

**Board of Supervisor “DRAFT” minutes for the following dates are included in this section;**

January 3, 2008 – Regular Meeting

August 19, 2008 – Special Meeting

August 21, 2008 – Regular Meeting

**CARSON CITY BOARD OF SUPERVISORS**

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A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, January 3, 2008 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Mayor Marv Teixeira  
Supervisor Robin Williamson, Ward 1  
Supervisor Shelly Aldean, Ward 2  
Supervisor Pete Livermore, Ward 3  
Supervisor Richard Staub, Ward 4

**STAFF:** Alan Glover, Clerk-Recorder  
Andrew Burnham, Public Works Department Director  
Joel Benton, Senior Deputy District Attorney  
Kathleen King, Recording Secretary

**NOTE:** A recording of these proceedings, the Board's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record, on file in the Clerk-Recorder's Office. These materials are available for review during regular business hours.

**CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, AND INVOCATION (8:32:17) -** Mayor Teixeira called the meeting to order at 8:32 a.m. Roll was called; a quorum was present. Mr. Burnham led the pledge of allegiance. Calvary Chapel Pastor Patrick Propster wished everyone Happy New Year, quoted from Proverbs 23:7, read from Philippians 4:8, and gave the invocation. Mayor Teixeira observed a moment of silence in honor of Supervisor Aldean's mother.

**PUBLIC COMMENTS AND DISCUSSION (8:34:30) -** Sam Dehne discussed the reasons for his absence from the last Board of Supervisors meeting. He suggested removing the Christmas decorations from along Carson Street. He discussed the possibility of the town of Dayton becoming a municipality.

Supervisor Staub advised of having recently learned of Don Brooks' death. He provided background information on former Deputy Sheriff Don Brooks' service to and residence in Carson City. He offered condolences to the Brooks family.

Mayor Teixeira called for additional public comment; however, none was forthcoming.

**1. ACTION ON APPROVAL OF MINUTES (8:34:26) - None.**

**2. CHANGES TO THE AGENDA (8:38:40) -** Mayor Teixeira withdrew item 11(C) from the agenda. Planning Division Director Walter Sullivan acknowledged that item 3(A) should be withdrawn. (8:39:40) In response to a question, Mayor Teixeira advised that item 12(B) was agendaized time certain at the request of the applicant. Supervisor Aldean suggested modifying the agenda to address item 12(A) prior to the lunch break. Mr. Benton reviewed the provisions of the Nevada Open Meeting Law pertinent to time-specific items.

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**LIQUOR AND ENTERTAINMENT BOARD**

Mayor Teixeira recessed the Board of Supervisors and convened the Liquor and Entertainment Board at 8:39 a.m. A quorum of the Board was present; Member Furlong was absent.

**ACTION ON APPROVAL OF MINUTES (8:41:35) - None.**

**3. DEVELOPMENT SERVICES - PLANNING**

**3(A) ACTION TO APPROVE A PACKAGED LIQUOR LICENSE AND A PACKAGED BEER AND WINE LIQUOR LICENSE FOR BERRY-HINCKLEY INDUSTRIES, LIQUOR MANAGER: JERRY EDWARD HERBST, DBA WINNERS CORNER, LOCATED AT 1615 EAST FIFTH STREET, CARSON CITY, NEVADA; 1400 RAND AVENUE, CARSON CITY, NEVADA; AND 1102 NORTH CARSON STREET, CARSON CITY, NEVADA - Withdrawn.**

**3(B) ACTION TO APPROVE A DINING ROOM WITH BEER AND WINE LIQUOR LICENSE FOR CESAR L. ACOSTA (LIQUOR MANAGER: CESAR L. ACOSTA) DBA PANITHIAS GRILL, LOCATED AT 2000 NORTH CARSON STREET, CARSON CITY (8:41:41) -** Planning Division Director Walter Sullivan introduced this item and reviewed the agenda materials.

(8:42:38) Cesar L. Acosta introduced himself for the record, and acknowledged this was his first liquor license application. Mr. Acosta responded to questions regarding the name of the establishment. He acknowledged the understanding that a liquor license is a privilege, and the requirement to do everything in his power to ensure no liquor is sold to minors. He further acknowledged that he serves as the on-site manager. Chairperson Teixeira recommended that Mr. Acosta enroll all his employees in the servers education course offered by the Sheriff's Office.

Chairperson Teixeira called for Board member and public comments. When none were forthcoming, he entertained a motion. **Vice Chairperson Staub moved to approve a dining room with beer and wine liquor license for Cesar L. Acosta, liquor manager, dba Panithias Grill, located at 2000 North Carson Street, Carson City, including the non-refundable investigation fee of \$500, the original new application fee of \$500, and the liquor license per quarter fee of \$150. Additionally, all sellers and servers of liquor must attend the Sheriff's Office Servers Education Class within three months of the business opening. Member Aldean seconded the motion. Motion carried 5-0.**

Chairperson Teixeira wished Mr. Acosta good luck, adjourned the Liquor and Entertainment Board at 8:44 a.m., and reconvened as the Board of Supervisors.

**4. BOARD OF SUPERVISORS CONSENT AGENDA (8:45:00) -** Mayor Teixeira entertained requests, of the Board members and the public, to hear items separate from the consent agenda. When none were forthcoming, he entertained a motion. **Supervisor Livermore moved approval of the consent agenda, consisting of four items: item 4-1, Assessor's Office; item 4-2, City Manager with recognition to four individuals for appointment to the Board of Appeals: William Miles, David Saarem, Brett McElhaney, and Karen Purcell; item 4-3, Development Services; and item 4-4, District Attorney, Resolution No. 2008-R-1, as presented. Supervisor Staub seconded the motion. Motion carried 5-0.**

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**4-1. ASSESSOR - ACTION TO APPROVE THE PARTIAL REMOVAL AND REFUND OF \$202.61 FROM THE 2006 / 07 TAX YEAR AND THE REMOVAL OF TAXES / PENALTIES FROM THE 2007 / 08 TAX YEAR FOR PARCEL NUMBER 010-011-10 (LOCATED IN EL DORADO CANYON) PER NRS 361.050**

**4-2. CITY MANAGER - ACTION TO APPOINT THE FOLLOWING TO THE BOARD OF APPEALS, RE-ESTABLISHING THEIR INITIAL TERMS: WILLIAM MILES TO FILL THE GENERAL CONTRACTOR POSITION FOR A TWO-YEAR TERM ENDING JANUARY 1, 2010; DAVE M. SAAREM TO FILL THE MECHANICAL ENGINEER POSITION FOR A THREE-YEAR TERM ENDING JANUARY 1, 2011; BRETT McELHANEY TO FILL THE STRUCTURAL / CIVIL ENGINEER POSITION FOR A THREE-YEAR TERM ENDING JANUARY 1, 2011; AND KAREN PURCELL TO FILL THE ELECTRICAL ENGINEER POSITION FOR A THREE-YEAR TERM ENDING JANUARY 1, 2011**

**4-3. DEVELOPMENT SERVICES ENGINEERING - ACTION TO APPROVE DEDICATION OF LAND FOR JOHN MANKINS PARK FROM PROPERTY OWNER GARTH RICHARDS, PRESIDENT OF SILVER OAK DEVELOPMENT COMPANY, LTD. TO CARSON CITY FOR A PARCEL OF LAND CONTAINING 2.99± ACRES IN SILVER OAK PLANNED UNIT DEVELOPMENT**

**4-4. DISTRICT ATTORNEY - ACTION TO ADOPT A RESOLUTION ADOPTING AND APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE STATE OF NEVADA, ACTING BY AND THROUGH ITS DEPARTMENT OF PUBLIC SAFETY, DIVISION OF RECORDS AND TECHNOLOGY, RECORDS AND IDENTIFICATION BUREAU, AND CARSON CITY TO PROVIDE FOR THE AUTOMATED EXCHANGE OF LAW ENFORCEMENT, CRIMINAL JUSTICE, PUBLIC SAFETY, MOTOR VEHICLE AND DRIVER LICENSE INFORMATION THROUGH THE NEVADA CRIMINAL JUSTICE INFORMATION SYSTEM ("NCJIS"), AND OTHER MATTERS PROPERLY RELATED THERETO**

**ORDINANCES, RESOLUTIONS, AND OTHER ITEMS**

**5. FINANCE - ACTION TO ADOPT THE CARSON CITY PLAN OF CORRECTIVE ACTION FOR FY 06 / 07 STATUTORY VIOLATION INCLUDED IN THE ANNUAL AUDIT (8:46:05) -** Mayor Teixeira congratulated Nick Providenti on his promotion to the position of Finance Department Director. Mr. Providenti reviewed the agenda report and the attached December 20, 2007 memo. Supervisor Staub inquired as to the issue of internal controls, as noted by Kafoury, Armstrong in their audit report. Mr. Providenti advised there was no apparent violation of the statute. He acknowledged an intent to address the observation, and advised he will be working closely with Internal Auditor Sue Johnson and Kafoury, Armstrong representatives.

Mayor Teixeira called for additional comments by the Board members and comments from the public. When none were forthcoming, he entertained a motion. **Supervisor Aldean moved to adopt the Carson City Plan of Corrective Action for FY 06 / 07 statutory violations included in the annual audit. Supervisor Williamson seconded the motion. Motion carried 5-0.**

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**6. PUBLIC WORKS TRANSPORTATION - ACTION TO APPROVE A POLICY AND PROCEDURE FOR ADA INQUIRIES AND REQUESTS TO IMPROVE THE CITY'S RESPONSE TO SUCH INQUIRIES AND REQUESTS, AS RELATED TO PEDESTRIAN FACILITIES**

(8:49:12) - Transportation Program Manager Patrick Pittenger provided an overview of the agenda materials, reviewed the agenda report, and provided background information on this item. In reference to the proposed form included in the agenda materials, he advised that requests will be handled systematically and improvements prioritized by the Public Works Department Director. He further advised that the form would be distributed to Public Works Department and other pertinent City staff.

Mayor Teixeira entertained questions or comments from the Board members and from the citizens present. When none were forthcoming, he entertained a motion. **Supervisor Williamson moved to approve a policy and procedure for ADA inquiries and requests to improve the City's response to such inquiries and requests, as related to pedestrian facilities. Supervisor Aldean seconded the motion. Motion carried 5-0.**

**7. CLERK RECORDER - ACTION TO ADOPT, ON SECOND READING, BILL NO. 143, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 2, ADMINISTRATION AND PERSONNEL, CHAPTER 2.28, COMPENSATION FOR ELECTION OF BOARD OFFICERS, BY DELETING SECTION 2.28.010 IN ITS ENTIRETY AND REPLACING WITH "THE COMPENSATION AND CONDITIONS OF EMPLOYMENT FOR VOTING BOARD OFFICERS, COUNTING BOARD OFFICERS, THOSE EMPLOYED FOR THE PURPOSE OF CONDUCTING EARLY VOTING, SPECIALLY APPOINTED DEPUTY SHERIFFS, AND OTHER ELECTION BOARD OFFICERS, SHALL BE FIXED BY RESOLUTION OF THE BOARD OF SUPERVISORS," AND OTHER MATTERS PROPERLY RELATED THERETO**

(8:51:59) - Mr. Glover advised of having received no written or verbal comments since the first reading of this item, and reviewed the agenda report. Mayor Teixeira entertained comments or questions of the Board members and the public. In response to a question, Mr. Glover advised that the compensation amounts would be established at the same rate as the last four years. He listed the specific compensation amounts for each position.

Mr. Glover acknowledged that the City Elections Division will have nothing to do with the upcoming Nevada caucuses. He referred any interested individual to the Secretary of State's website for information. At Supervisor Williamson's request, he reviewed the dates for the regular primary election and the general election: August 15<sup>th</sup> and November 4<sup>th</sup>, respectively.

Mayor Teixeira entertained a motion. **Supervisor Staub moved to adopt, on second reading, Bill No. 143, an ordinance, 2008-1, amending the Carson City Municipal Code, Title 2, Administration and Personnel, Chapter 2.28, Compensation for Election Board Officers, by deleting 2.28.010 in its entirety and replacing with "The compensation and conditions of employment for voting board officers, counting board officers, those employed for the purpose of conducting early voting, specially appointed deputy sheriffs, and other election board officers, shall be fixed by resolution of the Board of Supervisors," and other matters properly related thereto. Supervisor Aldean seconded the motion. Motion carried 5-0.**

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**8. DEVELOPMENT SERVICES - ACTION TO ADOPT, ON SECOND READING, BILL NO. 144, AN ORDINANCE REPEALING ORDINANCE NO. 2007-30, BILL NO. 129, AND AMENDING TITLE 17, SUBDIVISION, CHAPTER 17.03, PARCEL MAPS, LOT LINE ADJUSTMENTS, AND DELETIONS, REVERSION TO ACREAGE MAPS, AND MERGER AND RESUBDIVISION OF LAND, SECTION 17.03.010, APPLICATION AND REVIEW, SECTION 17.03.015, APPLICATION AND REVIEW, SECTION 17.03.020, APPLICATION AND REVIEW, SECTION 17.03.025, REVERSION TO ACREAGE MAPS, AND SECTION 17.03.030, MERGER AND RESUBDIVISION MAPS; CHAPTER 17.04, LAND DIVISION MAPS, SECTION 17.04.005, APPLICATION AND REVIEW; CHAPTER 17.05, TENTATIVE MAPS, SECTION 17.05.005, APPLICATION PROCESS, AND SECTION 17.05.025, FEES AND SERVICE CHARGES; CHAPTER 17.06, SUBDIVISION FINAL MAPS, SECTION 17.06.005, MAP SUBMITTAL FOR APPROVAL; CHAPTER 17.09, PLANNED UNIT DEVELOPMENT, SECTION 17.09.040, APPLICATION FOR TENTATIVE APPROVAL; CHAPTER 17.11, IMPROVEMENT AND PROCEDURE, SECTION 17.11.035, INSPECTION FEE, BY DELETING ANY REFERENCE TO FEES BEING SET BY RESOLUTION OF THE BOARD OF SUPERVISORS AND AMENDING SECTION 17.11.035, DEVELOPMENT FILING AND CHECKING FEES, BY ADDING REFERENCES TO TITLE 18, ZONING, AND TITLE 18, APPENDIX - DEVELOPMENT STANDARDS FOR FEES TO BE CHARGED BY THE CITY, AND OTHER MATTERS PROPERLY RELATED THERETO (8:56:12) - Planning Division Director Walter Sullivan introduced this item and advised of having received no comments since the first reading. Mayor Teixeira called for comments by the citizens and the Board members and, when none were forthcoming, entertained a motion. Supervisor Aldean moved to adopt, on second reading, Bill No. 144, Ordinance No. 2008-2, repealing Ordinance No. 2007-30, Bill No. 129, and amending Title 17, Subdivision, Chapter 17.03, Parcel Maps, Lot Line Adjustments and Deletions, Reversion to Acreage Maps, and Merger and Resubdivision of Land, Section 17.03.010, Application and Review, Section 17.03.015, Application and Review, Section 17.03.020, Application and Review, Section 17.03.025, Reversion to Acreage Maps, and Section 17.03.030, Merger and Resubdivision Maps; Chapter 17.04, Land Division Maps, Section 17.04.005, Application and Review; Chapter 17.05, Tentative Maps, Section 17.05.005, Application Process, and Section 17.05.025, Fees and Service Charges; Chapter 17.06, Subdivision Final Maps, Section 17.06.005, Map Submittal for Approval; Chapter 17.09, Planned Unit Development, Section 17.09.040, Application for Tentative Approval; Chapter 17.11, Improvement and Procedure, Section 17.11.035, Inspection Fee, by deleting any reference to fees being set by resolution of the Board of Supervisors and amending Section 17.11.035, Development Filing and Checking Fees, by adding references to Title 18, Zoning, and Title 18, Appendix - Development Standards, for fees to be charged by the City, and other matters properly related thereto. Supervisor Williamson seconded the motion. Motion carried 5-0.**

**9. PUBLIC WORKS**

**9(A) ACTION TO ACCEPT THE RECOMMENDATION OF AND AUTHORIZE PUBLIC WORKS STAFF TO BEGIN THE PROCESS OF ENTERING INTO AN AGREEMENT WITH A "CONSTRUCTION MANAGER AS AGENT" FOR THE DESIGN AND CONSTRUCTION OF THE PROPOSED CITY INDOOR RECREATION CENTER / MULTI-PURPOSE GYM PROJECT (8:58:39) - Mr. Burnham introduced this item, and reviewed the agenda report. Parks and Recreation Department Director Roger Moellendorf acknowledged the City is working with the Boys and Girls Clubs of Western Nevada on the gymnasium project. In response to a question, he advised that the City had allocated \$25,000 to \$30,000 toward the recreation center project in former partnership with Western**

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Nevada College. He acknowledged that any recommendation by the Parks and Recreation Commission would be submitted to the Board for approval. He advised that an item would be agendaized for the Board's review following the request for qualifications process. In the meantime, Parks and Public Works staff will continue working with Boys and Girls Clubs representatives. Mr. Moellendorf advised that the partnership concept would be presented to the Parks and Recreation Commission at their first meeting in February. He anticipates the City will suffer no financial loss "between now and then if the partnership, for some reason, doesn't materialize or dissolves."

Mr. Burnham acknowledged that requests for qualifications would be sent out. He advised of having reviewed the draft request for qualifications process yesterday, and acknowledged the process is open and competitive. Supervisor Livermore reviewed details of the request for qualifications process. Supervisor Aldean inquired as to the timing of the process when the scope of work has not yet been well defined. Mr. Burnham explained that a general scope of work was defined through the previous partnership with WNC. "We have a fair definition of what the building will be." Mr. Burnham explained the recommendation to hire a construction manager to assist in evaluating construction costs throughout the design process in order to ensure the project scope remains within the available funds. "That's been successful on the last several projects, more so than coming at the end of a project ..." Mr. Burnham advised there is no need to have the design complete in order to hire the construction manager. He explained, "It's fairly inexpensive initially. The construction manager becomes more expensive ... when we get into ... actually managing construction. They just participate in the costing process in the early design stages."

In response to a question, Mr. Moellendorf advised that the architect will become part of the construction management team. The facility at the Boys and Girls Clubs site is a completely new conceptual design. It's similar in that some of the basic design components are included, but this is a scaled-down version of the project considered in partnership with WNC. Mr. Burnham acknowledged the construction manager will work on a time and materials basis. Mayor Teixeira entertained additional comments and, when none were forthcoming, a motion. **Supervisor Livermore moved to accept the recommendation of, and authorize Public Works staff to begin the process of, entering into an agreement with a construction manager as agent for the design and construction of the proposed city indoor recreation center / multi-purpose gym project. Supervisor Staub seconded the motion. Motion carried 5-0.** Mayor Teixeira recessed the meeting at 9:07 a.m. and reconvened at 9:14 a.m.

**9(B) PRESENTATION BY PUBLIC WORKS STAFF OF PROPOSED RATE CHANGES FOR SEWER, EFFLUENT, STORM WATER, AND WATER UTILITIES (9:14:12)** - Mr. Burnham provided background information on this item, and reviewed the agenda report. He narrated a PowerPoint presentation of the water, storm water, sewer, and reclaimed utilities rate adjustment proposal, a copy of which was provided for the record. He responded to questions regarding the actual effect of the rate increase in terms of user fees. In response to a question, Mr. Providenti explained the method by which the six percent increase was determined.

Supervisor Aldean advised of having reviewed the business impact statement associated with the 2005 rate increase. At that time, staff advised that new water conservation programs, options, and measures would be evaluated to reduce capital requirements in the future, thus minimizing future rate adjustments. In response to a question, Deputy Public Works Director Ken Arnold advised that the same programs are in place. He commented on the "wild swings" in peak demands between winter and summer. Staff is aggressive as possible with the water wasting program, and the results are evident at the treatment plant.

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Mr. Arnold advised that consumption fluctuates from “5 to 6 million gallons in the wintertime to 26 million gallons in the summer.” He suggested further consideration could be given to development standards landscape requirements. In response to a question regarding capital improvement projects, Mr. Burnham advised that a capital projects update would be presented to the Board of Supervisors in February. “The main projects ... going forward right now are new test wells and the arsenic treatment plant. We’re also looking at the potential of a uranium treatment plant in the future ...”

Mr. Burnham acknowledged the radical fluctuations in demand will continue in the future. Supervisor Aldean inquired as to the method by which the City will prepare to meet increased demands. Mr. Arnold noted many “large projects ... because of the uranium / arsenic levels that EPA lowered us to meet. Those are really driving a lot of it. There’s always going to be infrastructure replacement ...” Mr. Arnold advised that staff is working to complete the water model. The uranium and arsenic plants “is the biggest hit.” Mr. Arnold noted the importance of careful consideration “because EPA is apt to lower ... the limits again.” He discussed the importance of treating the wells impacted with uranium and arsenic because the water will be needed. He anticipates a leveling off of capital projects once the uranium and arsenic plants are operational. Mr. Burnham explained that the largest costs “are not growth related but quality related in order to keep the water in the pipelines we have.”

Mayor Teixeira noted the less than 1 percent growth rate last year and the current construction slump. Mr. Burnham acknowledged the lack of utilities connections. In response to a question, Mr. Providenti advised of having factored in the reduction in connection fee revenues. He further advised of having reviewed the figures earlier in the day, and that the factor may need to be further reduced. “In order to do these projects, we need the increases.” Mr. Burnham acknowledged that decreased consumption translates to decreased revenues. He noted a history of the summer peak being higher than the building growth. Recent trends over the last several years have indicated stabilization of the demand. Mr. Burnham clarified that the water quality issues to be addressed translate to large dollar figures. He commended the agreement entered into between the City and Vidler Water Company at the last meeting as this may provide an opportunity to use Lyon County and River water rights “in the interim.”

Mr. Burnham acknowledged the subject item represented a preview of a request to be presented to the Board of Supervisors at a future meeting. He requested Board direction at this meeting. He acknowledged the intent to hold public meetings during the remainder of January. In response to a further question, he advised of the intent to re-agendize an item before the Board in February. Mayor Teixeira requested the Public Works staff to take more time in order to ensure sufficient public notification. Mr. Burnham advised of the need to meet with representatives of the Chamber of Commerce, the Builders Association, the reclaimed water users, and others.

Mr. Burnham narrated that portion of the PowerPoint presentation relative to the storm water utility, and advised of a request to increase rates by five percent “basically ... to keep up with inflationary costs.” He acknowledged the storm water utility is another federally-mandated program adopted by the Board in 2003. Rates were adjusted in 2005, and the subject item is the first rate adjustment request since then.

Mr. Burnham narrated that portion of the presentation pertinent to the reclaimed water utility. He explained that the user agreements are now expired, requiring a modification of the ordinance or the proposed rate increase. He acknowledged a previous situation wherein there was an excess supply of reclaimed water, “and now we find ourselves on the other end of that ...” He advised that the Brunswick Reservoir is at the



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lowest level ever. Mr. Burnham reviewed the recommended “phased-in approach” to the rate increase. In response to a question, he advised that the user agreement with the Department of Prisons is valid for another twelve years. He further advised that the City uses all its reclaimed water. In response to a question, he reviewed the annual cost to various users and the effect of the proposed rate increase. Discussion followed. In response to a question, Mr. Providenti advised of having spoken with Eagle Valley Golf Course Manager Jim Keppler earlier in the day. Based on the conversation, Mr. Providenti expressed certainty that Mr. Keppler will be contacting the Public Works Department. Kyle Menath reviewed fees for reclaimed water in other counties and states, and commented that reclaimed water has become a commodity.

Supervisor Williamson expressed an interest in reviewing costs associated with treating the reclaimed water, as related to the proposed fees. Mr. Burnham explained that simply pumping reclaimed water costs approximately \$450,000 per year in electricity alone. Other labor and chemical costs are estimated at \$100,000 “in dealing with water lines and pump stations ...” Mr. Burnham noted that the proposed rate increase would generate a very small percentage of those costs. He clarified that reclaimed water revenues would be allocated to the sewer fund. Supervisor Williamson expressed the understanding that many institutions install their own effluent water pipes. “That was ... the rationale for not charging them because they had an investment.” Mr. Menath acknowledged that some of the golf courses have on-site pumping costs. “Empire Ranch has the biggest reward because they actually take pressure off the Brunswick Canyon pipeline. ... Each course is different and each one has different costs incorporated with repressurizing.”

Mr. Burnham narrated slides pertinent to the sewer utility, and reviewed the proposed rate increases. He advised that the City’s rates are typically “much less” than the adjacent counties “because of the nature of our facility.” He advised that effluent discharge limits continue to be met. Sufficient planning has been completed to ensure treatment needs will be met through build out of the City. Influent has been relatively constant over the last several years. Mr. Burnham acknowledged that a wet winter will affect the sewer treatment plant. Mr. Menath explained the effect of flooded streets on the sewer treatment plant. He advised that City crews have done a good job of keeping storm drains clean over the last few storm events. Improvements have been made to slip lining and old sewer pipes have been replaced. All this has improved the infiltration and inflow. “We don’t see the spikes in storm events like we used to.”

Mr. Burnham advised that the existing sewer treatment plant “is getting old,” and there are portions which need to be replaced immediately. Consideration needs to be given to expansion and upgrade of the treatment process. Mr. Burnham advised that pollutant concentrations are increasing which is typical of the entire country. This is due to low-flow toilets and drought conditions. In response to a question, Mr. Menath advised that increasing odors are relative to climate and increased “BOD loading.” He further advised that the odors seem to stay relatively close to the treatment plant. Mr. Burnham continued narrating the PowerPoint presentation pertinent to the sewer treatment plant. He advised of plans developed to address total nitrogen concentrations in the future. He anticipates being able to complete the permitting process in the spring without having to immediately address the total nitrogen concentration issue. At Mr. Burnham’s request, Mr. Menath discussed an operational change to the plant made at the recommendation of an engineering firm. The change increased the nitrogen, but also resulted in increased operational efficiency. Mr. Menath assured the Board there are no issues which would require decreasing the nitrogen levels, and expressed the opinion the sewer treatment plant is “operating real well.” He acknowledged that contingency plans are in the process of being developed.

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Mr. Burnham anticipates sewer treatment plant upgrades and expansions over the course of time. He reviewed the improvement and expansion project time line, together with cost estimates, in conjunction with displayed slides. In response to a question, Mr. Menath advised that the best method for removing nutrients is biological, although some cities are considering reverse osmosis systems. In response to a further question, he advised that pharmaceuticals are an escalating issue “which ... major cities throughout the world are trying to get a handle on.” No predictions have been made, but he anticipates “major process changes if that ever comes about.” Mr. Burnham explained that the issue is typically dealt with “at the tail end of the process, usually with ozonation, ultraviolet, and chlorination.” He estimated the cost of addressing the problem at more than \$10 million, but advised there are no standards yet. The EPA is just beginning to consider the issue. Mr. Burnham narrated the summary of activities for the Wastewater Management Program, and reviewed planned activities for 2008 based on the proposed rate increases.

Mayor Teixeira entertained questions or comments of the public; however, none were forthcoming. Mr. Burnham advised that a community workshop will be scheduled. He acknowledged that staff will agendize a presentation to the Board following the public meeting process. Supervisor Livermore recommended holding meetings similar to those scheduled for the federal agreement, which process he commended. Mr. Burnham agreed to do so. Supervisor Williamson expressed a preference for not increasing rates and for decreasing rates whenever there is the opportunity, represented by incoming revenues. She noted the City’s commitments in terms of bond payments and the improvement and expansion program, as outlined by Mr. Burnham. She noted the importance of pragmatism to meet operational and federal obligations. She encouraged the citizens to contact the Board members or the Public Works Department, and to attend the public meetings. The Board members thanked Mr. Burnham and the Public Works Department staff for their presentation.

**10. DISTRICT ATTORNEY - POSSIBLE ACTION TO DECLARE THE SEASONS LIMITED PARTNERSHIP IN BREACH OF THE GROUND LEASE BETWEEN CARSON CITY AND THE SEASONS LIMITED PARTNERSHIP FOR A PORTION OF APN 002-121-09 IN CARSON CITY, NEVADA FOR FAILURE TO PAY PROPERTY TAXES AS REQUIRED PURSUANT TO THE TERMS OF THE LEASE, AND TO AUTHORIZE STAFF TO SEND A NOTICE OF DEFAULT TO THE SEASONS LIMITED PARTNERSHIP (9:56:06)** - Mr. Benton reviewed the agenda report. He introduced Hale, Lane, Peek, Dennison, & Howard Attorneys Tim Clausen and Scott Scherer. He acknowledged that Community Development Inc. (“CDI”) President Brett Cornforth stipulated to pay property taxes. In addition, the lease agreement provides for CDI to pay the real property taxes. In response to a question, Mr. Benton advised that filing a notice of default doesn’t translate to the City pursuing legal remedies. The lease provides sixty days for the Seasons Limited Partnership to remedy their default, with the possibility of a one-year extension. Mayor Teixeira called for Board member questions; however, none were forthcoming.

Mayor Teixeira invited Mr. Scherer and Mr. Clausen to the meeting table. (9:58:25) Attorney Scott Scherer introduced Attorney Tim Clausen, and advised of representing CDI, doing business as West Coast Affordable Housing, Inc., the managing general partner of the Seasons Limited Partnership. Mr. Scherer provided background information on development of Autumn Village I and II. He expressed understanding for the “concerns and position of the City that certain promises were made to pay real property taxes.” He advised of having only been involved in this matter for a little over a week. He reviewed statements by Attorney Gary Sheerin, included in the minutes of the January 6, 2005 Board of Supervisors meeting, and suggested the record is “somewhat ambiguous” with regard to potential abatements and exemptions. He

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provided background information on the ground lease agreement, a “proposed” copy of which was included in the agenda materials. He read a portion of paragraph 3, Taxes, Assessments, Etc. into the record. He advised “it’s common in any lease that’s standard boilerplate to apportion the payment of ... taxes and other charges between the landlord and the tenant.” He suggested the language of paragraph 3 is “standard boilerplate.” “If there are taxes imposed, it’s up to the tenant to pay them. Another provision of the lease requires the tenant to pay actual charges for utilities. Again, standard boilerplate language. It’s not a commitment to pay taxes that are not lawfully imposed in the first place.” Mr. Scherer suggested his interpretation was supported by other provisions of paragraph 3 of the lease. He read a portion of paragraph 3(b) Assessments, into the record, and referred to paragraph 3(d). He suggested, “In this case, the tenant is only responsible for the actual taxes due and not responsible for paying taxes that are not lawfully imposed by any governmental or public authority any more than it’s responsible for paying utility charges that are in excess of what the utility has the right to charge.” He noted that nothing in the provisions of the lease precludes the tenant from seeking exemptions or abatements. “Tellingly, the lease specifically provides, in section 15, that the tenant may not have any abatement of rent.” He reiterated there are no provisions for the abatement of taxes.

Mr. Scherer referred to NRS 361.082, and read a portion of the same into the record. He advised that Autumn Village I and II meet federal exemption requirements and are, therefore, exempt from property taxes. “Since Autumn Village is exempt from property taxes under state law, a local government or taxing district is not authorized to impose property taxes on the project and the lease does not require the payment of taxes that are not lawfully imposed.” Mr. Scherer advised that the Seasons Limited Partnership could legally claim the exemption for both Autumn Village I and II as long as the projects are used for low income housing. “But that’s not the desire of the Seasons Limited Partnership. Despite the fact that it’s not legally obligated to pay property taxes on Autumn Village, where it is economically feasible for it to do so, the Seasons Limited Partnership wants to voluntarily make payments equivalent to the taxes that would have been due but for the exemption.” Mr. Scherer advised that CDI paid the requested amounts for Autumn Village for FY 2006 / 2007. CDI requested and was approved for the exemption for 2007 / 2008. At this time, the Seasons Limited Partnership is continuing to voluntarily make the requested payments on Autumn Village II “because that project ... is doing better financially. ... They want to contribute where possible.”

Mr. Scherer advised that Autumn Village II is meeting its pro forma financial projections and its budget. He provided background information on the budget process, as submitted to the State of Nevada Housing Division and to the Department of Housing and Urban Development. When the original budget was submitted for Autumn Village I, “the Seasons Limited Partnership was stuck with that budget. Autumn Village I is not meeting its initial pro forma projections or its budget, in part due to miscalculations of various fees ...” which Mr. Scherer reviewed. He advised that the Seasons Limited Partnership wants to make a contribution to the community, but also has an obligation to its investors and its limited partners. “Due to the delays and increased costs, Community Development, Inc. has already paid substantial sums out of its own pocket and has not received fees that it is contractually entitled to under the documents that created this project. Altogether, CDI is already out hundreds of thousands of dollars to which it would otherwise be entitled ...”

Mr. Scherer noted the recommended Board action to declare the tenant in default under the lease. He advised that CDI “has tried to see this matter from the City’s perspective.” He reiterated understanding for “what the City believes were promises made on the part of the developer.” He advised of certain proposals

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made by CDI, and counter-proposals by the City. He reiterated the short period of time in which he's been involved in this matter, and advised of having only recently reviewed the correspondence in this matter. He requested additional time to resolve the issue between the City and CDI "rather than forcing us into a default and towards a litigation posture." He explained, "Declaring the tenant to be in default under the lease is only going to push it toward litigation. That's going to increase the costs that Autumn Village I is incurring. That's going to result in them falling further behind their budget and having more difficulty making payments the City's requesting. It's going to be time consuming for both parties and, if litigation ensues, we'll have no choice but to claim additional exemptions to cover those costs and to raise all claims and defenses to which the developer is legally entitled." Based on the language of the lease, Mr. Scherer expressed the belief that CDI has "a very strong case." He advised of having been authorized to attempt to resolve this matter. He reiterated CDI's interest in contributing to the community, and understanding of the costs involved with the residents "that weren't there when the BLM owned it."

Mayor Teixeira deferred to Supervisors Aldean and Staub who had been working with CDI. He advised of other examples of property tax abatement. He stated, "This was a business deal. I thought that we had a win-win for the community, for CDI, for all the parties involved. You got the land for nothing right next to a senior citizens center. Couldn't be better. ..." Mayor Teixeira was certain of a specific commitment from CDI "because had that answer been 'no' from CDI, that project probably would have never gone forward." He expressed understanding for the concern over the investors, but noted the Board's fiduciary responsibility to the citizens.

Supervisor Aldean noted the City's consistency in attempting to negotiate reasonable settlements rather than entering into litigation. She advised of attempting to enter into good faith negotiations with the developer, and of having been "stonewalled. ... It was basically, 'We're going to do it our way. We're going to take this 36-month abatement and then we'll consider starting to pay taxes.' And there was very little room for negotiation." Supervisor Aldean was uncertain as to what could be accomplished by delaying issuance of the Notice of Default. She noted the subject item had already been delayed for two weeks, and advised of having hoped that some offer would have been forthcoming from the Seasons Limited Partnership as to how to amicably resolve the matter. She advised that Greg Urrutio had represented the Seasons Limited Partnership at the January 2005 Board of Supervisors meeting. She acknowledged that Mr. Sheerin was the primary spokesman, but "Greg did not refute anything that Gary said. And, at one point, he said they must pay ad valorem taxes on the apartments." Supervisor Aldean read a portion of the minutes into the record. She advised that City representatives were taken by surprise by the Seasons Limited Partnership applying for the abatement at the state level. "There was ... very little communication, if any, with the City." Supervisor Aldean expressed the opinion this was a breach of good faith. "The expectation of the parties is very important ... and the intent is important regardless of the actual language in the lease." Supervisor Aldean expressed the opinion the City had done everything possible to negotiate a reasonable settlement, including an offer to structure repayment of the taxes. She anticipates the utilities will be repaid, in July, pursuant to a negotiated payment plan. She suggested, at that time, negotiating with the Seasons over reimbursing the City the unpaid property taxes. She agreed with Mayor Teixeira's statement regarding the Board of Supervisors' fiduciary obligation "to keep the City whole." She advised of having based her approval of the project on the developer's commitment to pay taxes "and now they're reneging on that commitment." Mr. Scherer expressed understanding for Supervisor Aldean's position, and suggested the commitment should have been specifically set forth in the lease.

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Supervisor Staub expressed understanding for Mr. Scherer's brief involvement in the subject matter, but advised of having been involved for quite a while. He further advised of having attended two meetings to negotiate a resolution of this matter. CDI was requested to provide a proposal at the end of the first meeting; however, nothing has been received by the City. Additional time was provided, at the request of CDI, in addition to continuing the subject item by two weeks on the Board of Supervisors agenda. At the last meeting with Mr. Sheerin, Supervisor Staub advised of having provided an offer which, he believed, could not possibly be refused by CDI representatives. "Again, we have heard nothing." Supervisor Staub clearly recalled representations that CDI would pay taxes; that no abatement application would be filed. He suggested the City was fraudulently induced into the contract. "If so, ... it takes us back to square one because, if it's going to be your position that the lease, as written, is the entire agreement between the parties, then ... the City has an excellent argument for fraud in the inducement of this contract." Supervisor Staub advised that, if pushed, the City's desire to amicably resolve the matter will be diminished. He noted the "clear lease that requires CDI to pay the ad valorem taxes and everyone knew that when they went into this lease." He advised of the requirement to issue the Notice of Default "that begins the process of the lease going forward. If we can resolve it, that's fine." He further advised that, based upon his last offer to CDI representatives, "the cost of litigation and [attorney] fees will far outweigh the difference between our positions ..." He expressed concern over the continued lack of communication from CDI. He offered a motion to issue the Notice of Default.

Mayor Teixeira entertained public comment and additional comments from the Board members. When none were forthcoming, he entertained a motion. **Supervisor Staub moved to declare the Seasons Limited Partnership in breach of the ground lease between Carson City and the Seasons Limited Partnership for a portion of APN 002-121-09 in Carson City, Nevada, for failure to pay property taxes, as required pursuant to the terms of the lease and to authorize sending a Notice of Default to the Seasons Limited Partnership. Supervisor Aldean seconded the motion.** Mayor Teixeira requested a roll call vote. **Supervisors Staub, Aldean, Williamson, Livermore, and Mayor Teixeira - yes. Motion carried 5-0.**

#### 11. BOARD OF SUPERVISORS

**11(A) ACTION TO APPOINT MEMBERS OF THE BOARD OF SUPERVISORS TO VARIOUS BOARDS, COMMISSIONS, AND COMMITTEES (10:16:45)** - Mayor Teixeira introduced this item, and entertained input of the Board members. Since her appointment to the Nevada Association of Counties Executive Committee, Supervisor Williamson advised that Carson City is entitled to a second representative. She suggested appointing Supervisor Livermore as the second representative to the Nevada Association of Counties. Supervisor Livermore accepted the appointment. Mayor Teixeira entertained additional changes and, when none were forthcoming, a motion. **Supervisor Livermore moved to approve the committee assignments for calendar year 2008, with modification of his name being added as second representative to the Nevada Association of Counties, as suggested. Supervisor Staub seconded the motion. Motion carried 5-0.**

**11(B) SUPERVISOR LIVERMORE - ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 2, ADMINISTRATION AND PERSONNEL, BY ADDING CHAPTER 41, CARSON CITY CULTURAL COMMISSION, AND ADDING SECTION 2.41.010, PURPOSE OF THE CARSON CITY CULTURAL COMMISSION, SECTION 2.41.020, FINDINGS SUPPORTING THE CREATION OF THE CARSON CITY CULTURAL COMMISSION, SECTION 2.41.030,**

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**CREATION OF THE CARSON CITY CULTURAL COMMISSION, SECTION 2.41.040, MEMBERSHIP AND TERMS OF OFFICE OF THE CARSON CITY CULTURAL COMMISSION, SECTION 2.41.050, REQUIREMENTS FOR MEMBERSHIP ON THE CARSON CITY CULTURAL COMMISSION, SECTION 2.41.060, DUTIES OF THE CARSON CITY CULTURAL COMMISSION, SECTION 2.41.070, FUNCTIONS OF THE CARSON CITY CULTURAL COMMISSION, SECTION 2.41.080, COOPERATION OF CARSON CITY CULTURAL COMMISSION WITH OTHER PRIVATE AND PUBLIC ENTITIES, SECTION 2.41.090, DUTIES OF CARSON CITY TO SUPPORT THE CARSON CITY CULTURAL COMMISSION AND OTHER ARTS AND CULTURAL ENTITIES, AND OTHER MATTERS PROPERLY RELATED THERETO (10:18:18)** - Supervisor Livermore introduced this item, reviewed the agenda report, and provided background information on the Arts and Culture Coalition. He invited Business Development Manager Joe McCarthy to the podium.

(10:21:09) Mr. McCarthy thanked Supervisor Livermore for championing the formation of the Cultural Commission over the last eighteen months. He commended Supervisor Livermore's clear understanding of the importance of the cultural community to the quality of life of Carson City citizens, as well as the economic benefit that will result from continuing to foster arts and culture. He referred to Supervisor Livermore's previous presentation to the Board, together with citizen comments, relative to the importance of arts and culture in the community. He advised that passage of the ordinance, on second reading, will begin the process of selecting the seven members of the Cultural Commission. He reviewed the responsibilities of the Cultural Commission to serve as the Board's "principle advisor in all art and cultural matters related to Carson City's cultural community." He reviewed information on the Brewery Arts Center's history as the community's "local arts agency ... since 1978."

Mr. McCarthy anticipates the Cultural Commission will meet quarterly, and advised it will be staffed by the Office of Business Development. In conjunction with quarterly meetings of the Redevelopment Authority Citizens Committee, he expressed the opinion that Office of Business Development staff can efficiently staff the Cultural Commission without any fiscal impact to the community.

Mr. Benton acknowledged the commission would be subject to the requirements of the Nevada Open Meeting law if the commissioners are appointed by the Board. In response to a question, Mr. McCarthy and Supervisor Livermore provided background information on the Arts and Culture Coalition's consideration of forming the commission subject to the Nevada Open Meeting Law. Supervisor Livermore discussed the benefits of the Cultural Commission operating in an advisory capacity to the Board, including opportunities for state and federal funding. He suggested the formation of the Cultural Commission, under the ordinance, serves as "a formal recognition" of the value of arts and culture to the community. Supervisor Staub discussed his experience as a member of the Community Council on Youth in relation to the subject topic. He noted the importance of adequately representing the various formal and informal youth organizations in the community, and avoiding duplication of efforts while communicating with a "united voice that represents the totality of the community." He expressed support for formalizing the Cultural Commission, under the ordinance, to provide unanimity of the community's approach to arts and culture. He noted that the Cultural Commission will serve as a forum for various organizations to communicate their respective visions. In reference to Section V, 2.41.040, he suggested staggering the

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initial membership terms, as follows: two members elected for one year, two members elected for two years, and three members elected for three years. He further suggested considering the language of Section 2.41.040(4) to provide for unexcused absences. In reference to Section VI, 2.41.050(1), he inquired as to the definition of a “resident of Carson City in good standing.”

Mr. McCarthy thanked Supervisor Staub for his suggested revisions, and Mr. Benton for his assistance in preparing the proposed ordinance. Mr. Benton acknowledged the ordinance could be approved with Supervisor Staub’s suggested revisions. In reference to the agenda report, Supervisor Staub expressed the opinion there’s always a fiscal impact. In response to a question, Mr. McCarthy advised that Office of Business Development staff would work hard to keep the fiscal impact neutral. Supervisor Livermore advised “the only reality of fiscal impact right now, besides the publishing of the agenda, the recording of the minutes,” is the requirement to develop an annual report to the Board. Supervisor Aldean suggested clarifying the language of Section X, 2.41.090, to indicate “Carson City shall provide *staff* support to the Carson City Cultural Commission ...”

Mayor Teixeira opened this item to public comment. (10:34:47) Nevada Arts Council Community Arts Developer Robin Hodgkin suggested revising Section VIII, 2.41.070(8), to read: “... grants-in-aid to individual and group of artists ...” She expressed support for previous comments that “creation of a city-based arts commission gives ... leverage for all kinds of funding ...” In reference to the most recent Nevada Arts Council newsletter, she advised of an historic precedence of businesses supporting the arts. In conjunction with the list of top ten corporations supporting the “arts which impact economic development and quality of life and make communities richer,” she discussed a dream to see a Nevada company listed.

(10:37:14) Capital City Arts Initiative (“CCAI”) Executive Director Sharon Ross provided background information on her organization. She advised that CCAI is a member organization of the Carson City Arts and Culture Coalition, and commended the Cultural Commission as a “a natural outgrowth of the grass roots organization.” She encouraged the City to emphasize arts and culture in the same manner that parks and recreation has been emphasized. She emphasized the “healthy and vital life” which arts and culture helps to support in a community.

(10:38:25) Dave Morgan discussed performing arts in the community, and expressed support for the Cultural Commission “accelerating this kind of fusion of disciplines and artistic expressions.” He expressed support for the Cultural Commission in terms of “enhancing collaboration and pioneering new artistic expression in the community.”

(10:39:56) Jim Peckham, of the Northern Nevada Children’s Museum, discussed his involvement with the arts community and the potential of arts and culture events as a benefit to the community. He discussed the success of the recent *High School Musical* presentation at the Children’s Museum. He encouraged the Board’s approval of this item.

Mayor Teixeira called for additional public comment; however, none was forthcoming. Mr. McCarthy advised “this wouldn’t have happened without the energetic push ... from Stephanie Arrigoti at the WNC. Her musical theater program is one of the stellar arts programs in this community.” Supervisor Aldean suggested giving consideration to provisions for an advisory committee. Mr. Benton acknowledged that language could be incorporated into the proposed ordinance, and a brief discussion followed.

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Mayor Teixeira entertained a motion. Supervisor Livermore discussed his support of community quality of life over the years. He related his experience at a recent presentation of *High School Musical*. **Supervisor Livermore moved to introduce, on first reading, Bill No. 101, an ordinance amending the Carson City Municipal Code, Title 2, Administration and Personnel, by adding Chapter 41, Carson City Cultural Commission, and adding Section 2.41.010, Purpose of the Carson City Cultural Commission; Section 2.41.020, Findings Supporting the Creation of the Carson City Cultural Commission; Section 2.41.030, Creation of the Carson City Cultural Commission; Section 2.41.040, as amended, Membership and Terms of Office for the Carson City Cultural Commission; Section 2.41.050, Requirements of Membership of the Carson City Cultural Commission; Section 2.41.060, Duties of the Carson City Cultural Commission; Section 2.41.070, Functions of the Carson City Cultural Commission; Section 2.41.080, Cooperation of the Carson City Cultural Commission with Private and Public Entities; Section 2.41.090, as amended, Duties of Carson City Staff to Support the Carson City Cultural Commission and Other Arts and Cultural Entities; and other matters properly related thereto. Supervisor Staub seconded the motion. Motion carried 5-0.**

**11(C) MAYOR TEIXEIRA - REVIEW OF THE CITY MANAGER'S PERFORMANCE FOR THE PERIOD DECEMBER 1, 2006 THROUGH DECEMBER 31, 2007 - Withdrawn.**

**11(D) NON-ACTION ITEMS:**

**INTERNAL COMMUNICATION AND ADMINISTRATIVE MATTERS (10:46:25) - Mayor Teixeira advised of a closed session, and recessed the meeting at 10:46 a.m.**

**CORRESPONDENCE TO THE BOARD OF SUPERVISORS - None.**

**STATUS REPORTS AND COMMENTS FROM THE MEMBERS OF THE BOARD - None.**

**STAFF COMMENTS AND STATUS REPORT - None.**

Mayor *Pro Tem* Staub reconvened the meeting at 1:31 p.m., noting Mayor Teixeira's absence due to illness. A quorum was present.

**12. DEVELOPMENT SERVICES - PLANNING AND ZONING**

**12(A) ACTION TO ADOPT BILL NO. 145, ON SECOND READING, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE, TITLE 18, ZONING, CHAPTER 18.16, DEVELOPMENT STANDARDS, DIVISION 4, SIGNS, SECTION 4.4.7, EXEMPTIONS, MODIFYING THE PROVISIONS FOR OPEN HOUSE SIGNS BY ADDING REGULATIONS TO ALLOW OFF-PREMISE "OPEN HOUSE" SIGNS WITH CERTAIN LIMITATIONS, AND OTHER MATTERS PROPERLY RELATED THERETO (1:31:52) - Planning Division Director Walter Sullivan introduced this item, and reviewed the agenda report. He advised of having received no comments in the interim on this subject matter.**

Mayor *Pro Tem* Staub entertained questions or comments from the Board members or the citizens. When none were forthcoming, he entertained a motion. **Supervisor Livermore moved to adopt Bill No. 145, on second reading, Ordinance No. 2008-3, amending Carson City Municipal Code, Title 18, Zoning, Chapter 18.16, Development Standards, Division 4, Signs, Section 4.4.7, Exemptions, modifying the**



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provisions for open house signs by adding regulations to allow off-premises open house signs with certain limitations, and other matters properly related thereto. Supervisor Williamson seconded the motion. Motion carried 4-0.

**12(B) ACTION REGARDING AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO REDUCE THE REQUESTED SIGN HEIGHT FOR A FREESTANDING SHOPPING CENTER SIGN FROM 65.5 FEET TO 45 FEET, AS PART OF AN APPROVAL OF A SPECIAL USE PERMIT, SUP-07-161, TO ALLOW A THIRD FREESTANDING SHOPPING CENTER SIGN WITHIN THE NORTH CARSON CROSSING SHOPPING CENTER NEAR THE FUTURE HOME DEPOT STORE ADJACENT TO THE FREEWAY, ON PROPERTY ZONED LIMITED INDUSTRIAL (LI), LOCATED ON MARKET STREET ON THE SOUTH SIDE OF COLLEGE PARKWAY, APN 002-755-161 (1:33:42)** - Planning Division Director Walter Sullivan introduced this item, and reviewed the agenda report and accompanying materials. At Mayor *Pro Tem* Staub's request, Mr. Sullivan acknowledged the Board's purview to make a determination based on the evidence presented to the Planning Commission. He further acknowledged the Board would not hear any other or additional evidence not submitted to the Planning Commission. Mr. Sullivan reiterated the issue before the Board was Mr. Kent Witt's appeal of the approved height of the sign. He advised that the Planning Commission had approved the special use permit application at a sign height of 45 feet. Mr. Witt had applied for a sign at 65.5 feet in height. In response to a question, Mr. Sullivan explained that new information which was not available at the time of the Planning Commission meeting can be submitted to the Board of Supervisors. He clarified that Board of Supervisors policy, in such a case, has been to remand the matter to the Planning Commission.

Principal Planner Lee Plemel provided background information on the original special use permit application and appeal, as outlined in the December 20, 2007 memorandum included in the agenda materials. He narrated pertinent slides. In response to a question, he pointed out the start of the northbound exit ramp on a displayed slide. He reviewed the statutory requirement for the Board of Supervisors to render a decision on the appeal within sixty days of submittal, by February 2, 2008, unless the appellant waives that right. He noted the appellant was present to address the specifics of the appeal.

In response to a question, Mr. Plemel advised that the Holiday Inn Express and the Hampton Inn signs are less than 45 feet in height "because that's the maximum height limit of the buildings." Mr. Sullivan advised that the three existing North Carson Crossing signs were approved at a height of 35 feet with a special use permit. He pointed out, on a displayed slide, the recently-approved Harley-Davidson sign at 30 feet.

Mayor *Pro Tem* Staub called for additional comments or questions from the Board. When none were forthcoming, he invited Mr. Witt to the podium. (1:54:47) North Carson Crossing LLC Managing Partner Kent Witt introduced himself for the record. He advised that North Carson Crossing, LLC is a local developer, and that he has "been in Nevada since 1968 ..." He further advised of having developed a shopping center in south Reno, and that the North Carson Crossing property was purchased three and a half years ago. "We haven't made a dime yet. We've got over \$10 million invested in the property and the work. We own the property free and clear and I don't know how many shopping center developers do that." Mr. Witt advised that the developer of Carson Valley Plaza had the shopping center pre-sold before it was ever opened. He further advised that his company owns the previously-mentioned Reno shopping center, and that he manages it. He advised of plans to manage the North Carson Crossing shopping center.

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He expressed the desire to “be good neighbors. We love Carson City.” Prior to purchasing the property, he advised of having met with City representatives to discuss “a three-way pylon sign. It’s never been a secret that we intended to have a ... pylon sign along the freeway to help capture tenants.”

Mr. Witt described a conceptual photograph which he intended to circulate among the Board members. He explained that the top portion of the pylon sign was already contracted to Wal-Mart and The Home Depot. Limiting the height of the sign would cause the tenants under The Home Depot sign panel to “go away.” Mayor *Pro Tem* Staub cautioned Mr. Witt that circulating the conceptual sign would render its contents public record. He advised Mr. Witt that the agenda materials contained a rendition of the sign with some tenant names. Mr. Witt circulated among the Board members the conceptual sign with the names of possible future tenants. In reference to the special use permit conditions of approval, Mr. Witt advised of his agreement. He explained he was in the process of negotiating with some of the tenants displayed on the conceptual photograph. “I didn’t want you to think ... we wanted this big sign on the freeway to put a lot of ‘mom and pop’ things. We’re ... going after some national and regional tenants that will be ... in Carson City for a long time.”

In reference to his company’s Reno shopping center, Mr. Witt advised that the traffic on South Virginia Street decreased from 45,000 to 16,000 trips per day with the extension of the freeway. He predicted the same thing will happen in Carson City with the opening of the freeway. “There’s no question that you’re going to lose business on Carson Street when that freeway gets completed all the way to Costco. Whether you lose that business to yourself or whether you lose it to Douglas County is going to be your decision. We know that when that freeway goes in, a lot of your commerce is going to congregate at the interchanges. We also know that having Wal-Mart and Home Depot as the number one and number two retailers in the world at this interchange, in general, most of the local people, over a reasonable period of time, ... will know what’s there and they’ll come back and they’ll shop there.” Mr. Witt anticipated the number of tourists which will use the freeway upon its completion, and noted the importance of recognizing the anchor tenants while traveling north on the freeway. He discussed the importance of brand recognition, and advised that potential tenants don’t usually ask technical questions. “They ask, ‘Can I be on that sign?’” Mr. Witt described the signage as a “tool to bring national and regional tenants to Carson City.”

Mr. Witt reviewed statistical information regarding the volume of traffic from Highway 50 and from Reno, and the daytime population in Carson City. He noted that his “job would be a lot easier” if the freeway bypass was already complete. “But we’ve got three more years to go before the freeway is done and we’re going to be competing with Douglas County for many of the same tenants.” Mr. Witt commented, “So far, we’ve put our money where our mouth is. We’ve invested \$10 million. This sign that we’re proposing costs \$200,000.” He expressed the hope to take down part of the freeway sound wall, representing an additional cost, and discussed associated details.

Mr. Witt discussed details of the proposed signage, and emphasized that not all the panels will be readable and visible in time for vehicles to exit the freeway. “That’s not the [primary] purpose.” Mr. Witt expressed the opinion that the economic importance of the sign to Carson City and the North Carson Crossing shopping center “over the long term ... is serious.” He reiterated, “It’s a tool that we need to help get the tenants.” He further reiterated the previously-reviewed statistical information. “We have all the ingredients for success. We’re patient and methodical and we’re going to make it happen. And we’re trying to be good neighbors ...” Mr. Witt advised that the shopping center is approximately four feet higher in elevation than the backyards of the single-family homes. Most of the single-family homes are single story; there are some

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two story. The Planning Division staff and the Planning Commission required the south property line wall to be at least 16 feet above the ground floor elevation of the single-family homes. In some places, it's higher. "When you put in front of that another building that's even 30 feet tall, then the impacts of this sign are practically nil. This sign has no moving parts. We're going to go with the darker panels until they're occupied by a tenant. There's no outdoor lighting. There's no flashing lights. It's fluorescent tubes behind the flex space; it's diffused lighting; it doesn't cause a lot of glare. We don't really see any true objectionable feature ... other than you're going down a freeway and all of a sudden you see a sign."

Supervisor Aldean expressed appreciation for the extent of Mr. Witt's investment and the "heartfelt efforts to help ... address some of our economic challenges by bringing new tenants into the area." She noted Mr. Witt's testimony indicating a contractual obligation to Wal-Mart and The Home Depot to "locate them on this freeway pylon sign." She read a portion of the November 28, 2007 Planning Commission meeting minutes into the record and, in response to a question, Mr. Witt advised that Wal-Mart and The Home Depot "paid their pro rata share" of the sign. He acknowledged the contractual obligation was based on approval of the sign. In consideration of the possibility of compromise, Supervisor Aldean suggested lowering the sign by ten feet from the top, thereby reducing the size of the Wal-Mart sign. She clarified her suggestion was not to decrease the overall height of the sign. "The panels would still project over the sound wall and be seen at a certain distance from the pylon sign, but it would make it a little less visually obtrusive." In reference to the conceptual photograph, Mr. Witt explained that decreasing the sign height by ten feet from the top would make offering "those four panels to prospective tenants ..." impossible. He advised of having informed Planning Division staff that if he was "really doing what [he] wanted ..., [he] would have come in with an application for a higher sign." He advised of having been cautioned by Planning Division staff that height was an issue for signage. He suggested it would be impossible to establish a precedent in consideration of North Carson Crossing being the "largest shopping center in the foreseeable future for Carson City. It's over fifty acres and we just happen, unfortunately, to be four feet lower than the freeway which has a 17-foot sound wall. So, we're 20 to 25 feet ... just to get to the bottom of the readable part of the sign."

Supervisor Aldean further clarified her suggestion that the base of the sign would still be 17 feet, equivalent to the height of the sound wall. She reiterated her suggestion to reduce the sign height from the top. In response to a comment and in conjunction with the conceptual photograph, she offered further explanation of her suggestion. In response to a comment, she explained that her suggestion would reduce the sign's obtrusiveness without reducing the height of the sign from 17 feet at the base. Mr. Witt explained that the current proposed size of the Wal-Mart and Home Depot signage make them more legible from the freeway. He advised of the preference to keep the "minimum panels at 4 by 10." Supervisor Aldean expressed understanding for the psychology involved, in consideration of the tenants. She suggested the anchor store signage would still not be as small as the other national retailers depicted on the sign. She reiterated the suggestion was offered only as a possible compromise to address some of the concerns that the proposed signage is "extremely obtrusive as you are moving down the freeway and the concerns from the adjacent property owners." She expressed a preference to meet North Carson Crossing requirements in consideration of the economic health of the community, and to address the concerns of the residents to the south.

In response to the concern over establishing a precedent, Mr. Witt reiterated there is no other shopping center in Carson City to compare in size to North Carson Crossing. He didn't see any purpose in reducing the top of the sign by ten feet. Supervisor Aldean reiterated the purpose to reduce the visual impact of the sign, thereby addressing the neighbors' concerns. She noted the Planning Commission's approval of a 45-

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foot sign. In response to a question, Mr. Witt described the signage program contracted privately between tenants and the State and Federal governments. "They're only for certain uses like food, gas, and lodging."

Mayor *Pro Tem* Staub inquired as to how the Planning Commission determined to approve a height of 45 feet. He expressed concern over an arbitrary determination. Mr. Witt expressed appreciation for the question, and provided background information on his work with Mark Lipkowitz, of Custom Sign and Crane, to develop the proposed signage. He advised that Wal-Mart's contract provides for the top 25 percent of all pylon signs for the project. Mayor *Pro Tem* Staub reiterated concern over the Planning Commission arbitrarily establishing the height of the sign at 45 feet "without any specific criteria on why 45 isn't as obtrusive as 65." In response to a further question, Mr. Witt explained the configuration of the tenant signage on the pylon sign. He acknowledged that availability of the pylon sign to tenants will be on a "first come, first served" basis.

Mr. Sullivan noted the discussion reflected in the November 28, 2007 Planning Commission minutes comparing the proposed North Carson Crossing shopping center pylon sign with the previously-approved Harley-Davidson pylon sign. Mr. Witt argued, before the Planning Commission, that the 65-foot sign would display signage for multiple businesses at the North Carson Crossing shopping center as opposed to the "sole source" Harley-Davidson sign. Mr. Sullivan advised of discussion to reduce the proposed 65-foot height throughout the Planning Commission meeting. He further advised that the Planning Commission action took place to approve the sign height at 45 feet without "any discussion afterward to clarify anything beyond that." He reiterated "there was discussion, during the Planning Commission meeting, relative to a lower height for the 65 feet and there was discussion or exchange between the many businesses versus the one parcel and the comparison to the" Harley-Davidson sign.

Supervisor Livermore noted the motion, made at the Planning Commission meeting, to approve the sign at 65 feet in height which failed on a vote of 2-5. A recess was taken and the motion to approve the sign at 45 feet in height passed on a vote of 5-2. He inquired as to what took place during the Planning Commission recess, and how a determination was made to approve the sign height at 45 feet. Mr. Sullivan advised of having informed the Planning Commission of the need for an affirmative motion, with supportive findings. He advised that staff had been surprised at the motion which indicated approval of a 45-foot sign height "because we didn't know that they were going to go there. They did approve the special use permit. They did use all the findings that are in the staff report, all the conditions of approval, but they reduced the height, in their mind, based on the discussion at hand ..." Mr. Sullivan advised that three people had testified at the meeting in opposition to the proposed 65-foot sign height.

Supervisor Aldean expressed the opinion that the Planning Commission's decision was consistent with Division 4, "to protect and enhance the character of residential and commercial neighborhoods, open views and vistas, and property values by prohibiting signs that are obtrusive or incompatible with the immediate surroundings." She assumed that, in part, the Planning Commission's decision to limit the height of the sign was based on an attempt to meet that criteria. Mr. Sullivan acknowledged agreement with the statement.

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In response to a question, Mr. Witt advised of not having been involved in the Planning Commission's discussions as he had to leave the meeting early to accommodate an airline reservation. In response to a further question, he advised that Mark Lipkowitz, of Custom Sign and Crane, was present at the meeting but had no authorization to negotiate on Mr. Witt's behalf. Mayor *Pro Tem* Staub entertained additional questions of the Board members; however, none were forthcoming.

Mayor *Pro Tem* Staub opened this item to public comment. (2:28:03) Bud Boyer, a resident of the Northridge subdivision, displayed a Wal-Mart advertising circular and noted the absence of a telephone number, street address, or city location. He noted the two anchor tenants at North Carson Crossing, Wal-Mart and The Home Depot, and suggested that if these two tenants cannot draw other national tenants, "the biggest sign in the world won't work." He acknowledged that Mr. Witt may not have a responsibility to the adjacent neighborhood, but charged the Board of Supervisors with the responsibility. He suggested that the investments made by the homeowners in the adjacent neighborhood are "just as important as [Mr. Witt's] \$10 million." He advised that "local people" who "already know that shopping center is there" travel the freeway. He noted the location of Wal-Mart, facing College Parkway, and suggested that signage should be located on College Parkway. He further suggested that Mr. Witt consider the possibility of freeway signage through the Nevada Department of Transportation. He acknowledged objection to the sign at any height. He expressed concern over aesthetics, and safety issues associated with the nearby airport and wind. In response to a question, he advised his residence is located directly behind The Home Depot.

(2:32:18) Gary Nigro distributed to the Board members an aerial photograph of the site. He read prepared remarks into the record, a copy of which was provided to the recording secretary together with forty signed letters. In response to a question, Mr. Nigro advised that the signed letters "were made subsequent to the Planning Commission." He acknowledged the letters were not submitted to the Planning Commission for their consideration of this matter. He objected to the public noticing process which "only went out 300 feet. This monster ... is affecting a lot more people than within 300 feet." Mayor *Pro Tem* Staub explained the provisions of the applicable ordinance. In response to a question, Mr. Nigro expressed objection to the sign at any height over 30 feet at its current location. He suggested re-locating the sign to the northeast corner of the property or near the intersection of Highway 50 and Highway 395. In response to a further question, he advised that the Northridge subdivision does not currently have a homeowners association. Mayor *Pro Tem* Staub inquired as to whether Mr. Nigro had appealed the Planning Commission's decision. Mr. Nigro advised of having recently been involved in cancer treatment for his wife between Carson-Tahoe Regional Medical Center and UCLA Medical Center.

Mayor *Pro Tem* Staub called for additional public comment. (2:50:04) Rose Boyer, a resident of the Northridge subdivision, advised that "signatures and our comments probably would have been in front of the Planning Commission if we knew or if we even had any inkling that the sign was going to be approved even at 45 feet." She read prepared remarks into the record, which noted the responsibility of the Board, the Planning Commissioners, and the Planning Division staff to the "voters of Carson City." She discussed the importance of "common sense in your votes and in your approvals." She discussed the importance of "quality community aesthetics consistent with the goals and policies of the master plan." "You should be aware of sign clutter." Ms. Boyer noted the two existing signs at North Carson Crossing, and suggested "a good example of sign clutter" could be seen along Highway 395 in Carson City. She expressed opposition to "any more signs, especially to block what view we have left of the mountains." She requested the Board to review the size of the proposed sign "which is out of proportion to the surrounding developments." She referred to a "freeway oriented sign comparison table," and advised that "half the

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cities listed have an average of 230 square feet of a standard size.” She noted the developer’s request for an 800-square-foot sign. She discussed the negative impact of the sign on the surrounding residential properties. She suggested that approving a 65.5-foot high, 800-square-foot sign will establish a precedent for future signs. “If you approve this appeal, I guess you can say to yourself that you didn’t violate any standards because they don’t exist at this time, but you would be remiss in your duty to the community.”

(2:53:20) Bill Kappus, of 1452 North Hill Drive, pointed out “a few fallacies in the logic ” presented by the developer. He suggested Mr. Witt’s “biggest reason for having the tall sign was for all of these tourists that are traveling through town and will be in the future when we develop. Well, we’re not a Los Angeles and we never will be.” Mr. Kappus suggested that “everybody in Dayton Valley, Douglas County, and Carson City will know within a month of opening of any store in this shopping center. They will not be looking for a sign.” Mr. Kappus advised that tourists are the reason for the gas / food / lodging freeway signage. He inquired as to an analysis of “where all this light would fall within our neighborhood.” He advised that the sign would be “71 feet above our community.” He inquired as to how bright the sign will be and “what kind of light pollution that would put into our neighborhood.” He anticipates that “a complete sound analysis” will be conducted prior to removing any portion of the freeway sound wall. He requested a similar analysis with regard to the light from the proposed sign.

(2:55:24) Scott Tate, general manager of the Comstock Casino and Cactus Jack’s Casino, expressed support for the sign, as proposed by the developer. He expressed sensitivity “to people who make substantial investments in communities” to create employment opportunities and improve the economy. He expressed sensitivity to the “small representations on the sign because I’m a big supporter of small business.” He expressed appreciation for the sizeable investment in Carson City. He suggested considering “shopping centers of this magnitude along freeways in other communities,” and expressed the belief the proposal is “very comparable.” In response to a question, Mr. Plemel advised there is no sound wall in front of the Harley-Davidson store. Mr. Tate suggested keeping this in mind as “a different kettle of fish” in that the Harley-Davidson store doesn’t “have that wall to compete with.” He reiterated the belief that the proposal is reasonable. He advised of a business relationship with one of the principles of North Carson Crossing LLC, whom he has found “to be nothing but honorable, honest dealings, looking to always do a fair deal, what’s in the best interests of the community, the project, and the people that are affected by it.” He thanked the Board members and staff for their time, effort, and concern.

Mayor *Pro Tem* Staub entertained additional public comment. (2:59:07) Mark Lipkowitz, owner of Custom Sign and Crane, advised of having been attending meetings such as these for “a little over 25 years.” In reference to the difference in height between 45 feet and 65.5 feet, he advised of having “worked through these same issues in Reno, sat on two boards and two committees that addressed sign height in Reno when the City started to build the elevated highway.” He advised there were many studies and “a lot of angst, ... a lot of people that were opposed, a lot of people that were pro the signage.” One of the studies conducted as part of the meetings was on the John Ascuaga’s Nugget sign, the results of which indicated “that part of the freeway actually got safer when people slowed down to read the sign.” An additional result was development of a special use process. “Over the last seven to eight years, all that process is gone. The angst is over. The freeway is in. It’s an economic center.” Mr. Lipkowitz advised of having been excited when the Carson City Planning Commission wanted to convene a study group, on which he served “with a couple of Supervisors.” He further advised of having come to an objective conclusion, based on “a lot of people having a lot of good input with Lee’s direction on what we’re going to do with the signs here on the freeway.” He commended the “great ... special use process” which came out of the

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study group meetings. “You have to come in and prove the need for a sign because, as you drive down this freeway, every commercial property is different.”

Mr. Lipkowitz advised of having presented the Harley-Davidson sign to the Planning Commission. The initial proposal was for a 40-foot high sign. Following discussion and Planning Division staff bringing to the attention of the property owner and Mr. Lipkowitz that a certain resident would be able to see the sign from his back yard, “we agreed on 30 feet. But we could agree on that 30 feet because there’s no sound wall in front” of the Harley-Davidson store. “A 50-acre shopping center with a sound wall ... is the problem. The additional height is structure. The sign itself is going to look no different than any other 40-foot sign in Carson City.” Mr. Lipkowitz listed several 40-foot signs, including “Northgate, North Town, Fandango, Bodine’s.” “It’s going to look no different than all those signs because it’s going to sit at that height above the sound wall.” Mr. Lipkowitz advised that “only the side of the sign is visible from the residential area. It’s over 300 feet away, it’s diffused in its lighting and there is a sound wall that blocks all the back yards ... except one two-story house.” Mr. Lipkowitz further advised that Mr. Witt had agreed to further diffuse the light, if necessary.

Mr. Lipkowitz commented, “We went on a journey on this project.” He commended Principal Planner Lee Plemel, “because I don’t think in the beginning staff believed that 65 feet was necessary for this sign. After all the calculations were done and all the speed and all the getting on and off the freeway, staff agreed that this was the correct height for this sign.” Based on his 25 years of experience, Mr. Lipkowitz expressed the belief that the type of tenants being solicited for North Carson Crossing will not “come there without the correct size tenant panels.”

(3:04:56) In reference to Mr. Lipkowitz’s comments, Gary Nigro advised that the 40-foot visibility of the sign would be from the “freeway height approaching northbound on the freeway. There’s a 71.5-foot difference between that sign and my ground level.” He expressed the opinion that, although the light from the sign will be diffused, “it’s going to seem like we’re going to have a permanent full moon on the eastern sky.” He expressed opposition to sitting in his backyard and having “to look at this advertising.” He expressed concern over the aesthetics of the “skyline of Carson City.” He expressed further concern that allowing the sign at the requested 65.5 feet will set a “possible precedent for future signs.” He referred to the anticipated future development of the Lompa Ranch, as a possibility. He reiterated the request for the Board of Supervisors to remand the matter to the Planning Commission for action “after comprehensive code has been developed that can be applied equally to everyone.” In response to a question, Mr. Nigro advised his backyard “borders Mr. Witt’s property ... by The Home Depot.” He pointed out his residence on the aerial photograph he had previously distributed to the Board members. He acknowledged that the sound wall between The Home Depot and the residential properties is completed.

Mayor *Pro Tem* Staub called for additional public comment. (3:07:44) Craig Mullet advised he was present on his “own behalf, as a resident of Carson City.” He described Carson City as an “historic, beautiful gem with gorgeous scenery around it.” He expressed the opinion that a 65.5 foot sign “will be our version of a Space Needle.” He expressed understanding for Mr. Witt’s desire for the sign, but advised he was not convinced it was necessary. He circulated photographs among the Board members and, in response to a question, advised the photographs were not available at the time of the November Planning Commission meeting. He acknowledged he is a current Planning Commission member, and reiterated he was representing himself “as a very concerned citizen ...” He described displayed photographs depicting a crane and retaining / sound walls which were taken from the Arco gas station on the corner of Lompa Lane

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and Highway 50. He agreed that “signage could be an economic benefit,” but expressed the opinion that, “as Mr. Witt has already admitted ... at 60 miles an hour ... you’re traveling about 1,000 feet a second. By the time you even see those little signs at the bottom, within one second you’re past the off-ramp. [Mr. Witt] has admitted that ... they’re a subliminal message. After you’ve gone by that shopping center a number of times, you will get to know those stores, but the larger anchor stores are a destination.” Mr. Mullet noted that Wal-Mart is already open. “Home Depot’s already decided to build without the sign. Round Table is there. Chili’s, Starbuck’s, Del Taco. ... All of these locations chose that site without that sign.” Mr. Mullet continued narrating the photographs he had circulated.

In reference to the adjacent residential area, Mr. Mullet noted Mr. Witt’s claim that “only a couple of the homes would have second floor view of his sign. But at 65 feet, it’s hard to believe.” Mr. Mullet pointed out that bedrooms are typically located on the second floor. He suggested that Mr. Witt has choices, and referred to the shopping center plot plan. He agreed with the suggestion that Mr. Witt move the location of the sign to the northeast corner of the property. “He would be beyond the sound wall, 45 feet would be more than adequate, and the store would actually obscure the sign ... for most of those homeowners if not all of them.” In reference to his experience in other communities, Mr. Mullet advised, “None of them have large freeway signs.” He expressed the belief that the communities have determined “either the economic value isn’t there ... or their scenery and the [lack of] sign clutter are more important than the economic value.” He expressed concern over the possibility that “any one of these stores ... can choose to move, ... go bankrupt. And then we’d have a sign, 65-foot high, with the two anchor signs on the top gone. What a blight that would be.” Mr. Mullet requested the Board to carefully consider “what our community is going to look like in the future and that this, although it may not set the precedent for the rest of the freeway, it will start some standards that will be hard to argue against for future developments.” “As a resident,” he expressed opposition to the proposed 65-foot sign. He acknowledged support for a 45-foot sign “because the two anchor stores could be seen ...”

Mayor *Pro Tem* Staub called for additional public comment. When none was forthcoming, he closed public comment.

(3:19:40) Business Development Manager Joe McCarthy discussed his experience, over the last 3½ years, in the area of retail recruitment. He noted the “lively, friendly, but aggressive competition” with Douglas County to locate retailers in Carson City. He advised that one of the “deal breakers” for retailers is “in fact quality signage along the transportation corridor.” In response to a question, he advised that Mr. Witt and the North Carson Crossing team strategically “picked the most viable spot to capture traffic going both north and south.” Mr. McCarthy advised of a lengthy conversation, earlier in the day, with regard to the importance of capturing traffic. “Really, what we’re doing is marketing to retailers. Retailers don’t ask ... what the braking requirements are, what the speed requirements are. For us to be able to put a package together to entice them to come into this trade area and to come to Carson City as opposed to a neighboring county, they want their name on a sign.” Mr. McCarthy expressed the opinion that the proposed location is the most prudent “for us to be able to capture that visibility.”

In consideration of the premise that most retailers are primarily interested in representation on a freeway sign, Supervisor Aldean suggested taking the opportunity to lessen the impacts to the adjacent residential uses. Mr. McCarthy commended Supervisor Aldean’s proposal as very logical in the sense that marketing



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the shopping center to potential retailers will include transportation corridor signage. He reiterated that the proposed location for the pylon sign is the most advantageous because of serving the local shopping community as well as the potential for capturing both north and south bound traffic.

Mayor *Pro Tem* Staub agreed to reopen public comment. (3:25:21) Craig Mullet pointed out an alternative location on a displayed aerial photograph. Supervisor Williamson advised that the property identified by Mr. Mullet was not owned by Mr. Witt's partnership. Mr. Mullet clarified that the "northern property line makes so much more sense and does not have the obstruction of the sound wall."

Mr. Sullivan advised that Mr. Plemel had pointed out, at the Planning Commission meeting, that the property "in the northeast corner" is not owned by Mr. Witt. He further advised of discussion at the Planning Commission meeting which indicated the freeway begins to elevate as it moves further north. Therefore, the sign would have to be even taller than 65.5 feet to meet the freeway elevation. Supervisor Livermore expressed appreciation for the public comment, and concern over a Planning Commissioner making public comment at this meeting.

Mayor *Pro Tem* Staub provided Mr. Witt an opportunity to make a final statement. (3:29:35) Mr. Witt displayed a site plan depicting surplus NDOT property which "we've been trying to buy ... for a couple years." He suggested "it's beside the point because ... when you get up to the very northeast corner of the property, the sign would have to be 145 feet tall. The further you get to the overpass, the higher you have to go to get any visibility." Mr. Witt expressed the opinion that the proposed location is the best. He reiterated that the majority of the neighbors will only view the side of the sign. He acknowledged the sign is perpendicular to the freeway. He discussed a line of sight study, conducted in consideration of the adjacent residential area, which was provided to the Planning Division.

(3:32:33) Mr. Nigro advised of not having seen the line of sight study referenced by Mr. Witt. He offered to withdraw his objections if Mr. Witt could demonstrate, using engineering methods to determine line of sight, "that none of the homes in the Northridge development other than that one ... on the second floor would have any impact." He expressed the belief that Mr. Witt would be unable to prove a negligible impact to the adjacent residents.

Mayor *Pro Tem* Staub again closed public comment. He discussed the responsibility of the Planning Commission and the Board of Supervisors to act within the authority and parameters of the law and, after that, to "do our best to balance the interests of diverse parties that may be involved in an area like this." He noted a preference to avoid "this kind of clash of two different uses of land. Usually there's some buffering involved." He expressed the opinion the Northridge residents have been substantially impacted by the North Carson Crossing development. He noted, however, that "a little bit of research would have told any of the Northridge buyers that the particular area ... was going to be ... a prime piece of commercial real estate."

Mayor *Pro Tem* Staub acknowledged the desire of tenants for signage. Considering the process, he was uncertain as to the reason the Planning Commission didn't address the fact that the proposed location for the pylon sign couldn't be more adverse to anyone's interests. He commended Mr. Witt on his attempts to acquire the property in the northeast corner based on the belief that both north and south bound traffic have to benefit from the pylon sign. Based on the evidence provided, Mayor *Pro Tem* Staub expressed the belief that the matter should be referred back to the Planning Commission "in order to air out some of the

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new evidence ... submitted.” He strongly recommended to the Planning Commission to work with Mr. Witt and the residents to identify an alternative location for the pylon sign. He suggested that “somewhere north” of the proposed location “would hopefully remedy most of the individuals’ objections while accomplishing the same desires.” He noted the substantial amount of new evidence not provided to the Planning Commission and reiterated the recommendation to remand the matter. Due to continuance of this matter from the December 20, 2007 Board of Supervisors meeting, Mr. Sullivan acknowledged it could only be referred back to the Planning Commission with concurrence of the applicant.

Supervisor Livermore expressed the opinion there was no evidence to indicate the necessity of referring the matter back to the Planning Commission or to deny the applicant’s appeal. He referred to his retail experience, and discussed the importance of signage to a retail establishment. He noted the proposed signage along the freeway corridor, and that “this is not what we’re accustomed to or how we’ve lived with surface streets and traffic ...” He further noted that Carson City is beginning to “condense its open space into more commercial.” He referred to the recent Planning Commission approval of a 50-foot sign for the Bodine’s Casino. He suggested the nature and benefit of the freeway corridor is more conducive to accommodating Mr. Witt’s proposal. He agreed with the suggestion to possibly move the proposed sign further north, but only by approximately 20 feet. He reiterated there was no new evidence, other than the letters submitted by the homeowners, and advised he was ready to decide on the matter at this meeting.

Mayor *Pro Tem* Staub called for additional comment and, when none was forthcoming, entertained a motion. **Supervisor Livermore moved to reverse the Planning Commission’s decision and approve the special use permit, SUP-07-161, as recommended by staff based on the findings for approval, and with the recommended conditions contained in the staff report to Planning Commission. Supervisor Williamson seconded the motion.** Supervisor Aldean noted the diverse interests represented at this meeting, and advised of not having reviewed the results of a line of sight analysis. She suggested that review of the line of sight analysis would be critical in consideration of potential impacts to the adjacent residential properties. She referred to Mr. Nigro’s offer to withdraw his opposition if a line of sight analysis could demonstrate no impact to the adjacent residential area. She expressed the opinion there are other alternatives with less impact to the Northridge subdivision residents. She advised of having fielded calls regarding the impact of Wal-Mart to the adjacent Northridge residents, and the effect of The Home Depot construction. She noted that the property will eventually be fully developed, with additional impacts. She suggested that reaching a reasonable consensus on the pylon sign “would go a long way to improving the relationship between the developer and his neighbors to the south.” She reiterated the opinion there are alternatives to be explored. Mayor *Pro Tem* Staub agreed with Supervisor Aldean’s analysis, and expressed concern over establishing an adverse precedent which will be impossible to overcome in the future. Mayor *Pro Tem* Staub requested a roll call vote on the pending motion. **Supervisors Livermore and Williamson - yes; Supervisor Aldean and Mayor Pro Tem Staub - no. Motion failed 2-2.**

Mr. Benton acknowledged Mr. Witt’s option to request the Planning Commission to reconsider the matter. In response to a question, Mr. Witt advised of no interest in requesting the Planning Commission to reconsider the matter. In response to a question, Mr. Benton explained the appeal had, in effect, been denied and that the previously-approved 45-foot height would stand. In response to a question, Mr. Witt reiterated he was not interested in going back before the Planning Commission. In response to a further question, he advised there may not be a sign. “We came here, we stated our case, we did our homework, we had a recommendation from staff for approval, and I’ll have to talk to my partners and ... to Wal-Mart and ... to the tenants and see if we want to do a 45-foot sign.” Mr. Witt reiterated no interest in “going back

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to the Planning Commission. The chairman of the Planning Commission ... doesn't want a sign anywhere. I don't want to waste my time with those guys." In response to a comment, Mr. Witt advised of having submitted the line of sight analysis to the Planning Division. Mayor *Pro Tem* Staub noted that the appeal had been denied, and Mr. Witt acknowledged his options, as previously stated.

**13. ACTION TO ADJOURN** (3:46:50) - Mayor *Pro Tem* Staub entertained a motion to adjourn. Supervisor Livermore moved to adjourn the meeting at 3:46 p.m. Supervisor Williamson seconded the motion. Motion carried 4-0.

The Minutes of the January 3, 2008 Carson City Board of Supervisors meeting are so approved this \_\_\_\_\_ day of September, 2008.

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MARV TEIXEIRA, Mayor

ATTEST:

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ALAN GLOVER, Clerk - Recorder

**CARSON CITY BOARD OF SUPERVISORS**

**Minutes of the August 19, 2008 Meeting**

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**DRAFT**

A special meeting of the Carson City Board of Supervisors was scheduled for 12:00 p.m. on Tuesday, August 19, 2008 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Mayor *Pro Tem* Richard Staub  
Supervisor Robin Williamson, Ward 1  
Supervisor Shelly Aldean, Ward 2  
Supervisor Pete Livermore, Ward 3

**STAFF:** Larry Werner, City Manager  
Alan Glover, Clerk-Recorder  
Joel Benton, Senior Deputy District Attorney  
Kathleen King, Recording Secretary

**NOTE:** A recording of these proceedings, the Board's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record, on file in the Clerk-Recorder's Office. These materials are available for review during regular business hours.

**CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE (12:03:33)** - Mayor *Pro Tem* Staub called the meeting to order at 12:03 p.m. Roll was called; a quorum was present. Mayor Teixeira was absent. Mayor *Pro Tem* Staub led the pledge of allegiance.

**PUBLIC COMMENTS AND DISCUSSION (12:04:12)** - None.

**1. CLERK / RECORDER - ACTION TO APPROVE THE CANVASS OF THE VOTE AS PRESENTED BY THE CLERK/RECORDER FOR THE 2008 PRIMARY ELECTION (12:04:32)** -

Mr. Glover commended Chief Elections Clerk Sue Merriwether, Management Assistant Sylvia Yasumoto, and Office Support Technician Beth Phelps for "the great job ... on the election." He expressed appreciation to the Parks Department crews and Community Center staff for their assistance in setting up and breaking down the election equipment, to Community Center / Theater Operations Manager Mitch Ames for his assistance, and to all the elections personnel. He expressed the opinion this was the best primary election in which he had ever been involved.

Mr. Glover noted the 2008 Primary Election Voter Registration and Turn-out by Party information which was included in the agenda materials. He referred to the Official Primary Election results also included in the agenda materials.

Mayor *Pro Tem* Staub entertained questions or comments of the Board members. Supervisor Williamson congratulated Todd Russell on his election to District Court Judge, and Jim LeMaire on his election to School Trustee, District 2. She acknowledged the service of Judge Russell and Mr. LeMaire and wished them congratulations. Mayor *Pro Tem* Staub echoed Supervisor Williamson's congratulations for all the individuals "who have won at this point."

Mayor *Pro Tem* Staub entertained a motion. **Supervisor Aldean moved that the Board of Supervisors approve the canvass of the vote, as presented by the Clerk-Recorder. Supervisor Livermore seconded the motion. Motion carried 4-0.**

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Mr. Glover acknowledged having been pleased over the voter turnout in Carson City as compared to the rest of the state. He explained the primary election voter turnout is usually lower in a presidential year because there are no statewide candidates and no local constitutional officers running. He further acknowledged the likelihood that the general election returns will be published at the same time as the primary returns, around 9:00 p.m. He explained the process for pulling cartridges from the electronic voting machines, closing the election, and processing the votes.

**2. ACTION TO ADJOURN** (12:09:13) - Mayor *Pro Tem* Staub entertained a motion to adjourn. Supervisor Aldean moved to adjourn the meeting at 12:09 p.m. Supervisor Williamson seconded the motion. Motion carried 4-0.

The Minutes of the August 19, 2008 Carson City Board of Supervisors meeting are so approved this \_\_\_\_\_ day of September, 2008.

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MARV TEIXEIRA, Mayor

ATTEST:

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ALAN GLOVER, Clerk - Recorder

# CARSON CITY BOARD OF SUPERVISORS

## Minutes of the August 21, 2008 Meeting

Page 1

DRAFT

A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, August 21, 2008 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Marv Teixeira, Mayor  
Supervisor Robin Williamson, Ward 1  
Supervisor Shelly Aldean, Ward 2  
Supervisor Pete Livermore, Ward 3  
Supervisor Richard Staub, Ward 4

**STAFF:** Larry Werner, City Manager  
Alan Glover, Clerk - Recorder  
Nick Providenti, Finance Department Director  
Sue Johnson, Internal Auditor  
Joel Benton, Senior Deputy District Attorney  
Kathleen King, Recording Secretary

**NOTE:** A recording of these proceedings, the Board's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record, on file in the Clerk-Recorder's Office. These materials are available for review during regular business hours.

**CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, AND INVOCATION (8:31:52) -** Mayor Teixeira called the meeting to order at 8:31 a.m. Roll was called; a quorum was present. Supervisor Staub led the pledge of allegiance. Fountainhead Foursquare Church Reverend Louie Locke gave the invocation.

**PUBLIC COMMENTS AND DISCUSSION (8:33:08) -** None.

**1. ACTION ON APPROVAL OF MINUTES - July 17, 2008 (8:33:15) -** Supervisor Aldean noted a correction to page 11, changing the word "entitled" to the words "in title." Mayor Teixeira entertained a motion. Supervisor Aldean moved to approve the minutes of July 17, 2008, subject to the previously-noted correction. Supervisor Williamson seconded the motion. Motion carried 5-0.

**2. CHANGES TO THE AGENDA (8:34:15) -** Mr. Werner noted a change to the item 3-4 agenda report in that there was no need for a resolution. (10:35:10) Mayor Teixeira modified the agenda to address item 13(B) prior to item 13(A).

**3. CONSENT AGENDA (8:35:09) -** Mayor Teixeira entertained requests to hear items separate from the consent agenda. When none were forthcoming, he entertained a motion. **Supervisor Livermore moved for approval of the consent agenda, consisting of a total of five items: 3-1, Sheriff; two items from Public Works, 3-2(A) and (B); one item from the City Manager, 3-3, with special recognition to Stanley Zuber's re-appointment to the Advisory Board to Manage Wildlife; and one item from Parks and Recreation, 3-4, as presented. Supervisor Staub seconded the motion. Motion carried 5-0.**

**3-1. SHERIFF - ACTION TO APPROVE THE ACCEPTANCE OF THE OFFICE OF TRAFFIC SAFETY JOINING FORCES GRANT IN THE AMOUNT OF \$23,700**

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**3-2. PUBLIC WORKS**

**3-2(A) ACTION TO APPROVE AND AUTHORIZE THE MAYOR TO SIGN A DRAINAGE EASEMENT BETWEEN THE STATE OF NEVADA DIVISION OF STATE LANDS AND CARSON CITY WHEREBY THE STATE OF NEVADA DIVISION OF STATE LANDS AGREES TO GRANT TO CARSON CITY A NON-EXCLUSIVE EASEMENT FOR A SURFACE WATER DRAINAGE SYSTEM, WITH THE RIGHT TO MAINTAIN, INSPECT, REPAIR, AND RECONSTRUCT A WATER DRAINAGE SYSTEM FOR THE TIMBERLINE AND COMBS CANYON WATERSHED STABILIZATION, STORM WATER STORAGE AND SEDIMENTATION STORAGE PROJECT**

**3-2(B) ACTION TO APPROVE AND AUTHORIZE THE MAYOR TO SIGN A PERMANENT WATERLINE EASEMENT BETWEEN THE STATE OF NEVADA DIVISION OF STATE LANDS ON BEHALF OF THE DIVISION OF BUILDINGS AND GROUNDS AND CARSON CITY WHEREBY THE STATE OF NEVADA DIVISION OF STATE LANDS ON BEHALF OF THE BUILDINGS AND GROUNDS AGREES TO GRANT TO CARSON CITY A NON-EXCLUSIVE EASEMENT FOR UNDERGROUND WATERLINE FACILITIES AND APPURTENANCES**

**3-3. CITY MANAGER - ACTION TO APPOINT STANLEY ZUBER TO THE ADVISORY BOARD TO MANAGE WILDLIFE FOR A THREE-YEAR TERM ENDING JULY 2011**

**3-4. PARKS AND RECREATION - ACTION TO APPROVE THE STATE OF NEVADA DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES DIVISION OF STATE PARKS PROJECT AGREEMENT TO PROVIDE \$150,000 IN GRANT FUNDING FOR THE CONSTRUCTION FO THE MORGAN MILL TRAILHEAD**

**ORDINANCES, RESOLUTIONS, AND OTHER ITEMS**

**4. TREASURER - PRESENTATION OF INVESTMENT PORTFOLIO EARNINGS FOR SECOND QUARTER 2008 (8:35:59) -** Treasurer Al Kramer provided background information on this item, and reviewed the Investment Report included in the agenda materials. He acknowledged the City's investment portfolio is "doing better than anticipated." He explained that the Finance Department conservatively estimates the return on the investment portfolio each year. "For the year that just ended, we beat our budget significantly." Mayor Teixeira thanked Mr. Kramer and congratulated him and the Treasurer's Office staff on a job well done.

**5. CARSON CITY CONVENTION AND VISITORS BUREAU - ACTION TO ADOPT, ON SECOND READING, BILL NO. 129, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE, TITLE 4, LICENSE AND BUSINESS REGULATIONS, BY AMENDING CHAPTER 4.08, ROOM RENTAL TAX, SECTION 4.08.080, IMPOSITION AND RATE OF TAX, AND OTHER MATTERS PROPERLY RELATED THERETO (8:38:56) -** Mayor Teixeira introduced this item, and entertained citizen comments. When none were forthcoming, he entertained a motion. Supervisor Aldean moved to adopt Bill No. 129, on second reading, Ordinance No. 2008-30, an ordinance amending the Carson City Municipal Code, Title 4, License and Business Regulations, by amending Chapter 4.08, Room Rental Tax, Section 4.08.080, Imposition and Rate of Tax, and other matters properly related thereto. Supervisor Livermore seconded the motion. Motion carried 5-0.

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**6. PARKS AND RECREATION - OPEN SPACE - INTRODUCTION AND WELCOME OF MS. GENNY WILSON, NEWLY APPOINTED U.S. FOREST SERVICE CARSON DISTRICT RANGER** (8:39:52) - Mayor Teixeira introduced this item. Open Space Coordinator Ann Bollinger introduced U.S. Forest Service (“USFS”) Carson District Ranger Genny Wilson, and provided background information on her involvement as the Waterfall Fire Burn Area Emergency Response Team Leader.

(8:40:45) At Mayor Teixeira’s request, Ms. Wilson introduced herself for the record. She reviewed a resumé, copies of which she had distributed to the Board members and staff prior to the start of the meeting. She discussed her experience with the Waterfall Fire Burn Area Emergency Response Team, and her background in fire rehabilitation. She reviewed and discussed a list of Current Events in the Carson Ranger District, as outlined on the backside of the resumé. In response to a question, she advised that Lake Tahoe has a fuels management plan which is separate from the recently-published Carson Ranger District ten-year fuels management plan. She described the Carson Ranger District plan boundaries as “Highway 80 down to the state line in Douglas County.”

In response to a question, Ms. Wilson advised that the new USFS barracks is proposed for a BLM parcel on the south side of Arrowhead Drive. She responded to additional questions regarding the barracks design. In response to a further question, she advised that groundbreaking is scheduled for February 2009 and that the USFS “will still be stationed out of the Minden Airport.”

Mayor Teixeira welcomed Ms. Wilson and looked forward to a good working relationship between the City and the USFS. In response to a question, Ms. Wilson explained the Wild Land Fire Use emphasis employed by the USFS over the last couple years. She advised that most of the wilderness areas have been identified as wild land fire use areas. She acknowledged that natural fires occurring in these areas are monitored and mitigated only if the fire becomes a threat to citizens.

Ms. Wilson responded to further questions regarding her experience as a member of the Governor’s Sage Grouse Team, and the significance of adding the sage grouse to the endangered species list. “It would mean quite a change in the way we do business, mostly in terms of mining activity and grazing.” In response to a further question, Ms. Wilson advised of having served as the Acting USFS Carson District Ranger in 2005, while Gary Schiff was on detail in the Washington office. She further advised of having served in an acting capacity last year in Las Vegas.

Mayor Teixeira advised of having recently secured a \$300,000 earmark for Waterfall Fire restoration. Ms. Wilson offered to provide a bi-annual update of USFS activities. In response to a question, she advised of consideration given to locating a fire station closer to the national forest, but of no knowledge regarding the extension of Stewart Street to Curry Street. Mayor Teixeira and the Board members welcomed Ms. Wilson.

**7. HEALTH AND HUMAN SERVICES - ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE, TITLE 9, HEALTH AND WELFARE, CHAPTER 9.04, HEALTH DIVISION PERMIT AND FEE SCHEDULE, TO ADD NEW SECTION 9.04.065, ADDITIONAL FEES, WHICH ALLOWS THE DEPARTMENT TO SET REASONABLE FEES FOR PROVIDING SERVICES TO MEMBERS OF THE PUBLIC, AND OTHER MATTERS PROPERLY RELATED THERETO** (8:54:41) - Mayor Teixeira introduced this item. Disease Prevention and Control Investigator Dustin Boothe reviewed the agenda report. He



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acknowledged that the proposed ordinance allows Health and Human Services Department staff to adjust fees as part of a cost recovery program. In response to a further question, he explained that the ordinance provides for established fees. Additional fees are charged in the clinic. Mr. Boothe acknowledged no fees are being increased, and reiterated the proposed ordinance will provide for cost recovery. Mr. Werner provided additional explanation of the purpose of the ordinance to provide more clarity for the Health and Human Services Department to establish fees to recover costs. In response to a question, Supervisor Aldean read a portion of Section 9.04.065, Additional Fees, into the record.

Mayor Teixeira entertained a motion. **Supervisor Williamson moved to introduce, on first reading, Bill No. 130, amending Carson City Municipal Code, Title 9, Health and Welfare, Chapter 9.04, Health Division Permit and Fee Schedule, to add a new section, 9.04.065, Additional Fees, which allows the department to set reasonable fees for providing services to members of the public, and other matters properly related thereto. Supervisor Aldean seconded the motion. Motion carried 5-0.**

**8. FIRE - ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 14, FIRE, SECTION 14.02.045, SECTION 105.7 - REQUIRED CONSTRUCTION PERMITS, TO PROVIDE FOR A TECHNICAL CORRECTION TO AN INTERNAL REFERENCE, AND BY AMENDING SECTION 14.02.115, SECTION 903 - FIRE SPRINKLERS, TO REVISE THE METHOD FOR THE DETERMINATION OF TOTAL FLOOR AREA, AND OTHER MATTERS PROPERLY RELATED THERETO (8:59:08)** - Fire Chief Stacey Giomi introduced and provided background information on this item, and reviewed the agenda report. He acknowledged the proposed amendment to Section 14.02.115, 903, Fire Sprinklers, represents a win-win for the City and the Builders Association of Western Nevada ("BAWN"). He further acknowledged the Chief Building Official will be authorized to determine total floor area, as defined within the exterior walls. He noted that the Fire Code is generally a maintenance code, not a construction code. Therefore, the portions of the code addressing construction "best belong" under the purview of the Chief Building Official.

Mayor Teixeira entertained public comment. (9:01:58) BAWN Director of Governmental Affairs Sheena Beaver provided additional background information on development of the proposed amendment to Section 14.02.115, 903 - Fire Sprinklers.

Mayor Teixeira called for additional public comment and, when none was forthcoming, entertained a motion. **Supervisor Staub moved to introduce, on first reading, Bill No. 131, an ordinance amending the Carson City Municipal Code, Title 14, Fire, Section 14.02.045, Section 105.7 - Required Construction Permits, to provide for a technical correction to an internal reference; and by amending Section 14.02.115, Section 903 - Fire Sprinklers, to revise the method for the determination of total floor area, and other matters properly related thereto. Supervisor Livermore seconded the motion. Motion carried 5-0.**

**9. PURCHASING AND CONTRACTS - ACTION TO APPROVE AN AMENDMENT NO. 1 TO THE ORIGINAL CONTRACT 0708-134, "ARCHITECTURAL AND ENGINEERING SERVICES FOR CARSON CITY INDOOR RECREATION CENTER/MULTI-PURPOSE GYM" WITH VALENTINER CRANE ARCHITECTS, TO CHANGE THE SCOPE OF WORK, EXTEND THE COMPLETION DATE TO OCTOBER 31, 2010, AND INCREASE THE CONTRACT AMOUNT BY \$92,000.00, AND INCLUDE A CONTINGENCY AMOUNT OF \$25,000.00 FROM**

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**THE QUESTION #18 ACCOUNT, AS PROVIDED IN FY 2008 / 2009** (9:04:07) - Purchasing and Contracts Coordinator Sandy Scott introduced this item, and reviewed the agenda report. In response to a question, Parks and Recreation Department Director Roger Moellendorf estimated \$90,000 had been spent thus far. He provided background information on the purpose for the amendment. In response to a further question, he explained the requirement to “go back and separate the buildings and look at designing a separate facility from the Boys and Girls Clubs.” He advised that approximately 23 percent of the work originally done by Valentiner Crane will carry over to the new project. This includes the traffic, sewer / water, and lighting studies, and topographical mapping.

Mayor Teixeira reviewed costs associated with the recreation center project, thus far. He expressed the hope that some progress will be made on construction in the near future “rather than just taking a ton of money in engineering and architectural work.” Supervisor Livermore discussed the flexibility of design and material use which a stand-alone building will provide. He noted the community’s need for an indoor recreation facility, and expressed the belief that the facility will be delivered, as planned, with the available capital. In response to a question, Mr. Moellendorf advised that the \$818,900 figure reflected in the agenda report represents the total contract with the architect / engineering firm, including the construction drawings. The subject amendment will add \$92,000 to the contract. Mr. Moellendorf acknowledged that additional architecture will “eat into the total project budget,” but expressed the hope there may be savings in design of the stand-alone facility. In reference to Supervisor Livermore’s comments, he reiterated that the stand-alone design will not be restricted to matching the design of the Boys and Girls Clubs facility, nor will the exact same materials be required.

Supervisor Staub noted the additional benefit of being able to determine the optimal location for the structure on the parcel, in consideration of potential future expansion of both the Boys and Girls Clubs and the recreation facilities. Supervisor Aldean agreed that spending the additional funding is unfortunate, but noted previously-expressed citizen concerns over “being joined at the hip with the Boys and Girls Clubs.” The stand-alone facility provides a certain degree of autonomy which is important in terms of protecting the City’s investment. Mr. Moellendorf agreed and, in reference to Supervisor Staub’s comments, advised that the original design was “really hampered” by being physically joined to the Boys and Girls Clubs facility. He reiterated that the stand-alone facility design can be maximized in consideration of utilities and future amenities such as water features. In response to a comment, Mr. Moellendorf advised that the City could have continued with the co-joined building if either party could have agreed to one owner of the facility. “Neither party ... for good reasons, wanted to give up ownership of their facility.” Mayor Teixeira commented the project now makes much more sense.

Mayor Teixeira entertained a motion. At Supervisor Livermore’s request, Mr. Moellendorf reviewed the project time table. Supervisor Aldean noted a change to page 2 of the contract. **Supervisor Livermore moved to approve Amendment No. 1 to the Original Contract 0708-134, “Architectural and Engineering Services for Carson City Indoor Recreation Center / Multi-Purpose Gym” with Valentiner Crane Architects to change the scope of work, extending the completion date to October 31, 2010, and increasing the contract amount by \$92,000.000, and include a contingency amount of \$25,000.00 from the Q18 Account, as provided in FY 2008 / 2009 with reference to the amendment sheet provided today on the same contract. Supervisor Staub seconded the motion. Motion carried 5-0.**

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**10. DEVELOPMENT SERVICES - PLANNING AND ZONING**

**10(A) ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 18, ZONING, CHAPTER 18.02, ADMINISTRATIVE PROVISIONS, SECTION 18.02.115.8, TEMPORARY USE PERMITS, TO MODIFY LANGUAGE ASSOCIATED WITH OUTDOOR SALES AND ACTIVITIES FOR CONSISTENCY PURPOSES; AMENDING CHAPTER 18.03, DEFINITIONS, SECTION 18.03.010, WORDS AND TERMS DEFINED, TO MODIFY THE DEFINITIONS OF BEAUTY SHOP, MOTEL, PERSONAL SERVICES, TO DEFINE ANIMALS AND FOWL, AND TO DELETE THE DEFINITION OF FULL SERVICE BEAUTY SALON AND MOBILE CANTEEN; AMENDING CHAPTER 18.04, USE DISTRICTS, SECTION 18.04.120, NEIGHBORHOOD BUSINESS, TO ADD THE SPECIFIC OUTDOOR SALES AND ACTIVITIES REFERENCE; AMENDING SECTION 18.04.130, RETAIL COMMERCIAL, TO MODIFY LANGUAGE ASSOCIATED WITH OUTDOOR SALES AND ACTIVITIES FOR CONSISTENCY PURPOSES, AND TO DELETE FACIAL COSMETIC SHADING, PERMANENT, FROM ACCESSORY USES FOR CONSISTENCY; AMENDING SECTION 18.04.135, GENERAL COMMERCIAL, TO MODIFY LANGUAGE ASSOCIATED WITH OUTDOOR SALES AND ACTIVITIES AND OUTSIDE STORAGE FOR CONSISTENCY PURPOSES, AND TO ADD FACIAL COSMETIC SHADING, PERMANENT, AS A PRIMARY PERMITTED USE; AMENDING SECTION 18.04.145, LIMITED INDUSTRIAL, TO MODIFY LANGUAGE ASSOCIATED WITH OUTDOOR SALES AND ACTIVITIES AND OUTSIDE STORAGE FOR CONSISTENCY PURPOSES; AMENDING SECTION 18.04.150, GENERAL INDUSTRIAL, TO MODIFY LANGUAGE ASSOCIATED WITH OUTDOOR SALES AND ACTIVITIES AND OUTSIDE STORAGE FOR CONSISTENCY PURPOSES, AND TO CORRECT PAINT MANUFACTURING TO ALPHABETICAL ORDER; AMENDING SECTION 18.04.155, AIR INDUSTRIAL PARK, CORRECTING OUTDOOR STORAGE TO OUTSIDE STORAGE FOR CONSISTENCY PURPOSES; AMENDING SECTION 18.04.185, PUBLIC REGIONAL, CORRECTING MUSEUM TO ALPHABETICAL ORDER; AMENDING CHAPTER 18.05, GENERAL PROVISIONS, SECTION 18.05.045, HOME OCCUPATION, CORRECTING OUTDOOR STORAGE TO OUTSIDE STORAGE FOR CONSISTENCY PURPOSES; AMENDING SECTION 18.05.065, USES REQUIRED TO BE WITHIN A STRUCTURE, CORRECTING OUTSIDE SALES TO OUTDOOR SALES FOR CONSISTENCY PURPOSES; AMENDING CHAPTER 18.14, EXTRACTION OPERATIONS, SECTION 18.14.030, TEMPORARY ON-SITE AGGREGATE FACILITIES / PRODUCTION, CORRECTING OUTSIDE SALES TO OUTDOOR SALES FOR CONSISTENCY PURPOSES; AMENDING CHAPTER 18.16, DEVELOPMENT STANDARDS, DIVISION 1, LAND USE AND SITE DESIGN, SECTION 1.2, SITE DESIGN, CORRECTING OUTDOOR STORAGE TO OUTSIDE STORAGE FOR CONSISTENCY PURPOSES; AMENDING SECTION 1.12, OUTSIDE STORAGE, TO CLARIFY OUTSIDE STORAGE PURPOSE; AMENDING SECTION 1.19, ADULT MERCHANDISE RETAIL ESTABLISHMENT PERFORMANCE STANDARDS, CORRECTING OUTSIDE SALES TO OUTDOOR SALES FOR CONSISTENCY PURPOSES; AND AMENDING SECTION 3.7, TREES, CORRECTING OUTSIDE DISPLAY TO OUTDOOR DISPLAY FOR CONSISTENCY PURPOSES; AND MAKING VARIOUS TECHNICAL CORRECTIONS, AND OTHER MATTERS PROPERLY RELATED THERETO (9:15:37) - Planning Division Director Lee Plemel introduced this item, and reviewed the agenda report. He responded to questions regarding permitted uses included in the Code. He pointed out a correction to Section XIV, 1.12(2), in that the words "or limited industrial" will be added after the word "commercial." Supervisor**

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Aldean noted the Planning Commission's suggested revision to Section XV, 1.19(2) to delete the word "outdoors." Supervisor Aldean pointed out additional revisions on pages 12 and 14.

Mayor Teixeira entertained a motion. **Supervisor Aldean moved to introduce, on first reading, Bill No. 132, an ordinance amending various portions of the Carson City Municipal Code, Title 18, including clarifications relating to the provisions for outside storage and outdoor sales and activities, and including various technical corrections, as published on the agenda and based on the findings contained in the staff report, including the technical corrections discussed at this meeting; and the elimination, on page 26, of the reference to "outdoors" in Section XV, 1.19(2), and the addition, on page 25, to Section XIV, 1.12(2) to read, "Storage areas allowed, as an accessory use, in a commercial or limited industrial zoning district ..."** Supervisor Staub seconded the motion. **Motion carried 5-0.**

**10(B) ACTION TO APPROVE AN EXTENSION OF ONE YEAR FOR FILING OF A FINAL MAP FOR THE SUBDIVISION KNOWN AS SCHULZ RANCH, LOCATED BETWEEN CENTER DRIVE AND BIGELOW DRIVE (9:22:52)** - Mr. Plemel introduced this item, and reviewed the agenda report. Mayor Teixeira invited Reynen and Bardis and Lennar Communities representatives to the podium.

(9:24:10) Reynen and Bardis Division President Ted Erkan, Lennar Communities Vice President of Finance Dustin Barker, and Lionel, Sawyer & Collins Attorney Craig Etem, representing Lennar Communities, introduced themselves for the record. In response to a question, Mr. Erkan referred to the testimony he provided at the July 17, 2008 Board of Supervisors meeting. He advised of having continued to work with "our bank," and "continued to try to have a dialogue." He further advised of having been made aware of the meeting between Mayor Teixeira and Bank of the West representatives. He was uncertain as to any resolution. He advised that Reynen and Bardis was still in no position to mitigate the nuisance without the financial assistance of the bank.

Mr. Barker advised that Lennar Communities had completed the "clean up that was on the property owned by the venture that we had." He further advised that Lennar Communities is "not in a position either to mitigate the race track clean up at this point in time." In response to a question, he advised that no parcels have been sold by Lennar Communities. The bank had a trustee sale on the property, "so technically the bank owns the property at this point in time." In response to a further question, Mr. Barker estimated 11 parcels are currently held by the bank. He acknowledged that Lennar Communities is "out of the picture" from a legal standpoint as far as ownership, but advised of the intent to have continued involvement in the property into the future. In response to a question, he advised that Lennar Communities representatives are "currently working with the bank to figure out what our involvement is, if it's potential ownership or potential management of the project. We're still here in support of this tentative map because it's our intent to be involved in the project on a go-forward basis. That capacity currently is undefined, but we're in the process of working through that."

Development Services Director Walter Sullivan advised of having received a letter of intent from Bank of the West, on August 19<sup>th</sup>, a portion of which he read into the record. He advised of having received a telephone call from Supervisor Aldean yesterday to express concern over the hazardous material. He further advised of having spoken with Mark Rotter, of Manhard Consulting, Ltd., who advised that a phase 1 environmental study had been conducted on the property. Supervisor Aldean provided background information regarding her request concerning the phase 1 environmental study. She noted that a phase 2

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environmental study is specifically excluded under the contract between the bank and the company contracted to do the clean up. This “means that if there is an abatement issue, the City will have to pay and will not be entitled to reimbursement.” Mr. Erkan advised that no phase 2 study was required by the bank.

Chief Building Official Kevin Gattis acknowledged having visited the property with the bank’s contractor. He further acknowledged the understanding that the offer by Bank of the West is genuine and that the details can be worked out. Mayor Teixeira thanked Mr. Gattis, Mr. Sullivan, Mr. Benton, and Supervisor Livermore for their assistance in addressing this matter. He advised of having participated in a telephone conference call with “their attorneys and with Bank of the West.” He further advised that his faith in corporate America had been restored. “They stepped up to the plate, they did the right thing and we don’t have to mitigate it. They’ll do it on their nickel. We don’t have to ... tax lien the property and we can mitigate this; ... that both the developers have been remiss in their responsibility to this community.” Mayor Teixeira expressed support for the extension of the tentative map, emphasizing that said support had “nothing to do with Lennar ... and Reynen and Bardis.” He passed the gavel and **moved to approve an extension of one year for filing of a final map from August 21, 2008 to August 21, 2009 for a subdivision known as Schulz Ranch, located between Center Drive and Bigelow Drive. Supervisor Livermore seconded the motion.**

Mayor *Pro Tem* Staub called for public comment; however, none was forthcoming. Mayor Teixeira provided background information on resolution of this matter through Bank of the West. “They did move as rapidly as I’ve ever seen an institution move to assist us and do the right thing for this community.” In response to a question, Mr. Benton expressed concern over a separate issue between conditioning the extension and whether the item was properly agendaized. Supervisor Livermore discussed the “corporate responsibility that is owed the citizens of Carson City, ... from the developers and engineering firms and investors that stood here before this community ...” He discussed the importance of fair and equitable dealing. He commended Mayor Teixeira’s work with the lender “to somewhat salvage one part of this partnership stepping up to fund something that’s appropriate of theirs to fund.” He expressed support for the motion because of Bank of the West’s willingness to “step up and understand their responsibility.” Mayor *Pro Tem* Staub expressed begrudging support for the extension, based on the fact that the “developers did ... nothing to bring this matter forward. It was strictly the impetus of the Mayor and Supervisor Livermore and other individuals in contacting the bank and getting the bank to come forward with the funds in order to abate this and save Carson City taxpayers a huge, huge expenditure that we probably wouldn’t recover in the future.” He expressed a preference to “leave it pasture land at this point, but we need to get the old race track taken care of.” He expressed support “because the abatement will occur, as represented today.” Mayor *Pro Tem* Staub called for additional comments and, when none were forthcoming, a vote on the pending motion. **Motion carried 5-0.** Mayor Teixeira recessed the meeting at 9:37 a.m. and reconvened at 9:46 a.m.

## 11. PUBLIC WORKS

**11(A) UPDATE ON THE WATER SUPPLY AND RELATED ISSUES (9:46:24)** - Public Works Department Director Andrew Burnham provided an overview of the presentation, and reviewed the agenda report. He noted the consistent 90-degree temperatures through the summer and the lack of rainfall. He advised that the west side streams have dropped off about 66 percent from the beginning of summer to the present. He clarified that water flow is usually lost over the summer but not to the present extent. The wells have dropped as well, as they do every summer. As the water table decreases, the efficiency of wells decreases and supply is lost. Mr. Burnham estimated an approximately 16 percent loss of production

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capability over the summer. He advised of a 20 million gallon per day demand, and that generally 20 million gallons per day has been produced. Some of the equipment has needed repair, and well 41 was off-line for about three days. Mr. Burnham advised that “just about every one of our booster stations serving Timberline and Lakeview” was lost at one time or another over the summer. Parts were available due to previous planning and the booster stations were repaired in one day. Mr. Burnham noted that the Marlette Lake water, which in past summers has supplied approximately 10 percent of the total supply, was not available this summer. He advised that cooler weather during this week significantly decreased demand, and that demand generally decreases after Labor Day. He anticipates making it through the summer.

Mr. Burnham anticipates that Marlette Lake will be available next July and August with more capacity from a “brand new system.” In addition, he anticipates water from the Vidler well will be available until such time as Lyon County it. In response to a question, he advised the City will purchase the water at \$50 per acre foot “which is a steal.” He further advised of a test well at the south end of town, with “pretty good success.” He anticipates 1200 to 1500 gallons per minute from this well which he hopes to have operational by next summer. In response to a question, he advised that Carson City owns “plenty of water rights. It’s how do we get that water into our system.” With regard to the Vidler well, he acknowledged additional supply will have to be provided for the long term. “In the interim, it’s a good bridge ...”

Mr. Burnham advised that the “arsenic rules kick in” next year. An item will be agendized in September to award bids for the arsenic treatment plant at wells 4 and 49. In response to a question, Mr. Burnham anticipates the arsenic treatment plan will be operational by May 2009. In response to a further question, he advised, “We’re living with uranium wells now and regulations are in effect.” Deputy Public Works Director Ken Arnold employs an annual averaging method each quarter to ensure the wells can be used. Mr. Arnold explained the locational running annual average (“LRAA”) method applied to the wells. At Mr. Burnham’s request, he explained the method by which River water rights are now applied. In reference to the recent stage 1 voluntary water restriction, Mr. Arnold advised of having discovered an open valve which was subsequently closed. “Now Prison Hill tank is acting more like itself.” In response to a question, Mr. Burnham advised of fewer water patrol personnel this year. There haven’t been “nearly as many problems with water loss.” Mr. Burnham acknowledged the diligence of the citizens.

Mr. Burnham advised that the City is working with Vidler Water Company and Douglas County to produce water. He noted the City owns significant water rights in the Carson Valley and “we’re working with our partners to try to figure out how to produce that water in the future.” Consideration has been given to alternatives to the uranium treatment plant, which construction cost Mr. Burnham estimated at \$20 million. “It has an ongoing operating cost that’s quite high and creates a radioactive waste” that has to be transported to Wyoming for disposal. Mr. Burnham anticipated that using water from Carson Valley may be an opportunity to avoid construction of the uranium treatment plant. He discussed the need to move water from the east side of town to the west side and from north to south. This is necessary to blend water with the uranium-affected water.

Mr. Burnham advised that Public Works Department staff continues to work with Nevada Division of Environmental Protection (“NDEP”) staff in consideration of disposing effluent water into the River. One of the opportunities presented is the possibility of an augmentation credit and, in turn, the potential for additional water supply from the River. In response to a question, Mr. Burnham estimated 2,000 acre feet of water flows from the Brunswick Canyon Reservoir into the River. In response to a further question, he advised the City will apply for credit once the permit is issued for the springs, which he anticipates

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receiving at “any time.” He acknowledged the Brunswick Canyon Reservoir will continue to flow to the River. In response to a further question, he reviewed the permitting process. He acknowledged the water from the Brunswick Canyon Reservoir is “very good quality.” (10:02:35) In response to a question, he advised of an agreement to acquire “whatever water rights the Schulzes are able to get from the State Engineer. But we don’t believe they’re going to get very many rights.”

**11(B) ACTION TO APPROVE CONTRACT NO. 0809-100 WITH BLACK AND VEATCH CORPORATION, IN THE AMOUNT OF \$869,818.00, WITH FUNDING FROM THE USEPA IN THE AMOUNT OF \$478,400.00 AND \$391,418.00 FROM CARSON CITY WATER FUND, TO PROVIDE CARSON CITY WITH A CALIBRATED WATER MODEL AND AN INTEGRATED WATER SUPPLY PLAN** (10:01:50) - Mr. Burnham explained the NDEP water modeling requirement. (10:03:08) Mr. Burnham expressed the hope that \$150,000 will be awarded by the Carson Water Subconservancy District (“CWSD”) toward the contract. In response to a question, he reiterated the requirement for the water model and advised of a directive, by the State Water Engineer, to develop a water supply plan. He explained the State Water Engineer’s concern that the City has used up its reserve over a period of time.

Mayor Teixeira entertained a motion. **Supervisor Williamson moved to approve Contract No. 0809-100 with Black and Veatch Corporation in the amount of \$869,818.00, with funding from USEPA in the amount of \$478,400.00 and \$391,418.00 from Carson City Water Fund, to provide Carson City with a calibrated water model and an integrated water supply plan, with the correction that on page 4 of 20, under paragraph 5.1, the amount is corrected to indicated \$869,818.00.** At Mayor Teixeira’s request, **Supervisor Williamson amended her motion to indicate a maximum amount of \$391,418.00 from the Carson City Water Fund, with the hope of securing support from the Carson Water Subconservancy District. Supervisor Livermore seconded the motion. Motion carried 5-0.**

**11(C) PRESENTATION TO THE BOARD OF SUPERVISORS REGARDING THE ACTIVITIES OF THE PUBLIC WORKS DEPARTMENT** (10:06:23) - Mr. Burnham narrated a PowerPoint / SlideShow presentation, a copy of which was provided to the recording secretary. He responded to questions regarding recent amendments to state statute requiring the City to repair residential sidewalks. Mr. Werner provided additional clarification regarding the process for prioritizing sidewalk complaints / repairs. Mr. Burnham responded to questions of clarification, and brief discussion took place, regarding various aspects of the Public Works Department activities, as presented. Transportation Manager Patrick Pittenger responded to questions regarding the Jump Around Carson Transit System.

In response to a question, Mr. Burnham advised that capital projects are approved by the Board of Supervisors as part of the annual budget process. Supervisor Livermore requested to add the Community Center west side parking lot to the capital projects list. Mr. Burnham advised that the project is on the capital projects request list, but has never been funded. In response to a question, Mr. Werner reviewed the capital projects process which is prioritized for funding by the Board of Supervisors. Supervisor Livermore requested to have the west side parking lot designated as a higher priority. Mayor Teixeira thanked the Public Works Department staff for their presentation.

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**12. FINANCE - PRESENTATION OF YEAR-TO-DATE SALES TAX INFORMATION AND PROJECTION FOR THE GENERAL FUND FOR THE REMAINDER OF FISCAL YEAR 2008**

(10:31:00) - Mayor Teixeira introduced this item. Mr. Providenti acknowledged he would be presenting a report on “all of our tax revenue points” in September. He reviewed the agenda report and the attachments, and responded to questions of clarification. Mayor Teixeira entertained questions or comments of the Board members; however, none were forthcoming.

**13. CITY MANAGER**

**13(A) STATUS REPORT ON VACANT GENERAL FUND POSITIONS (10:37:17)** - Mayor Teixeira introduced this item, and Mr. Werner reviewed the agenda materials. In response to a question, he discussed plans to present a priority ranking of suspended positions at a future Board meeting. He acknowledged the agreement with the Sheriff that six entitled positions have been reduced to three. He further acknowledged the Sheriff has utilized the funding from the three eliminated positions to support existing positions. In response to a further question, he discussed the interview process for the new Human Resources Director. Mayor Teixeira thanked Mr. Werner for his report.

**13(B) ACTION TO APPROVE A RESOLUTION PROVIDING FOR THE TRANSFER OF CARSON CITY’S ADDITIONAL 2008 PRIVATE ACTIVITY BOND CAP, PROVIDED PURSUANT TO THE HOUSING AND ECONOMIC RECOVERY ACT OF 2008, TO THE NEVADA RURAL HOUSING AUTHORITY; AND OTHER MATTERS RELATED THERETO**

(10:35:17) - Mayor Teixeira introduced this item, and Mr. Werner reviewed the agenda report. Mayor Teixeira entertained public comment and, when none was forthcoming, a motion. **Supervisor Aldean moved to approve Resolution No. 2008-R-40, a resolution providing for the transfer of Carson City’s additional 2008 Private Activity Bond Cap, provided pursuant to the Housing and Economic Recovery Act of 2008, to the Nevada Rural Housing Authority, and other matters properly related thereto. Supervisor Williamson seconded the motion. Motion carried 5-0.**

**13(C) ACTION TO ENDORSE THE “CARSON CITY VITAL COMMUNITY ACT OF 2008,” A BILL INTRODUCED IN THE U.S. SENATE PROVIDING FOR THE TRANSFER AND SALE OF CERTAIN FEDERAL LANDS WITHIN CARSON CITY**

(10:40:40) - Mayor Teixeira recessed the meeting at 10:40 a.m., reconvened at 10:45 a.m., and introduced this item. Planning Division Director Lee Plemel introduced Open Space / Property Manager Juan Guzman, reviewed the agenda report, and provided an overview of the presentation.

Mr. Guzman introduced representatives of Senators Reid’s and Ensign’s offices, U.S. Forest Service and Bureau of Land Management representatives, and Open Space Advisory Committee Chairperson Steve Hartman and Member Bruce Scott. Mr. Plemel provided background information on development of the federal lands bill, and advised of its introduction in the Senate and, most recently, the House of Representatives. He discussed the benefits of the federal lands bill to Carson City, particularly the opportunity to manage public lands at the urban interface; protection of open space and parks and recreation properties within and surrounding the City; and economic development in appropriate areas. Consistent with the City’s comprehensive master plan, Mr. Plemel noted that the federal lands bill provides for compact growth, protecting the designated lands from expansion. This results in more efficient use of City resources “in the long run.”



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Mr. Guzman reviewed and discussed the federal lands bill map, which was displayed in the meeting room. At Supervisor Livermore's request, Mr. Guzman pointed out and described five acres associated with the Edmonds Sports Complex. In response to a question, Mr. Guzman advised that the acreage will be transferred to the Washoe Tribe. Supervisor Livermore expressed concern over the need for a secondary access to the Edmonds Sports Complex. Mr. Guzman expressed the belief there are other areas which would accommodate the secondary access. Supervisor Livermore advised of the need to see the other areas in order to support the transfer of acreage. Mr. Plemel advised of an access on the east side of the church from the Edmonds Sports Complex to Snyder Avenue. Supervisor Livermore advised that the Edmonds Sports Complex master plan provides for an access from Snyder Avenue. Mr. Guzman acknowledged an understanding of Supervisor Livermore's concern. He further acknowledged a request could be made of the Washoe Tribe to provide an access easement.

Supervisor Aldean referred to that portion of the federal lands bill which amends the Southern Nevada Public Lands Management Act ("SNPLMA") to provide funding to Carson City for the purchase of lands for parks and natural areas adjacent to the Carson River and within the flood plain. She noted the language is not specific as to whether the flood plains are required to be in Carson City, and inquired as to the potential benefit to all jurisdictions adjacent to the Carson River. Mr. Guzman speculated that since the bill was drafted specifically for Carson City, the benefit would only be to Carson City. Supervisor Aldean noted that the flood plain is considered continuous without much attention to jurisdictional boundaries. In response to a question, Mr. Guzman reiterated the intent to serve only Carson City. He requested the Board's approval of this item.

Mayor Teixeira opened this item to public comment. (11:01:14) Open Space Advisory Committee ("OSAC") Chairperson Steve Hartman expressed support for the federal lands bill. He advised of significant debate among the OSAC members regarding the bill during its development. Principle concerns included the west side watershed and acquisition of the Borda Meadow. Mr. Hartman advised of a "terrific relationship with the BLM for a number of years." He expressed the hope to "renew a great relationship with the [U.S.] Forest Service" with Carson District Ranger Genny Wilson's recent appointment. He advised of an ongoing concern relative to the SNPLMA language. He discussed the need to identify a funding source for the U.S. Forest Service to ensure the west side watershed continues to function for the community. He noted the benefit of managing the west side watershed as a "continuous property" with the resources to properly maintain it. He further noted that watershed management concerns were particularly heightened after the Waterfall Fire. He referred to a Resource Concepts, Inc. presentation to the Board of Supervisors regarding the west side watershed and potential issues. In reference to Title II, Sec. 204, Section 4(e)(5), page 18 of the bill included in the agenda materials, Mr. Hartman suggested adding a paragraph (C) for the watershed within the Eagle Valley. With additional language in the body of Section 4(e)(5), he expressed the belief this will provide for rehabilitation, restoration, "whatever language ... the delegation believes is appropriate for indicating ... the need to ... protect that watershed for this community." In response to a question, he advised of having discussed the suggested addition with the Congressional delegation representatives, and that he will also be submitting the suggestion in writing.

In reference to Title I, Sec. 101(f)(2), Management Plan, page 10 of the bill included in the agenda materials, Mr. Hartman suggested making the language stronger. He advised that U.S. Forest Service and City representatives have committed to developing a joint management plan. He suggested the possibility of committing Open Space Program funds on a match basis.

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Mr. Hartman acknowledged his proposal to amend the current language to allow SNPLMA funding to be used for watershed restoration and management. Supervisor Aldean pointed out that SNPLMA funds are not inexhaustible, and suggested the possibility of creating an endowment. Mr. Hartman advised of having discussed this possibility with the Congressional delegation representatives. The issue is “what to tap for the endowment.” Mr. Hartman acknowledged that an amendment would have to be very specific to provide for using the funding as a corpus for future revenue generated from interest earnings. He noted the difficulty of identifying “buckets of money that can sustain these kinds of activities for long periods of time.”

Mr. Hartman acknowledged the suggested language would specify intent with regard to watershed management. “We don’t want to tie [U.S. Forest Service] hands, but we want to hold hands ...” in the form of a cooperative agreement. Mr. Hartman further acknowledged the need to identify a funding mechanism. “In the interim, we have ... SNPLMA money” which could serve as the source for a period of time. Mr. Hartman noted the availability of Question #18 funds, as well. He further noted that Open Space Coordinator Ann Bollinger had acquired several grants. He anticipates accessing funds to work in cooperation with the U.S. Forest Service. Mr. Hartman acknowledged endorsement of the Carson City Vital Community Act of 2008. He expressed the opinion “these are not major issues ... and we can all cooperate and work together, as we’ve been doing, to solve them.”

Mayor Teixeira discussed his recent experience in Washington, D.C. promoting the federal lands bill. He expressed the opinion the Carson City lands bill is one of the better to ever come out of Nevada. He complimented City staff, federal representatives, the OSAC, and everyone involved in developing “a lands bill that will benefit the community far into the future.” He expressed appreciation for Mr. Hartman’s suggestion to amend the language now.

Supervisor Williamson echoed Mayor Teixeira’s comments and thanked him for his effective lobbying on behalf of the lands bill. She commented that the lands bill embodies “what we’ve heard from our Carson City residents that they have wanted in terms of limiting our parameters and allowing the City to have the urban interface ...” providing for access to federal lands. She noted that ownership of the Silver Saddle Ranch will be transferred to Carson City “with some caveats.” She discussed the benefits of Carson City’s ownership of the Silver Saddle Ranch, and noted the importance of partnering together with the BLM and the U.S. Forest Service. She thanked the offices of Senators Reid and Ensign “for their ongoing interest and their savvy in how to present” a successful legislative package. She noted the absence of protestors and special interest groups which have felt betrayed by other federal lands bills from neighboring counties. She further noted the open and inclusive nature of Carson City’s federal lands bill process. She expressed the hope that passage of the bill will be “as close to what we want ... as possible.” She suggested attaching any public comments to the City’s letter of recommendation. Mayor Teixeira thanked Supervisor Williamson for her kind words, but stated “all the hard work was done way before” his trip to D.C. He complimented Supervisor Williamson and all who had a role in developing a “make-sense project.” He reiterated the future benefits of the federal lands bill to this community and others.

Mayor Teixeira called for additional public comment. (11:14:44) Bureau of Land Management Associate Manager Brian Smith advised that the BLM views the act as “largely consistent with what we’ve been doing for the last several decades.” He listed, as examples, the transfer of public lands to the City for development of the Edmonds Sports Complex, the Eagle Valley Golf Course, JohnD Winters Centennial Park, the landfill; and to the Nevada Department of Transportation for development of the freeway. He

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noted the lands bill is consistent with BLM “long-range planning.” Mayor Teixeira noted the V&T Railway project as another example. Mr. Smith advised that the BLM had provided agency comments which are “working their way formally and informally back to the delegation.” He further advised of having provided comments to City staff, as well. In conjunction with the displayed federal lands bill map, he suggested revisions to property descriptions which could “speed the process along and minimize costs to the City.” He reiterated the federal lands bill is consistent with BLM’s decades-long practices.

Mayor Teixeira called for additional public comment. (11:17:05) Senator John Ensign’s Rural Director Kevin Kirkeby commended everyone involved in development of the City’s federal lands bill, particularly Mr. Guzman, Mr. Plemel, City Manager’s staff, the Board of Supervisors, federal agency partners, and the OSAC. He expressed support for the reasonable suggestions proposed at this meeting, and advised that they would be presented to the staff in the Washington office. Mr. Kirkeby acknowledged Senator Ensign’s staff is coordinating with Representative Dean Heller’s staff. Mr. Kirkeby further acknowledged the likelihood the bill will not be passed until next session.

Supervisor Livermore credited the ten-year history of the Open Space Program for the smooth, “clean process” associated with development of the federal lands bill. Senator Harry Reid’s Regional Representative Matthew Tuma acknowledged the accuracy of Supervisor Livermore’s statement, and noted the smooth process as a testament to the citizens and all federal and Tribal lands stakeholders.

Supervisor Aldean inquired as to the necessity of amending the map to include property to accommodate the envisioned eastern portal. In response to a question, Mr. Plemel advised of discussions which indicated other administrative processes to accommodate development of the eastern portal. He anticipates “ending up with some of the property ... under the Recreation and Public Purpose designation” as part of the suggested revisions to property descriptions discussed by Mr. Smith.

Mayor Teixeira entertained a motion. **Supervisor Williamson moved to endorse the Carson City Vital Community Act of 2008, as introduced in the U.S. Senate and U.S. House of Representatives, and direct staff to forward this endorsement to the Congressional delegation, along with the comments of staff and the Open Space Advisory Committee representative, as presented today. Supervisor Aldean seconded the motion. Motion carried 5-0.**

**14. PARKS AND RECREATION (11:22:56)** - Mayor Teixeira inquired as to the number of citizens present to testify on the Parks and Recreation Department items. He noted one citizen in addition to City staff, and requested said citizen to provide her testimony.

**14(A) ACTION TO FIND THE PROPOSED “CARSON CITY FAIRGROUNDS 2008 / 2009 FEES AND CHARGES” DOES NOT IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN ON A BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION, OR EXPANSION OF A BUSINESS; THAT A BUSINESS IMPACT STATEMENT HAS BEEN PREPARED, ACCEPTED, AND IS ON FILE WITH THE BOARD OF SUPERVISORS, AND THAT THE REQUIREMENTS OF THE ACT HAVE BEEN MET** - Deferred.

**14(B) ACTION TO APPROVE THE “CARSON CITY FAIRGROUNDS 2008 / 2009 FEES AND CHARGES”** - Deferred.

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**14(C) ACTION TO FIND THE PROPOSED “CARSON CITY COMMUNITY CENTER / BOB BOLDRICK THEATER 2009 USAGE FEES” DOES IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN ON A BUSINESS OR DIRECTLY RESTRICTS THE FORMATION, OPERATION, OR EXPANSION OF A BUSINESS; THAT A BUSINESS IMPACT STATEMENT HAS BEEN PREPARED, ACCEPTED, AND IS ON FILE WITH THE BOARD OF SUPERVISORS AND THAT THE REQUIREMENTS OF THE ACT HAVE BEEN MET (11:23:30)**

- Mayor Teixeira entertained public comment. Molly Walt, representing the Pinkerton Ballet Theater, reviewed annual presentations which utilize the Bob Boldrick Theater. She advised of having been previously unaware of the August 5<sup>th</sup> public meeting on the business impact statement. She further advised of having spoken with Parks and Recreation Department Director Roger Moellendorf, who agreed to schedule a meeting with Pinkerton Ballet Theater representatives to “go over the fees.” Ms. Walt discussed annual fund raising activities which are necessary “in order to even use this venue ...” She expressed the hope to discuss with Mr. Moellendorf the possibility of offsetting fees and costs by donations of time. In response to a question, Ms. Walt advised that the Pinkerton Ballet Theater has been annually producing the Nutcracker for twenty years.

Supervisor Livermore advised that the Cultural Commission will be reviewing theater operations. He provided an overview of discussion which took place at the August 19<sup>th</sup> Parks and Recreation Commission meeting with regard to theater fees. He discussed the disparity in collection of direct costs between the Fairgrounds or Mills Park and the theater, the importance of including replacement costs in consideration of establishing fees, and retaining replacement costs in a separate fund. Mayor Teixeira agreed with the need to consider the taxpayers who “paid ... to build” the facility, and who “pay for the employees and the operational costs of the facility.” He expressed concern over charging “those same taxpayers additional costs” to use the facility. He suggested that non-residents should be charged at least 100 percent cost recovery to use the facility. He noted that the Community Center was not built to hold church services, and suggested that such users should be required to pay the “going rate.” He expressed concern that continuing to increase fees for local presentations will “destroy these events.” He discussed the benefit of local presentations to the community, and expressed opposition to supporting any increase to “those entities within our community that provide such a vital service.” He suggested the Board should “rethink the position that we put Parks and Rec in.” He thanked Ms. Walt for her attendance and participation.

In light of the comments presented and that the fees wouldn’t be enacted until January 1<sup>st</sup>, Supervisor Williamson suggested deferring action on this item. Mr. Werner noted the recommendation of the Parks and Recreation Commission, and suggested remanding the issue for further discussion, to include the previously-approved resolution. In response to a question, Mr. Moellendorf advised that the resolution only covers direct costs. “In a sense, there’s really no money coming in to the general fund.” Mayor Teixeira reiterated that allocation of the revenue stream is at the discretion of the Board of Supervisors. Mr. Werner suggested keeping in mind that although there are non-residents sponsoring functions and presentations, “it is the residents of this community that then pay the fees to enter those things.” He reiterated the suggestion to remand the issue to the Parks and Recreation Commission.

Supervisor Livermore expressed the opinion the Cultural Commissioners have the expertise to address the theater fees. Mayor Teixeira suggested that the Parks and Recreation Commission was simply responding to the Board of Supervisors. Supervisor Staub suggested considering “benchmarks as to how ... discount percentages and increase percentages” were established. He recalled that the fees were established in consideration of cost recovery only, and expressed concern over the basis for establishing discounts. In

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consideration of profit versus non-profit fees, he suggested establishing a base point and requiring participation by percentage in the profit from the function.

(11:39:10) Dave Morgan discussed the benefit of the Cultural Commission to advise the Board of Supervisors in terms of qualitative elements “so you know what you’re buying.”

Supervisor Aldean expressed understanding for the importance of arts productions in the community, but pointed out “they are supported through general fund revenues.” Not everyone attends the productions, “but they are subsidizing them.” She discussed the opportunity for considering sponsorships to help offset production costs.

Mr. Moellendorf advised “nobody in parks and recreation departments across the country enjoys setting fees. ... fees are convoluted. They’re fraught with politics and emotions ...” In light of the discussion at this meeting, he suggested considering all parks and recreation fees in order to ensure consistency. He agreed with Supervisor Livermore that there are inconsistencies in the resolution which should be addressed. He requested direction from the Board for staff and for the Parks and Recreation Commission to examine the resolution. Mayor Teixeira requested Mr. Moellendorf to present options and potential fiscal impacts to the Board of Supervisors. Discussion followed. Mr. Werner noted that the Board established a resolution under which the Parks and Recreation Department had been operating. He advised that establishing new parameters to amend the existing resolution will take “major community involvement.” Mr. Moellendorf agreed with the suggestion to thoroughly examine the issue as part of a public process. Mayor Teixeira suggested continuing the four items.

(11:50:21) Joe Eiben advised of his background in theater, fine arts, and movie production. He suggested that Carson City can become a performing arts destination “if you keep the fees for your theater reasonable for productions ...” He agreed with taking the time “to do this right.”

In response to a question, Mr. Moellendorf advised that the theater capacity is 792. He further advised that Carson City’s proposed fees have been compared to similar venues in this community and adjacent counties. “By and large, ... we’re the cheapest venue.” Consensus of the Board of Supervisors was to continue items 14(A), (B), (C), and (D).

**14(D) ACTION TO APPROVE THE PROPOSED COMMUNITY CENTER / BOB BOLDRICK THEATER FEES FOR CALENDAR YEAR 2009 - Deferred.**

**15. BOARD OF SUPERVISORS:**

**INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS - None.**

**CORRESPONDENCE TO THE BOARD OF SUPERVISORS - None.**

**STATUS REPORTS AND COMMENTS FROM THE MEMBERS OF THE BOARD**

(11:53:17) - Supervisor Livermore advised of having read Bill Goni’s obituary earlier in the day. He commended Mr. Goni’s service to the community as a county commissioner, and his long-time residence in Carson City. He recognized the life and benefit of Bill Goni to the community, and noted “he will be dearly missed as an icon and an anchor.” Supervisor Aldean referred to a recent *Nevada Appeal* article

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regarding the Tahoe Summit held at Valhalla on the west shore, and discussed her experience at the event. She advised that \$54 million was awarded from the Southern Nevada Public Lands Management Act. Supervisor Williamson invited everyone to the Farmer's Market and Pop-Up Park scheduled for Saturday, August 23<sup>rd</sup>.

**STAFF COMMENTS AND STATUS REPORT - None.**

**16. ACTION TO ADJOURN (11:55:34)** - Supervisor Livermore moved to adjourn the meeting at 11:55 a.m. Supervisor Staub seconded the motion. Motion carried 5-0.

The Minutes of the August 21, 2008 Carson City Board of Supervisors meeting are so approved this \_\_\_\_\_ day of September, 2008.

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MARV TEIXEIRA, Mayor

ATTEST:

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ALAN GLOVER, Clerk - Recorder