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Las Vegas SUN

June 19, 2002

Judge rules for city; no Reno public train trench vote

RENO, Nev. (AP) - A Washoe County judge has granted the city's request and blocked a September vote on a citizen initiative that opposes construction of a train trench through downtown Reno. Opponents said they would appeal.

Despite the more than 15,000 certified signatures necessary to bring the initiative to a vote, Washoe District Judge James Hardesty found it to be unconstitutional and ruled Wednesday that the city may move forward with the \$231 million rail project.

The judge left open the possibility that Reno voters could vote on the issue in the November general election should the Citizens for a Public Train Trench Vote and other opponents win a Nevada Supreme Court appeal.

Mike Tracy, a leader of the citizens group, said he was surprised and disappointed by the judge's ruling.

"Disappointed is an understatement," said Tracy, who vowed to appeal.

"We knew it was going to the Supreme Court anyway. ... People are upset they didn't have a chance to vote on this."

Hardesty noted in his ruling that the city has been struggling with the effects of the railroad tracks in downtown for 60 years. The first plans date to the Great Depression when the U.S. Bureau of Public Works proposed elevating the tracks. The Reno city engineer recommended lowering the tracks in 1936.

Hardesty said repeatedly during court hearings in recent weeks that he was reluctant to take any action that would permanently bar citizens from a timely vote on the matter. He questioned whether to let the vote go forward in September and decide afterward if the initiative was legal.

But Hardesty said in his ruling that he had a duty to interpret the legality of the ballot measure before placing it on the ballot.

"The court concluded that permitting a vote on the improper question would create false hope, anger and disillusionment for voters," he said.

Hardesty said the initiative is unconstitutional because it seeks to overturn administrative actions and contractual obligations already in place. It would have prohibited construction of the trench specifically within the existing rail right of way.

"The language does not declare a new law, but rather impedes existing policies established by the city," the judge said.

He said the city has the authority to administer decisions by the City Council without the threat of belated attempts by residents to overturn them.

"The court is precluded from permitting a ballot whose only purpose is to allow people to express their views when the proposed law would have absolutely no legal force or effect," he said.

Hardesty said the constitution makes it clear the state can pass no law that impairs existing contract obligations.

"If the state cannot pass a law which impairs the obligation of contracts, neither can the initiative petition process," he said.

Hardesty said the city was committed to certain action in a memo of understanding it entered with Union Pacific Railroad in 1998.

That memo provides for construction of "a rail transportation corridor and related facilities to be located generally below the existing grade in the central downtown business district of the city."

The petition, on the other hand, "expressly prohibits construction of a depressed trainway," the judge said.

If the initiative petition were to pass, the city would be in breach of its contract, he said.

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Saturday, February 08, 2003
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Judge rules against NLV activists

By ADRIENNE PACKER
REVIEW-JOURNAL

A group of North Las Vegas activists who sought to have more public input at City Council meetings lost their case Friday when a judge ruled their initiative is not appropriate for the upcoming municipal ballot.

North Las Vegas attorneys took the Freedom of Speech Committee to court and argued that its initiative addressed administrative -- not legislative -- duties and was therefore ineligible for a ballot question.

District Judge Mark Denton ruled that portions of the initiative requesting more opportunities for public comment were indeed legislative, making them suitable for a ballot question.

But the section of the initiative that would have changed the City Council's meeting time is administrative, Denton said.

Denton ruled the initiative cannot appear on the upcoming ballot because the administrative portions cannot be separated from the legislative aspects.

"There is simply no way of knowing which provisions would have separately had the backing of the petition signers," Denton wrote in his ruling.

Some 1,500 residents had signed a petition asking that the initiative be placed on the municipal election ballot.

Freedom of Speech Committee organizer Glen Easter vowed to resubmit a revamped initiative for the 2004 elections.

The initiative will seek to provide public comment sessions at the beginning and the end of meetings and give residents the right to be heard on consent agenda items.

The consent agenda contains numerous items that council members pass with a single vote.

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