councilwoman Frost thanked Mayor Tedford and Legal and Administrative Director Erquiaga for all their hard work in trying to get us to phase 1. She knew it had not been easy and hopefully, our Governor will show some reason and allow us to move forward.

Mayor Tedford appreciated her comments. The Governor needs to hear from us at some point.

### **Executive Session**

Mayor Tedford tabled the executive session, as it was not needed at this time.

### **Adjournment**

There being no further business to come before the Council, Mayor Tedford adjourned the meeting at 9:34 a.m.

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Mayor Ken Tedford

Attest: \_\_\_\_\_  
Sean C. Richardson, City Clerk-Treasurer



June 1, 2020

## Agenda Item 6

Public hearing for Bill No. 783: An ordinance adding a new Chapter to Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code in order to establish a City misdemeanor offense of “Battery Which Constitutes Domestic Violence,” along with corresponding penalties, and for other matters properly related thereto. **(For discussion only)**



**CITY OF FALLON  
REQUEST FOR COUNCIL ACTION**

Agenda Item No. 6

DATE SUBMITTED: May 26, 2020

AGENDA DATE REQUESTED: June 1, 2020

TO: The Honorable City Council

FROM: Robert Erquiaga, Legal and Administrative Director

SUBJECT TITLE: Public hearing for Bill No. 783: An ordinance adding a new Chapter to Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code in order to establish a City misdemeanor offense of “Battery Which Constitutes Domestic Violence,” along with corresponding penalties, and for other matters properly related thereto. **(For discussion only)**

TYPE OF ACTION REQUESTED: (Check One)

<input type="checkbox"/> Resolution	<input checked="" type="checkbox"/> Ordinance
<input type="checkbox"/> Formal Action/Motion	<input type="checkbox"/> Other

POSSIBLE COUNCIL ACTION: None in this agenda item, it is for the public hearing for Bill No. 783 only.

DISCUSSION: Bill No. 783 was introduced at the Council’s properly noticed regular meeting on May 18, 2020. Notice of the deposit of copies of the proposed ordinance and the public hearing date was duly published in the Lahontan Valley News on May 20, 2020. The proposed ordinance and the Proof and Statement of Publication of the Notice of Deposit of Copies and Public Hearing to Adopt Bill No. 783 are attached to this coversheet. This agenda item represents the public’s opportunity to comment on the proposed ordinance and to present relevant information and materials to the Council.

PREPARED BY: Robert Erquiaga, Legal and Administrative Director



AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 9, SUBTITLE II – OFFENSES AGAINST THE PERSON, OF THE CITY OF FALLON MUNICIPAL CODE IN ORDER TO ESTABLISH A CITY MISDEMEANOR OFFENSE OF “BATTERY WHICH CONSTITUTES DOMESTIC VIOLENCE,” ALONG WITH CORRESPONDING PENALTIES, AND FOR OTHER MATTERS PROPERLY RELATED THERETO.

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WHEREAS, the City Council of the City of Fallon does hereby ordain as follows:

SECTION 1: Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code is hereby amended by adding thereto a new Chapter, designated as Chapter 9.12 and consisting of Sections 010 and 020, reading as follows:

**Chapter 9.12 – BATTERY WHICH CONSTITUTES DOMESTIC VIOLENCE**

**9.12.010 – Battery Which Constitutes Domestic Violence Prohibited**

(A) It is unlawful for a person to commit battery which constitutes domestic violence as described in this section. A person commits battery which constitutes domestic violence when the person commits a battery against or upon the person’s spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person’s minor child or any other person who has been appointed the custodian or legal guardian for the person’s minor child.

(B) The provisions of this section do not apply to:

(1) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or

(2) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

(C) As used in this section, “dating relationship” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

**9.12.020 – Violation – Penalties**

(A) A person convicted of a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code:

(1) For the first offense within seven (7) years, is guilty of a misdemeanor and shall be sentenced to:

(a) Imprisonment in the county jail or detention facility for not less than two (2) days, but not more than six (6) months; and

(b) Perform not less than forty-eight (48) hours, but not more than one hundred twenty (120) hours, of community service.

→ The person shall be further punished by a fine of not less than Two Hundred Dollars (\$200.00), but not more than One Thousand Dollars (\$1,000.00). A term of imprisonment imposed pursuant to this paragraph (1) may be served intermittently at the discretion of the Judge, except that each period of confinement must be not less than twelve (12) consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(2) For the second offense within seven (7) years, is guilty of a misdemeanor and shall be sentenced to:

(a) Imprisonment in the county jail or detention facility for not less than twenty (20) days, but not more than six (6) months; and

(b) Perform not less than one hundred (100) hours, but not more than two hundred (200) hours, of community service.

→ The person shall be further punished by a fine of not less than Five Hundred Dollars (\$500.00), but not more than One Thousand Dollars (\$1,000.00). A term of imprisonment imposed pursuant to this paragraph (2) may be served intermittently at the discretion of the Judge, except that each period of confinement must be not less than twelve (12) consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(B) In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code, the Court shall:

(1) For the first offense within seven (7) years, require the person to participate in weekly counseling sessions of not less than one and one-half (1.5) hours per week for not less than six (6) months, but not more than twelve (12) months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

(2) For the second offense within seven (7) years, require the person to participate in weekly counseling sessions of not less than one and one-half (1.5) hours per week for twelve (12) months, at his or her expense, in a program for the

treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

→ If the person resides in this State but the nearest location at which counseling services are available is in another state, the Court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

(C) Except as otherwise provided in this subsection, an offense that occurred within seven (7) years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(1) When evidenced by a conviction; or

(2) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

→ without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, must not be read to the trier of fact or proved at trial but must be proved at the time of sentencing.

(D) In addition to any other fine or penalty, the Court shall order such a person to pay an administrative assessment of Thirty-Five Dollars (\$35.00). Any money so collected must be paid by the Clerk of the Court to the State Controller on or before the fifth (5<sup>th</sup>) day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

(E) In addition to any other penalty, the Court may require such a person to participate, at his or her expense, in a program of treatment for an alcohol or other substance use disorder that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

(F) If it appears from information presented to the Court that a child under the age of eighteen (18) years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code, the Court may refer the child to an agency which provides child welfare services. If the Court refers a child to an agency which provides child welfare services, the Court shall require the person convicted of a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

(G) If a person is charged with committing a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a

lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. Except as otherwise provided in this subsection, a Court shall not grant probation to or suspend the sentence of such a person. A court may grant probation to or suspend the sentence of such a person:

(1) As set forth in NRS 5.055; or

(2) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

(H) A person arrested for a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code must not be admitted to bail sooner than twelve (12) hours after arrest.

(I) As used in this Chapter:

(1) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(2) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(3) "Offense" includes a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

SECTION 2: This Ordinance is intended to create a City misdemeanor violation that operates independently of the general laws of this State on the same subject and is not in conflict therewith.

SECTION 3: This ordinance shall become effective after its passage, approval and publication as required by law.

Proposed by: Councilman James Richardson

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Those voting aye: \_\_\_\_\_

Those voting nay: \_\_\_\_\_

Those absent: \_\_\_\_\_



\_\_\_\_\_  
KEN TEDFORD  
Mayor

ATTEST: \_\_\_\_\_  
SEAN RICHARDSON  
City Clerk-Treasurer

DRAFT



580 Mallory Way, Carson City, NV 89701  
P.O. Box 1888 Carson City, NV 89702  
(775) 881-1201 FAX: (775) 887-2408

**Customer Account #:** 1066221

**Legal Account**

CITY OF FALLON,  
55 W. WILLIAMS AVE.  
FALLON, NV 89406  
Attn: Valerie Swirczek

**Jody Mudgett says:**

That (s)he is a legal clerk of the  
**Lahontan Valley News,**  
a newspaper published Wednesday  
at Fallon, in the State of Nevada.

**Copy Line**

Bill 783

**PO#:**

**Ad #:** 0000581974-01

of which a copy is hereto attached, was published  
in said newspaper for the full required period of  
**1 time(s)** commencing on **05/20/2020**,  
and ending on **05/20/2020** all days inclusive.

Signed: \_\_\_\_\_  
Date: 05/22/2020 State of Nevada, Carson City

**This is an Original Electronic Affidavit.**  
**Price: \$ 86.25**

**Proof and Statement of Publication**

**Ad #:** 0000581974-01

**City of Fallon**  
**Notice of Deposit of Copies and**  
**Public Hearing to Adopt Bill No. 783**

Notice is hereby given that the Honorable City Council of the City of Fallon will hold a Public Hearing on Monday, June 1, 2020 at 9:00 a.m. in the City Council Chambers, City Hall, 55 West Williams Avenue, Fallon, Nevada 89406, to consider possible adoption of Bill No. 783.

The Bill, if adopted as an Ordinance, will accomplish the following: An ordinance adding a new Chapter to Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code in order to establish a City misdemeanor offense of “Battery Which Constitutes Domestic Violence,” along with corresponding penalties, and for other matters properly related thereto.

Notice is hereby further given that copies of the Bill have been deposited with the City Clerk, City Hall, 55 West Williams Avenue, Fallon, Nevada 89406, for public examination and distribution upon request. Members of the public may request a copy of the Bill by contacting Elsie Lee, Deputy City Clerk, at (775) 423-5104 or elee@fallonnevada.gov.

Date: May 20, 2020

Sean Richardson  
City Clerk-Treasurer

**Pub: May 20, 2020**

**Ad#0000581974**



June 1, 2020

## Agenda Item 7

Consideration and possible adoption of Bill No. 783 as Ordinance No. 764: An ordinance adding a new Chapter to Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code in order to establish a City misdemeanor offense of “Battery Which Constitutes Domestic Violence,” along with corresponding penalties, and for other matters properly related thereto. **(For possible action)**



**CITY OF FALLON  
REQUEST FOR COUNCIL ACTION**

Agenda Item No. 7

DATE SUBMITTED: May 26, 2020

AGENDA DATE REQUESTED: June 1, 2020

TO: The Honorable City Council

FROM: Robert Erquiaga, Legal and Administrative Director

SUBJECT TITLE: Consideration and possible adoption of Bill No. 783 as Ordinance No. 764: An ordinance adding a new Chapter to Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code in order to establish a City misdemeanor offense of “Battery Which Constitutes Domestic Violence,” along with corresponding penalties, and for other matters properly related thereto. **(For possible action)**

TYPE OF ACTION REQUESTED: (Check One)

- |   |   |
|---|---|
| <input type="checkbox"/> Resolution           | <input checked="" type="checkbox"/> Ordinance |
| <input type="checkbox"/> Formal Action/Motion | <input type="checkbox"/> Other                |

RECOMMENDED COUNCIL ACTION: Motion to adopt Bill No. 783 as Ordinance No. 764: An ordinance adding a new Chapter to Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code in order to establish a City misdemeanor offense of “Battery Which Constitutes Domestic Violence,” along with corresponding penalties, and for other matters properly related thereto.

DISCUSSION: This agenda item represents the Council’s opportunity to consider the proposed ordinance as they see fit. The Council is free to adopt the Bill as introduced or to amend the Bill, in any respect, prior to its adoption. The proposed ordinance is attached to this coversheet.

PREPARED BY: Robert Erquiaga, Legal and Administrative Director



AN ORDINANCE ADDING A NEW CHAPTER TO TITLE 9, SUBTITLE II – OFFENSES AGAINST THE PERSON, OF THE CITY OF FALLON MUNICIPAL CODE IN ORDER TO ESTABLISH A CITY MISDEMEANOR OFFENSE OF “BATTERY WHICH CONSTITUTES DOMESTIC VIOLENCE,” ALONG WITH CORRESPONDING PENALTIES, AND FOR OTHER MATTERS PROPERLY RELATED THERETO.

\*\*\*\*\*

WHEREAS, the City Council of the City of Fallon does hereby ordain as follows:

SECTION 1: Title 9, Subtitle II – Offenses Against the Person, of the City of Fallon Municipal Code is hereby amended by adding thereto a new Chapter, designated as Chapter 9.12 and consisting of Sections 010 and 020, reading as follows:

**Chapter 9.12 – BATTERY WHICH CONSTITUTES DOMESTIC VIOLENCE**

**9.12.010 – Battery Which Constitutes Domestic Violence Prohibited**

(A) It is unlawful for a person to commit battery which constitutes domestic violence as described in this section. A person commits battery which constitutes domestic violence when the person commits a battery against or upon the person’s spouse or former spouse, any other person to whom the person is related by blood or marriage, any other person with whom the person has had or is having a dating relationship, any other person with whom the person has a child in common, the minor child of any of those persons, the person’s minor child or any other person who has been appointed the custodian or legal guardian for the person’s minor child.

(B) The provisions of this section do not apply to:

- (1) Siblings, except those siblings who are in a custodial or guardianship relationship with each other; or
- (2) Cousins, except those cousins who are in a custodial or guardianship relationship with each other.

(C) As used in this section, “dating relationship” means frequent, intimate associations primarily characterized by the expectation of affectional or sexual involvement. The term does not include a casual relationship or an ordinary association between persons in a business or social context.

**9.12.020 – Violation – Penalties**

(A) A person convicted of a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code:

(1) For the first offense within seven (7) years, is guilty of a misdemeanor and shall be sentenced to:

(a) Imprisonment in the county jail or detention facility for not less than two (2) days, but not more than six (6) months; and

(b) Perform not less than forty-eight (48) hours, but not more than one hundred twenty (120) hours, of community service.

→ The person shall be further punished by a fine of not less than Two Hundred Dollars (\$200.00), but not more than One Thousand Dollars (\$1,000.00). A term of imprisonment imposed pursuant to this paragraph (1) may be served intermittently at the discretion of the Judge, except that each period of confinement must be not less than twelve (12) consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(2) For the second offense within seven (7) years, is guilty of a misdemeanor and shall be sentenced to:

(a) Imprisonment in the county jail or detention facility for not less than twenty (20) days, but not more than six (6) months; and

(b) Perform not less than one hundred (100) hours, but not more than two hundred (200) hours, of community service.

→ The person shall be further punished by a fine of not less than Five Hundred Dollars (\$500.00), but not more than One Thousand Dollars (\$1,000.00). A term of imprisonment imposed pursuant to this paragraph (2) may be served intermittently at the discretion of the Judge, except that each period of confinement must be not less than twelve (12) consecutive hours and must occur at a time when the person is not required to be at his or her place of employment or on a weekend.

(B) In addition to any other penalty, if a person is convicted of a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code, the Court shall:

(1) For the first offense within seven (7) years, require the person to participate in weekly counseling sessions of not less than one and one-half (1.5) hours per week for not less than six (6) months, but not more than twelve (12) months, at his or her expense, in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

(2) For the second offense within seven (7) years, require the person to participate in weekly counseling sessions of not less than one and one-half (1.5) hours per week for twelve (12) months, at his or her expense, in a program for the

treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

→ If the person resides in this State but the nearest location at which counseling services are available is in another state, the Court may allow the person to participate in counseling in the other state in a program for the treatment of persons who commit domestic violence that has been certified pursuant to NRS 439.258.

(C) Except as otherwise provided in this subsection, an offense that occurred within seven (7) years immediately preceding the date of the principal offense or after the principal offense constitutes a prior offense for the purposes of this section:

(1) When evidenced by a conviction; or

(2) If the offense is conditionally dismissed pursuant to NRS 176A.290 or dismissed in connection with successful completion of a diversionary program or specialty court program,

→ without regard to the sequence of the offenses and convictions. The facts concerning a prior offense must be alleged in the complaint, must not be read to the trier of fact or proved at trial but must be proved at the time of sentencing.

(D) In addition to any other fine or penalty, the Court shall order such a person to pay an administrative assessment of Thirty-Five Dollars (\$35.00). Any money so collected must be paid by the Clerk of the Court to the State Controller on or before the fifth (5<sup>th</sup>) day of each month for the preceding month for credit to the Account for Programs Related to Domestic Violence established pursuant to NRS 228.460.

(E) In addition to any other penalty, the Court may require such a person to participate, at his or her expense, in a program of treatment for an alcohol or other substance use disorder that has been certified by the Division of Public and Behavioral Health of the Department of Health and Human Services.

(F) If it appears from information presented to the Court that a child under the age of eighteen (18) years may need counseling as a result of the commission of a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code, the Court may refer the child to an agency which provides child welfare services. If the Court refers a child to an agency which provides child welfare services, the Court shall require the person convicted of a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code to reimburse the agency for the costs of any services provided, to the extent of the convicted person's ability to pay.

(G) If a person is charged with committing a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code, a prosecuting attorney shall not dismiss such a charge in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a

lesser charge or for any other reason unless the prosecuting attorney knows, or it is obvious, that the charge is not supported by probable cause or cannot be proved at the time of trial. Except as otherwise provided in this subsection, a Court shall not grant probation to or suspend the sentence of such a person. A court may grant probation to or suspend the sentence of such a person:

(1) As set forth in NRS 5.055; or

(2) To assign the person to a program for the treatment of veterans and members of the military pursuant to NRS 176A.290 if the charge is for a first offense punishable as a misdemeanor.

(H) A person arrested for a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code must not be admitted to bail sooner than twelve (12) hours after arrest.

(I) As used in this Chapter:

(1) "Agency which provides child welfare services" has the meaning ascribed to it in NRS 432B.030.

(2) "Battery" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 200.481.

(3) "Offense" includes a battery which constitutes domestic violence pursuant to Section 9.12.010 of this Code or a violation of the law of any other jurisdiction that prohibits the same or similar conduct.

SECTION 2: This Ordinance is intended to create a City misdemeanor violation that operates independently of the general laws of this State on the same subject and is not in conflict therewith.

SECTION 3: This ordinance shall become effective after its passage, approval and publication as required by law.

Proposed by: Councilman James Richardson

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Those voting aye: \_\_\_\_\_

Those voting nay: \_\_\_\_\_

Those absent: \_\_\_\_\_



\_\_\_\_\_  
KEN TEDFORD  
Mayor

ATTEST: \_\_\_\_\_  
SEAN RICHARDSON  
City Clerk-Treasurer

DRAFT