

MEMORANDUM

TO: The Newton County Board of Commissioners, Fairview Estates Homeowners Association and Interested and Concerned Citizens

FROM: Stephanie R. Lindsey

DATE: March 22, 2023

RE: Fairview Estate and Fairview Community Park

After the recent shooting in Fairview Estates on or about March 11, 2023, Sharon Collins, a resident of Fairview Estates reached out to me to express her frustration about what was going on in her community. She had recently invested some of her savings in improvements to her home and was looking forward to enjoying them as she embraced her retirement. After this second “published” shooting, Ms. Collins was contemplating selling her home due to the lack of efficient or effective solutions offered to address the issues the community faced. This was unacceptable to me. While I am aware, as I have been reminded, that it is not my job to address issues of the County, I truly believe that it is my responsibility as a citizen to share my talents, skills, education and experience to assist in the bettering of our community. For this sole reason, I offer some thoughts on what can be done to address the concerns regarding the Fairview Community Park.

First it is of vital importance to recognize that to address the issues with the Fairview Community Park requires a collaborative effort of the Board of Commissioners, the Newton County Sheriff Department and the homeowners of Fairview Estates. Each entity must understand that they cannot dictate what the other is willing to invest in arriving at a solution. We can only hope that each entity sees the importance of working together to do their part to arrive at an effective and efficient solution.

THE NEWTON COUNTY BOARD OF COMMISSIONERS

The following suggestions are within the Board of Commissioners’ authority to act:

COUNTY ORDINANCE AMENDMENT

Chapter 38 of the Newton County Ordinance governs Parks and Recreation. This Chapter fails to include a provision that specifically addresses the hours of

operation for the parks located in Newton County. The proposed language should be considered to be included in Chapter 38:

It shall be unlawful for any person to be within the bounds of any county park during that park's closed hours. In the event that a sign does not designate the closed hours, it shall be assumed that the park is closed between dusk and dawn; provided, however, that nothing contained in this section shall be deemed to apply to anyone engaged in any kind of organized activity, such as participating in sports, either as a player, coach or official, and shall also include being a spectator at any such activity.

Chapter 1 of the Newton County Ordinance governs General Provisions and includes Section 1-12 titled "Violations; penalties". This section outlines the penalties for violating any provision of the Code and states as follows:

Sec. 1-12. - Violations; penalties.

- (a) In this section the term "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code, or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, by statute adopted by reference in this Code, by state rule or regulation adopted by reference in this Code or by rule or regulation authorized by ordinance.
- (b) In this section, the term "violation of this Code" does not include the failure of a county officer or county employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

- (c) Unless a higher penalty is otherwise specified, whenever in this Code or in any ordinance of the county any act is prohibited or is made or declared to be unlawful or an offense, or whenever in this Code or any ordinance the doing of any act is required and the failure to do such act is declared to be unlawful, unless otherwise provided by state law, the violation of any such provision of this Code or any such ordinance shall be punished by a fine not to exceed \$1,000.00 and imprisonment in the county jail not to exceed six months, or both a fine and sentence of imprisonment, provided the judge shall probate not less than 120 days of any sentence imposed, except as otherwise provided by law. In the event a sentence is revoked, a defendant shall not serve more than 60 days in a county jail. Any penalty provided for in this Code that includes a penalty of imprisonment up to 60 days shall not be interpreted to limit the imposition of any probated sentence in excess of 60 days up to the limits as otherwise provided by state law. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

While Section 1-12 exists, there is no reference this section in any section of Chapter 38. The proposed language in Chapter 38 should be considered to be included in Chapter 38.

Any violation of any provision in Chapter 38 shall be subject to the penalties outlined in Section 1-12 of this Code.

These amendments are necessary to make it the rules very clear and to assist in the proper signage at parks throughout the County.

SIGNAGE

THE PARK SIGN

The signage as the Fairview Community Park is ineffective, insufficient and inaccurate. I have been communicating with Sharon Collins, a citizen residing in Fairview Estates. I advised her and another HOA Board member on what can be done at the Fairview Community Park to make it and its surrounding subdivisions safer. I began with the evaluation of the signage located throughout the park. The signage for the park needs to include clear warnings and penalty language.

After the Board meeting on March 21, 2023, Ms. Collins went to take a picture of the sign and immediately noticed a major error. The park is supposed to be closed from Dusk to Dawn. This is not what this sign says. **This sign says that the park hours are from Dusk to Dawn.** Dusk refers to the time of darkness and dawn refers to the time of morning. Ms. Collins caught this error and this sign has been in place for years. Please evaluate ALL park signs.



The sign also does not include violation language and/or reference to any penalty code section of the Newton County Ordinance. Effective signages should send a clear and strong message about rules. This sign does not. Below are examples of signs that the County may want to consider placing in Fairview Community Park and all other County parks.



**CLARK COUNTY PARKS AND RECREATION
PARK RULES**

Please enjoy your park and be aware of the following:

1. Parks are open from 6 a.m. to 11 p.m. daily, unless otherwise posted
2. Extended or overnight use is allowed by permit only
3. Properly dispose of your trash
4. Be courteous to others
5. Use park amenities for their intended purpose
6. Keep vehicles on roadways and in areas designated for parking
7. Do not damage or remove any County property
8. Alcohol consumption is allowed by permit only
9. Keep animals on a leash, except in designated areas
10. The selling or bartering of goods/services is allowed by permit only
11. Only non-glass containers are permissible
12. Fires are allowed only in designated areas
13. The possession of fireworks or martial arts weapons is not permissible
14. Possession of graffiti implements is not permissible per NRS 202.290
15. The feeding of pigeons or other birds is not permissible per C.C.O. 10.30.010 and C.C.O. 10.36.035

We appreciate your patronage.

This sign contains excerpts and is a summary of Clark County Code 19.04
Police Emergency – 911, Non-emergency – 311
General Park Information (702) 455-8200
Report Maintenance Issues (702) 455-4974 or ParkMaintenanceInbox@ClarkCountyNV.gov
The sign contains rules adopted by the Board of County Commissioners



NO TRESPASS SIGNS

There are no “NO TRESSPASS SIGNS” in the park. The notion that a citizen cannot be considered a trespasser in a public park is inaccurate. Public parks are only open to the public during operating hours. If a person is in a public park during closing hours they are considered a trespasser. Signage strategically placed in the park will be a deterrent for trespassers. Trespassers need to know that they **WILL BE PROSECUTED!!!**

VIDEO SURVEILLANCE AND ITS SIGNAGE

I and many other have suggested that the use of video surveillance in the park would help deter illegal activity. As an attorney who represents victims of crimes in negligence cases, the first thing we look for to establish our claim is the existence of security cameras. In fact, it is evident that



most crimes in the last few years have been more quickly solved by the use of surveillance cameras. When a person knows that a location is outfitted with cameras they are less likely to commit random crimes. The placement of surveillance

cameras and signage regarding the surveillance are necessary in parks that have frequent occurrences of crime.

While the Board of Commissioners can foster the cost to purchase, install and maintain the video surveillance and signage, the actual monitoring and the logistics of the use of the surveillance needs to be discussed. There is no need to “reinvent the wheel”. There are other Counties that employ public park video surveillance. A suggestion would be that the Chairman of the Board of Commissioners consult with other counties that have successfully utilized this measure and bring the findings back to the Board for further consideration.

ENFORCEMENT OF PENALTIES

There is no need to post rules and regulations if they are not going to be strictly enforced. The Board of Commissioners needs to work with Probate Judge Melanie Bell regarding the Board’s desire for strict adherence to penalties associated with violations or certain violations of the codes governing Newton County parks. If a person knows that they will have to pay a \$1,000 fine for being in the park after dark, they will think twice about being in the park after dark. If a parent knows that their child being in the park after dark is going to cause a financial hardship on their household, they will likely STRONGLY encourage their child to stay out of the park at night. The phrase “Have your butt back in this house before dark!” will have more emphasis.

Video surveillance, alone, will not be enough to enforce the park rules. Proper enforcement of park rules cannot be done without buy in from the Newton County Sheriff Department.

THE NEWTON COUNTY SHERIFF DEPARTMENT

In an effect to evaluate the best course of action in addressing the concerns that have been brought to my attention, I have submitted an Open Records Act to determine the types of crimes that have been committed in and around the Fairview Community Park. I believe that it is important for the Board of Commissioners and the homeowners of Fairview Estates to understand the types of crimes that are plaguing the Fairview Estates community.

The Sheriff of Newton County is the County expert on security and safety. Once, the types of crimes are ascertained, there must be a reliance on the Sheriff to model a plan to address safety and security. We are fortunate to have a Sheriff that promote collaborative endeavors. The communications must begin and not cease until a timely and efficient plan is in place.

ENFORCEMENT OF PENALTIES

Again, violation of the park rules must be strictly enforced. When I used to live in Magnolia Manor Subdivision on Fairview Road, the Sheriff Department would constantly drive through the parking lot of Fairview Elementary School and Clements Middle School. I'm not sure if that same level a patrol still exists. I can say that it kept our teens from being in that area in the evening.

THE FAIRVIEW ESTATE HOMEOWNERS ASSOCIATION

The policing of any community begins with the citizens within the community. This statement is not meant to encourage the emergence of "Karens". It is meant to promote a self-awareness evaluation by the Homeowners Association of Fairview Estates. For example, what amendments to the Covenants are needed. Are there any programs or policies that need to be created to address the needs of the Fairview Estates community.

During the discussions with a couple of the HOA Board members, it was mentioned that the Fairview Estates community comprises of approximately 214 homes. Over half of the homes are owned by investors. Are the investors held accountable for the actions of their tenants when their tenant's actions effect the safety standards set in the community. Are there safety standards outlined in the Covenant? Are they measures enforcing these standards?

In an apartment complex, if a tenant commits a criminal act that effects the safety of the apartment complex, the tenant may be lawfully removed. If your Covenant allows for owners to rent their property, does your covenant equally require a provision in the landlord/tenant lease that addresses what happens when their tenant commits a criminal act that directly effects the safety of the neighborhood. These types of provisions need to be fully examined by a HOA consulting with a skilled HOA attorney.

These are just a few measures to examine for consideration. My only agenda is to help. As always, I welcome the opportunity for meaningful discussions on how we can make our community better.