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cc: Lyon County Fire Marshall, Lyon County Manager, Lyon County Sheriff, Central Lyon
County Fire Board Members

Subject: Dayton Area Carnival

Dear Commissioners,

On September 19th and 20th the Dayton Area Chamber of Commerce assisted in hosting a local Carnival who has served the Fair board and your county fair for the last six years. Susan Skaggs, our Executive Director, inquired about any necessary permits via phone with county staff and was advised that no permit to operate was required and we did not have to seek any other approvals. The Carnival is insured has been inspected to Nevada State standards.

Interestingly, both the OSHA and the Health Department reported they were acting on a phone complaint. The owner readily admits he failed to get the health permit and accepted the notice from the Health Department and has no issues or complaints about their action. It was simply an oversight on the owner's part. Additionally, the owner immediately acted on the items reviewed with OSHA which by their nature are employee protections.

Chuck Ritter phoned me on Thursday, September 17, 2009 and informed me that the carnival equipment was unsafe and he would not allow the carnival to open. He did not provide one item with any specificity and did not write or provide notice to the owner or me for any specific safety issue.

The carnival operator and I pursued this issue with Chuck Ritter and Chuck Ritter resisted all efforts and requests to put the items in writing. This is evidenced by written and verbal statements from the owner and our Chamber Vice President. To me, Chuck Ritter stated the carnival was unsafe. To the owner, Chuck Ritter stated he spoke to the County Manager Dennis Stark and Dennis told him the owner must have a business license. Chuck then insisted the OSHA inspection was necessary for him to review. The owner explained the OSHA process and explained to Chuck Ritter that OSHA will not issue a report or give copies of the initial inspection. Chuck used this information as the reason to keep the Carnival shut down. You will be hard pressed to find one business that was inspected in Lyon County by Chuck Ritter or the Fire Marshall for the purpose of Public Safety that specifically required an OSHA report in hand. It is likely that no one has ever been asked to produce an OSHA inspection prior to a Public Safety inspection. Furthermore, even OSHA has stated that their inspection is independent of and has nothing to do with the Fire Department inspection.

After repeated requests, Chuck Ritter finally issued the attached notice. There are a total of 4 items. All relatively simple to correct and all items were corrected for re-inspection. Chuck Ritter did not fill out the re-inspection date and time but in front of the Vice President of the Chamber and the Owner agreed he would re-inspect in the morning (Saturday, September 19, 2009)

Chuck Ritter was not responsive on Saturday morning even after repeated calls by the owner. I guess Chuck Ritter forgot his commitment to our Vice President Jojo Meyers and the Owner of the carnival on Friday! I was asked to intervene and to help try and contact Chuck Ritter. I spoke to Chuck Ritter regarding the inspection and he refused to re-inspect. I questioned him regarding the reason and he stated it was because of the many pages of OSHA violations. I questioned him in regard to the violations wanting to know if there was one violation on each of five pages or multiple violations or were the violations similar in nature. I asked if they were serious safety violations and if they were of a nature that the carnival should not operate. He said yes. I asked him if he personally read the violations and what specific violations he saw in the inspection. He admitted he had not read them personally and he did not have specific knowledge of any of the violations. I asked Chuck Ritter how he could make a determination to close the carnival or prevent it from operating without any knowledge of the type, number, commonalities or seriousness of the violations. He stated the carnival was unsafe. (Remember the carnival has operated in Yerington for six years and is scheduled all over Carson City). Lastly, I asked Chuck Ritter what was specifically unsafe. He could not respond the question with a definitive answer but stated the Chief would not reopen it and told him to keep it shut down. The Chief was available to give this order but not available to discuss the situation with the affected parties! In fact we were told the Chief was unavailable all weekend! Lastly, I asked Chuck Ritter if Dennis Stark told him the owner must have a business license. Chuck said yes. I spoke with Dennis Stark the previous evening and Dennis Stark refuted this statement which was also been communicated to the Owner the previous evening.

Chuck spent the remainder of the day being unavailable at Dayton Valley Days and never did re-inspect. The carnival rides were never operated resulting in significant losses.

On Saturday, the actions culminated when a deputy told the carnival Owner to pack his equipment and to leave Dayton and that the carnival would never operate in Dayton. When questioned, the officer threatened the carnival Owner with arrest. (Dennis Stark represented to

me the officer had communicated to him that the Owner and the officer had an agreement.) An agreement under the threat of arrest is not a consensual agreement by any measure.

The sheriff disposed of Chuck Ritter's problem without any form of written notice specifying the requirements to operate, or a notice of specific violations of the law and finally by threatening a legitimate business owner who has successfully operated in Lyon County for the past 6 years with arrest. Further this occurred on private property and included an order for the Owner to leave Dayton.

I must tell you that as a business person and President of a Chamber of Commerce these actions harmed the Chamber, the Business Owner and the Dayton area. Regulation without clear documentation, mandatory responses, a lack of transparency, and poor communication results in regulatory and agency abuse. Folks, this is government 101. Shame on everyone involved in allowing these kinds of actions under the auspice of regulation, law enforcement, or public safety. These actions are discriminatory in nature. Businesses cannot tolerate an environment of fear from authorities without any factual basis. If you are interested in a tax base, healthy business activity and employment, it is time to act on the knowledge that mistreating a business person with a history of successful operation in Lyon County and a local Chamber of Commerce is completely unacceptable. These government agencies, entities or employees should not have an ability discriminate, to attempt to scare away enterprise, make up rules as they go or generally harm the economy. The actions last weekend by these government entities make mockery of the system and make elected leaders look foolish in the community. Businesses are only interested in working in areas that are free of regulation based on freewheeling rules and politics.

One of our jobs at the Chamber is to help businesses be successful and to provide information to them that they can rely on. We do never wish to speak disparagingly of our business climate or these high handed regulatory issues to our members, future members and interested parties. However, without resolution, we will be forthright and truthful in our communications to all of our audiences.

While we understand you may not have jurisdiction over the Central Lyon County Fire Department, we also recognize that as the elected leaders in our community you have a responsibility to react and respond to this community abuse and discrimination which harms the business climate, especially in these difficult times. The actions described above by both the Fire Department and deputies are without merit and unconscionable to any reasonable person. Please take the time to review the attached materials and phone me with any questions.

I look forward to receiving answers to the following points.

I respectfully request the Fire Marshall answer the following:

Why an OSHA report is needed knowing that it is impossible under the time constraints when the entity has a successful record of operation within the county?

Has an OSHA report or presence ever been mandatory for an inspection prior and under what law, code or authority it the request now?

Why isn't it possible to reach the Fire Chief in the course of a weekend when the Chief is available to Chuck Ritter?

Why aren't statements and actions documented in writing?

Why do the statements from his own representative conflict with the County Manager?

Why does Chuck Ritter demand the OSHA document one day and now OSHA presence?

I respectfully request the Sheriff Answer the following:

Why would you allow your office to be used to fulfill the direction of any agency without clear documents that describe the situation, violation and requested actions?

How is it that a deputy can threaten arrest and then imply that there is a consensual agreement?

How is it that the deputy can tell a party on private property to leave Dayton and that they will never be allowed to do business in Dayton?

Under what code or law was Deputy's request authorized?

I respectfully request Dennis Stark answer the following:

Why are employees of the county able to use his name to verbally require any entity to submit to an action?

Who approved the deputy to act against the Business Owner?

Who approves the use of Deputy's to enforce other agency matters?

What procedures are in place that prevents the Sheriff's office from being used inappropriately by agencies?

In closing, I would like you to know that I appreciate Dennis Stark's efforts and communication and I would like everyone to know that we want the carnival to be safe. If it is unsafe we would support an action that prevents it from opening. However, there is nothing that has been presented to date that justifies preventing it from operating. The claim that the action is OSHA related and the safety issues are of a nature that requires this action is nothing more than speculation. In fact, without any history in the county I might even agree it would be good to error on the safe side. Six years of successful operation in Lyon County doesn't seem to reach the same threshold and deserves more respect.

Thank you in advance for the answers to the questions above and your efforts to resolve this matter; allowing the operator to open his carnival by Wednesday September 23rd 2009 and insisting that agencies in your county immediately refrain for discriminatory practices and abusive actions described above cease.

Kevin Hogan
Dayton Chamber President