

IN THE SUPREME COURT OF THE STATE OF NEVADA

RONNIE EUGENE POTTER AND
SUSAN BURKO REYES,

Appellants,

vs.

CITY OF HENDERSON, A POLITICAL
SUBDIVISION OF THE STATE OF
NEVADA,

Respondent.

No. 44523

FILED

JUL 06 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

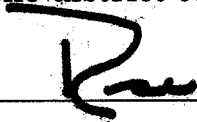
This is an appeal from a district court's order dismissing the appellants' complaint pursuant to NRCP 12(b)(5). Eighth Judicial District Court, Clark County; Michelle Leavitt, Judge.


Applying this court's holding in Nevada Power Co. v. Clark County, that "the decision to place traffic signals at a newly constructed or existing intersection or road is a discretionary function and the municipality is immune from liability pursuant to NRS 41.032(2),"¹ the

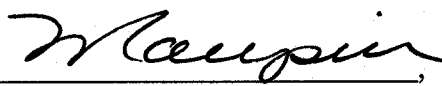
¹Nevada Power Co. v. Clark County, 107 Nev. 428, 428, 813 P.2d 477, 477 (1991) (Mowbray, C.J., and Springer, J., dissenting).


order of the district court dismissing the appellants' complaint must be affirmed.² Accordingly, we


ORDER the judgment of the district court AFFIRMED.


_____, C.J.
Rose

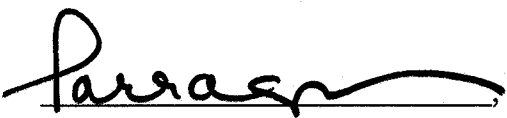

_____, J.
Becker


_____, J.
Maupin


_____, J.
Gibbons


_____, J.
Douglas


_____, J.
Hardesty


_____, J.
Parraguirre

²This court will affirm a district court order dismissing a complaint under NRCP 12(b)(5) for failure to state a claim upon which relief may be granted when, after accepting all factual allegations of the complaint as true, the plaintiff is still not entitled to relief. Vacation Village v. Hitachi America, 110 Nev. 481, 484, 874 P.2d 744, 746 (1994).

cc: Hon. Michelle Leavitt, District Judge
Leonard I. Gang, Settlement Judge
Brent D. Percival
Henderson City Attorney
Clark County Clerk