

# CARSON CITY BOARD OF SUPERVISORS

## Minutes of the April 4, 2013 Meeting

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A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, April 4, 2013 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Mayor Robert Crowell  
Supervisor Karen Abowd, Ward 1  
Supervisor Brad Bonkowski, Ward 2  
Supervisor John McKenna, Ward 3  
Supervisor Jim Shirk, Ward 4

**STAFF:** Larry Werner, City Manager  
Alan Glover, Clerk - Recorder  
Randal Munn, Chief Deputy District Attorney  
Kathleen King, Deputy Clerk / Recording Secretary

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

#### **1 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE**

(8:29:34) - Mayor Crowell called the meeting to order at 8:29 a.m. Mr. Glover called the roll; a quorum was present. Seventh Day Adventist Church Pastor Al Tilstra provided the invocation. At Mayor Crowell's request, a Nevada Highway Patrolman led the pledge of allegiance.

#### **5. PUBLIC COMMENTS AND DISCUSSION (8:31:47)**

- Mayor Crowell entertained public comment. (8:32:05) Jerry Vaccaro requested the postponement of items 22(A) and (B) "for at least 120 days." He advised of "additional information to submit to the City on the past performance of the history of this situation being introduced here today ..." He expressed the opinion that granting the requested easement, "you're condemning the property value." He offered to provide the information to the City Manager and requested him to distribute it to the Board members. Mayor Crowell advised that the request would be considered upon introduction of items 22(A) and (B).

Mayor Crowell entertained additional public comment. (8:33:40) BLM Sierra Front Field Office Manager Leon Thomas provided background information and an after-action report on the recent Deer Run Road wild horse removal. He advised that the horses were ultimately adopted by a horse advocate group and are now on a 2,000-acre ranch in California. He discussed the importance of public outreach and education to prevent the habituation which results from feeding wild horses. He advised that his staff will be analyzing the impacts of fencing, and that the documentation process has been improved. Mayor Crowell thanked Mr. Thomas for his report, and assured him of the City's commitment to preserving the wild horse heritage without creating a safety issue. In response to a question, Mr. Thomas further described the Sierra Front Field Office documentation process. Mayor Crowell entertained additional public comment; however, none was forthcoming.

#### **6. POSSIBLE ACTION ON APPROVAL OF MINUTES - February 21, 2013 (8:45:00)**

- Mayor Crowell entertained a motion. **Supervisor Abowd moved approval of the minutes. Supervisor Bonkowski seconded the motion. Motion carried 5-0.**

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**7. POSSIBLE ACTION ON ADOPTION OF AGENDA (8:45:20)** - Mayor Crowell entertained a motion. **Supervisor McKenna moved to adopt the agenda, as submitted. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion and, when none was forthcoming, called for a vote on the pending motion. **Motion carried 5-0.**

**8. SPECIAL PRESENTATION OF A PROCLAMATION FOR NATIONAL SERVICE RECOGNITION DAY, APRIL 9, 2013 (8:45:45)** - Mayor Crowell introduced this item, and invited Nevada Corporation for National and Community Service State Director Craig Warner to join him at the podium. Mayor Crowell read into the record the Proclamation which was included in the agenda materials, and presented an original to Mr. Warner. (8:48:46) Mr. Warner thanked Mayor Crowell for the Proclamation, and provided background information with regard to the same. (8:49:49) Kathleen Mytoll, a Volunteer in Service to America (“VISTA”), discussed her assignment to the English as a Second Language Program of Northern Nevada. (8:50:35) Camille Jones, an Americorps volunteer, discussed her involvement with The Greenhouse Project. Supervisor Abowd welcomed Ms. Jones and expressed appreciation for the Americorps Program. Mr. Warner advised that the community volunteers “end up recruiting hundreds and hundreds and hundreds more community volunteers ... and these volunteers contribute thousands of hours to the City ... and to the State of Nevada ...” He thanked the Board for the Proclamation, and Mayor Crowell discussed the importance of community volunteers.

**9. CONSENT AGENDA (8:52:49)** - Mayor Crowell introduced this item, and advised of having been requested to separately hear items 9-3(C) and 9-5. He entertained requests to hear additional items separately. When no requests were forthcoming, he entertained a motion. **Supervisor McKenna moved to approve the consent agenda with one item from the Sheriff; one item from Finance; two items from Purchasing and Contracts, Resolution No. 2013-R-15; one item from Fire, Resolution No. 2013-R-16.** Supervisor Bonkowski seconded the motion. **Motion carried 5-0.**

**9-1. SHERIFF - POSSIBLE ACTION TO ACCEPT THE INTRASTATE INTERLOCAL CONTRACT, BETWEEN THE STATE OF NEVADA, DEPARTMENT OF PUBLIC SAFETY, NEVADA HIGHWAY PATROL, AND THE CITY OF CARSON CITY, CARSON CITY SHERIFF’S OFFICE**

**9-2. FINANCE DEPARTMENT - POSSIBLE ACTION TO ACCEPT THE REPORT ON THE CONDITION OF EACH FUND IN THE TREASURY AND THE STATEMENTS OF RECEIPTS AND EXPENDITURES, THROUGH MARCH 26, 2013, PURSUANT TO NRS 251.030 AND NRS 354.290**

**9-3. PURCHASING AND CONTRACTS**

**9-3(A) POSSIBLE ACTION TO ADOPT A RESOLUTION AUTHORIZING THE BOARD OF SUPERVISORS TO DETERMINE THAT THE ENGRAVING MACHINE HAS REACHED THE END OF ITS USEFUL LIFE AND WILL BE DONATED TO LYON COUNTY ANIMAL CONTROL, ANOTHER GOVERNMENTAL ENTITY, FOR EDUCATIONAL PURPOSES, AS SET FORTH IN NRS 372.3261 (FILE NO 1213-158)**

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**9-3(B) POSSIBLE ACTION TO APPROVE CONTRACT NO. 1213-156, A REQUEST TO HAVE THE BOARD OF SUPERVISORS DETERMINE THAT THE LISTED CITY PROPERTY IS NO LONGER REQUIRED FOR PUBLIC USE, AND TO DEEM ITS SALE BY PUBLIC AUCTION DESIRABLE AND IN THE BEST INTERESTS OF CARSON CITY**

**9-3(C) POSSIBLE ACTION TO AUTHORIZE THE PUBLIC WORKS DEPARTMENT TO UTILIZE BID / RFP 8036 FOR THE PURCHASE OF FLEET VEHICLES, THROUGH JONES-WEST FORD, WHICH BID / RFP WAS APPROVED BY THE STATE OF NEVADA AND WHICH IS EXEMPT FROM COMPETITIVE BIDDING, PURSUANT TO NRS 332.115, SUBSECTION 1(m) AND NRS 332.195, PROVIDING CARSON CITY'S APPROVED FUNDING AND PURCHASING PROCEDURES ARE FOLLOWED (CONTRACT NO. 1213-157, P.O. NO. 2013-087) (9:52:48)** - Mayor Crowell introduced this item, and Finance Department Director Nick Providenti reviewed the agenda materials. In response to a question, Public Works Operations Chief Curtis Horton advised of an additional expense to purchase beds for the vehicles, "but we had planned on that and budgeted for it." He responded to additional questions of clarification relative to the vehicles to be purchased. In response to a comment, Mr. Werner advised that the State of Nevada conducts a statewide bidding process, "and then we're able to join that so, for us to do it independently, would be ... fairly inefficient and probably a lot more expensive." He assured the Board that the vehicles are purchased through a competitive bid process. In response to a further comment, he advised that the competitive bids are available to review online. He responded to additional questions of clarification. In response to a question, Mr. Providenti advised that the funding will be allocated from the Sewer Maintenance Account.

Mayor Crowell entertained public comment; however, none was forthcoming. In response to a question, Mr. Horton advised that "whether it's sewer, water, or streets, they'll be used in a capacity that best serves our interests depending on the nature of what's going on ..." Mr. Werner clarified that all the Public Works Department vehicles are equipped to take plows. "... the Streets fund buys the plows but then we put them on trucks that are purchased either through water, sewer, that sort of thing. They're basically utility trucks."

Mayor Crowell entertained a motion. **Supervisor Bonkowski moved to authorize Public Works to utilize Bid / RFP 8036 for the purchase of fleet vehicles, through Jones-West Ford, which Bid / RFP was approved by the State of Nevada and which is exempt from competitive bidding, pursuant to NRS 332.115(1)(m) and NRS 332.195, providing Carson City's approved funding and purchasing procedures are followed. Supervisor McKenna seconded the motion. Motion carried 5-0.**

**9-4. FIRE DEPARTMENT - POSSIBLE ACTION TO ADOPT A RESOLUTION TO ENTER INTO A COOPERATIVE FIRE PROTECTION AGREEMENT, BETWEEN THE UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, CARSON CITY DISTRICT OFFICE, AND THE CARSON CITY FIRE DEPARTMENT FOR THE PROVISION OF MUTUAL AID FOR WILDLAND FIRES, AND TO APPROVE THE ANNUAL OPERATION PLAN AS A COMPONENT OF THE MASTER AGREEMENT**

**9-5. CITY MANAGER - POSSIBLE ACTION TO REAPPOINT CHRIS FREEMAN TO THE NEVADA TAHOE CONSERVATION DISTRICT FOR A TWO-YEAR TERM, ENDING DECEMBER 31, 2014 (9:59:20)** - Mayor Crowell introduced this item, noting that Supervisor Shirk had requested to hear it separate from the consent agenda. Mr. Werner reviewed the agenda materials, and

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provided background information. In response to Supervisor Shirk's request, Mr. Werner advised that staff would consider a more open process for nominees for "some of these outside committees." Mayor Crowell clarified that the Nevada Tahoe Conservation District is statutory, "under someone else's jurisdiction and we're asked to appoint a member ..."

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to reappoint Chris Freeman to the Nevada Tahoe Conservation District for a two-year term, ending December 31, 2014. Supervisor Bonkowski seconded the motion. Motion carried 5-0.**

**10. RECESS BOARD OF SUPERVISORS (8:54:45)** - Mayor Crowell recessed the Board of Supervisors at 8:54 a.m.

### LIQUOR AND ENTERTAINMENT BOARD

**11. CALL TO ORDER AND ROLL CALL (8:54:48)** - Chairperson Crowell called the Liquor and Entertainment Board to order at 8:54 a.m., noting the presence of a quorum, including Sheriff Ken Furlong.

**12. POSSIBLE ACTION ON APPROVAL OF MINUTES - February 7, 2013 (8:55:12)** - Chairperson Crowell entertained a motion. **Member Abowd moved to approve the minutes. Member Bonkowski seconded the motion. Motion carried 6-0.**

**13. PUBLIC WORKS DEPARTMENT, BUSINESS LICENSE DIVISION - POSSIBLE ACTION TO APPROVE REYNALDO ORTIZ AS THE LIQUOR MANAGER FOR BELLA FIORE WINES, LIQUOR LICENSE NO. 13-29538, LOCATED AT 224 SOUTH CARSON STREET, CARSON CITY (8:55:33)** - Chairperson Crowell introduced this item, and Senior Permit Technician Lena Reseck reviewed the agenda materials. Chairperson Crowell invited Mr. Ortiz and Attorney Chris MacKenzie to the podium. (8:56:25) At Chairperson Crowell's request, Mr. Ortiz discussed the background investigation which was included in the agenda materials. Mr. MacKenzie and Ms. Reseck provided additional clarification in consideration of the Code provisions, and discussion ensued. Mr. MacKenzie responded to questions of clarification relative to dismissal of the conviction. He pointed out the board's authority to grant conditional approval of the liquor license application.

(9:05:58) Mr. Ortiz advised that he would be required to close his business without approval of the liquor license application. He acknowledged that the purchase transaction of Bella Fiore Wines is complete, and that he could operate the business but without the ability to serve wine. Member Bonkowski suggested the possibility of Mr. Ortiz retaining ownership of his LLC and establishing "an additional LLC ... that holds the liquor license that would have an interest of another party." Mr. MacKenzie provided additional clarification of the Code provisions in response to a question. In response to a further question, he explained the process and effect of expungement of a record and extensive discussion ensued.

Mayor Crowell entertained public comment. (9:20:15) Nita Hathaway, an employee of Bella Fiore Wines, discussed the requirements for employees to participate in the alcohol server training course and Bella Fiore Wines' community contributions. In response to a question, Ms. Hathaway advised she is married to Mr. Ortiz.

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Member Abowd noted that the board had previously granted a liquor license “to an establishment where a ... shooting was committed. And that was ... last year.” She expressed the opinion that Mr. Ortiz “does not demonstrate that same sort of issue ...; that he’s learned from his mistakes.” She expressed the further opinion that a conditional liquor license should be issued. In response to a question, Mr. Munn advised that the current ordinance language “is problematic. It grants you the authority to grant or deny an application based on your ordinance. That ordinance goes on to say that the following individuals are unsuitable.” He further advised that the board has discretion to license an unsuitable person, but cautioned against establishing a precedent. “... you’ve got to set the bar high enough that you’re not going to have an equal protection argument for the next person that steps up with a DUI. ... The biggest issue for your discretion, under the case law, is that, without any standards at all, you have pretty much unlimited discretion. Once you set standards, those are the standards that you give people due process on and those are the limits of your discretion. In this regard, you would have to base a denial on one of your standards. To ignore one of your standards certainly ... is within your general authority, but it is a precedent ... and it would be someone you’re licensing who is defined by our Code as being unsuitable.”

In response to a comment, Mr. Munn advised that his understanding of the California statute “essentially is, without getting into legislative history, ... directed towards allowing people, after two years, to clean up their record for the purposes of employment not licensure. ... the statute expressly says that you can’t rely on this for essentially saying that your condition has been expunged for the purposes of licensure.” Mr. Ortiz acknowledged that Firkin and Fox has held the liquor license, on behalf of Bella Fiore Wines, since February.

Chairperson Crowell suggested a conditional liquor license, and entertained comments of the board members. Member Furlong referred to the Code provisions as a community standard, and stated, “Unfortunately, this applicant does not meet that standard.” In response to a question, Ms. Reseck advised that Ms. Hathaway could hold the liquor license as long as Mr. Ortiz has no managerial responsibilities in the business. Ms. Reseck described a similar situation in which an “unsuitable” owner removed himself from an LLC so that his spouse could hold the liquor license for the business. She responded to questions of clarification and discussion ensued.

Member McKenna thanked Mr. MacKenzie for presenting “a lot of things that we should consider. ... As to the discussion of who owns the LLC or who’s the manager or who’s the member ...,” he expressed the opinion “that’s all on the applicant and his legal counsel.” He suggested that the issue is “to either close a Carson City business that is well liked and successful and a substantial amount of money involved or, at least, to force it back on them to figure out a way of meeting our statute or to invalidate the statute. I choose not to invalidate the statute.” **Member McKenna moved to not approve Reynaldo Ortiz as the liquor manager for Bella Fiore Wines, liquor license no. 13-29538, located at 224 South Carson Street, Carson City.** At Mr. Munn’s request, Member McKenna noted, for the record, the basis for the denial as “a DUI conviction within five years.” **Member Bonkowski seconded the motion. Motion carried 5-1.** Mr. MacKenzie thanked the board for their time.

**14. PUBLIC COMMENT (9:36:10)** - Mayor Crowell entertained public comment. Mark Lopiccolo advised that he and his wife own the building which houses Bella Fiore Wines. He further advised the board that “you just closed a business in town. They have no other avenues, so we’re done. And so you have income tax revenue. The guy has shown ... good faith and done a good job, been a part of the community.” Mr. Lopiccolo expressed disappointment. Member McKenna expressed understanding for

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Mr. Lopiccio's comments, and advised of having been reluctant to deny the application. He explained, "I have to go back to who's driving this bus. And it wasn't us that closed this business. It was that man's activities. And I'm sorry that happened. I'm sorry you're out money. But ... where do you draw the line? And, as you saw up here, it was a tough decision." In response to a question, Member McKenna advised that "the expungement did not invalidate the prior conviction. It simply removed it from his record so that it didn't show up when somebody was going to hire him. Had Mr. MacKenzie, who is an able lawyer, brought forward something that said he was never convicted, I would have taken that into account and given the guy the [liquor] license."

Member Bonkowski stated, "If it felt that we had any authority to grant the license, I would have voted for it. I don't see anything that was presented today that gave us that authority." Chairperson Crowell suggested having Ms. Hathaway work with Business License Division staff to secure the liquor license in her name.

**15. ACTION TO ADJOURN LIQUOR AND ENTERTAINMENT BOARD (9:38:44)** - Chairperson Crowell adjourned the Liquor and Entertainment Board at 9:38 a.m.

**16. RECONVENE BOARD OF SUPERVISORS (9:52:24)** - Mayor Crowell reconvened the Board of Supervisors at 9:52 a.m.

**ORDINANCES, RESOLUTIONS, AND OTHER ITEMS**

**17. ANY ITEM(S) PULLED FROM THE CONSENT AGENDA WILL BE HEARD AT THIS TIME (9:52:31)** - Please see the minutes for items 9-3(C) and 9-5.

**18. PUBLIC WORKS DEPARTMENT, PLANNING DIVISION - POSSIBLE ACTION TO PROVIDE DIRECTION TO STAFF REGARDING THE DONATION OF PROPERTIES ON BROWN STREET FROM LYON COUNTY TO CARSON CITY, APNs 008-303-15, -21, -36, -37, -39 (10:01:46)** - Mayor Crowell introduced this item, and Planning Division Director Lee Plemel reviewed the agenda materials.

(10:06:27) Nevada Rural Housing Authority ("NRHA") Deputy Director Tom Stone expressed appreciation to the Liquor and Entertainment Board for their service. Mr. Stone provided additional background information on the subject item. (10:10:18) At Mr. Stone's request, Real Estate Development Consultant Jack White, of J.L. White & Associates, discussed plans to rezone the subject property to multi-family and advised of interest from surrounding property owners to participate in redevelopment of the area. He commended Mayor Crowell and NRHA Director Gary Longaker in their efforts to communicate the benefits and reality of redevelopment of the subject area. In response to a question, Mr. White advised that NRHA would address "payment in lieu of taxes, ... some negotiation of that toward affordability. So what keeps the property affordable becomes a negotiated state between ... your council and NRHA and its ownership."

Mr. Stone acknowledged other property owners interested in development of the area. In response to a question, he discussed the importance of partnership between the NRHA and the City. He acknowledged the City has no obligation to the NRHA. Mr. White discussed NRHA's willingness to work with the City, but assured the Board of no expectations.

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Supervisor Shirk thanked the Planning Division staff and Messrs. Stone and White for their efforts. He read into the record email correspondence, from a Lyon County employee, advising that the Lyon County Board of County Commissioners approved donation of the Brown Street property to Carson City. "... so the question now is, does Carson City want to accept it and, if Carson does not want to accept it, then Lyon County will probably move forward to either donate it to NRHA or sell it." Supervisor Shirk expressed the hope that the Board "would look at this as a great opportunity ... partnering ... with [NRHA]." He advised of having discussed the property with "other property owners in the area." He expressed the hope that the Board "would look at this as a real positive step forward for Carson City," and requested the Board's support. In consideration of the agenda item, Mayor Crowell advised that the matter would have to be reagendaized for a future Board meeting.

In response to a question, Mr. Werner advised of no "down side" to accepting donation of the property. "Ultimately, we'll need to figure out what we want to do with it, but ... to accept it in lieu of Lyon County having to deal with it ... then this Board can ... determine exactly what they want to do with it. ... You could sell it and the proceeds could be used ... You could donate it to the NRHA." Mr. Werner suggested accepting donation of the property so that the Board has control over it. Mr. Munn suggested a preliminary title report, as a practical matter.

In response to a question, Mr. Munn advised directing staff to conduct due diligence and return to the Board with an action item to accept the property or reject it. (10:25:10) Mr. White advised of having obtained a preliminary title report which he offered to make available. In response to a question, he advised that a phase 1 environmental impact study has been conducted. He suggested the City should conduct its own phase 1 environmental impact study.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. Supervisor Shirk moved "that Carson City accept the five separate Brown Street land parcels from Lyon County, collectively known as the Brown Street land site, clear and take title to all five parcels concurrently as soon as is practical; and then, upon accepting title to all five parcels, that the City staff then move forward, as quickly as possible, to rezone those parcels that are presently not zoned multi-family to multi-family status, combined with the existing five parcels into a single parcel; upon completion of that effort, bring this matter back the Board of Supervisors again for general discussion regarding the proposed ... development of the Brown Street land sites." Motion died for lack of a second.

Supervisor McKenna discussed a preference to reinstate the property to the Assessor's tax roll "as cheaply as possible ..." He expressed a reluctance to "get into the housing business ... [or] deciding a use for this property." Mayor Crowell entertained a motion. **Supervisor Bonkowski moved to direct staff to provide the Board with due diligence materials regarding this property and to put it on a future agenda for possible acceptance of the property.** In response to a question, Supervisor Bonkowski clarified due diligence materials to include the preliminary title report, a phase 1 environmental impact study "to make sure we're going to be provided clear title and there's no environmental concerns with the property." Mayor Crowell called for a second on the pending motion. **Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion and, when none was forthcoming, called for a vote on the pending motion. **Motion carried 5-0.** Mayor Crowell thanked Mr. Stone, Mr. White, and Mr. Plemel.

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**19. FINANCE DEPARTMENT - POSSIBLE ACTION TO ADOPT BILL NO. 105, ON SECOND READING, AN ORDINANCE AUTHORIZING AN INSTALLMENT PURCHASE AGREEMENT, DEED OF TRUST, AND SECURITY AGREEMENT FOR THE PURPOSE OF ACQUIRING, IMPROVING, AND EQUIPPING A BUILDING PROJECT; AUTHORIZING THE EXECUTION OF THE AGREEMENT, AND OTHER DOCUMENTS RELATED TO THE AGREEMENT; GRANTING A SECURITY INTEREST IN SUCH BUILDING PROJECT; AND PROVIDING THE EFFECTIVE DATE HEREOF (10:32:09) - Mayor Crowell introduced this item, and Finance Department Director Nick Providenti reviewed the agenda materials.**

Supervisor Bonkowski advised of having analyzed the property value on multiple occasions. He noted the “conundrum between current market value and appraised value because current market value is today’s value and appraised value looks backwards. Based on the current income value of this property and replacement value,” he advised that he would have “valued the building at somewhere between \$1.1 and \$1.25 million.” He expressed satisfaction “with the value of the property,” even though the appraisal came in less. In response to a series of questions, Mr. Munn explained the statutory provision to obtain an appraisal. “It doesn’t say you have to buy it at appraisal and there’s many circumstances where the City pays more than appraised value ... because it is in the best interests of the community or the people or the City in general. ... Without that expressed exclusion, then you fall back to ... the public purpose doctrine which is just a common law doctrine that there isn’t a factual pattern where you’re taking public assets and benefitting a private entity without legitimate needs being met for the government entity and the public purpose for which you exist.” Mr. Munn expressed the opinion that “the numbers we’re talking about are not large ... in the legal sense where there would be a significant, legal argument that we’re violating the public purpose doctrine by paying more than appraisal.” He expressed the further opinion that the Board would be “within your authority to pay the amount of money that’s been proposed.”

In response to a question, Mr. Werner discussed consideration given to the Northgate Complex remodel and relocation of new building construction at the Public Works Department. He provided background information on the subject property becoming available and the decision to consolidate City services into a more central location; on consolidating the non-profit organizations which now occupy the Northgate Complex. He responded to additional questions regarding available space between City Hall and the BRIC. Mr. Providenti discussed the historically low interest rate and expressed concern that the same may not be available in two to three years.

(10:44:57) Bruce Robertson advised of having met with the seller’s representative “and threatened that he would have a vacant building if he was not willing to negotiate and he’s perfectly happy to go ahead and have a vacant building. They offered up a proposal that if you’ll renew the option, pay rent for another three years, which would be over \$300,000, that he would then negotiate the price down which really makes no sense.”

In response to a question, Mr. Werner estimated the cost of tenant improvements at \$80,000. In response to a further question, Mr. Robertson did not recall a tenant improvement allowance. He explained that the purchase price was determined “as a least investment, zero vacancy based upon the rent that the City’s paying today with a ten percent capitalization rate. He does have some expenses so it’s not a true triple net lease. He takes care of the taxes, ... the HVAC and a couple other things so we deducted out those expenses and, based upon where the rent is, less those expenses, at a ten percent return or capitalization rate, that’s where this price was determined.” In response to a further question, Mr. Werner advised that if tenant

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improvements had been negotiated, “we would have paid a higher rate.” Mr. Robertson pointed out that the tenant improvements were done by City workers so “that cost is a lot less than if it was performed by a commercial contractor.”

Supervisor Bonkowski advised that, for a tenant to pay for tenant improvements is “normal ... in exchange for lower rent.” He pointed out that “appraisals are not the law of God. If that was the case, if we ordered ten appraisals, we’d get ten appraisals back with the exact same value. If we ordered ten appraisals on this property, we’re going to get ten different values. So they’re subjective and they’re merely an opinion. If we move to another location, and there’s one available at 504 East Musser that ... has enough room, it’s a nice building, typically what you can expect to pay, as a tenant, is somewhere between \$10 and \$35 a square foot for tenant improvements. So that’s somewhere between \$100,000 and \$350,000 for us to move. We have a contract. If we were concerned about the value of the purchase three years ago, then we should have put a clause into the agreement that allowed for the contract price or appraised price, whichever is lower. We didn’t do that. I’m comfortable with the price. I don’t think that we’re being held hostage. ... the only issue in front of us today is that we have an appraisal that doesn’t reflect the true market value of the property.” He expressed a preference that the appraisal would have been higher, and the opinion that “there’s a benefit to the City to stay in that location. We reduce our monthly cash flow. The value of the property is there. It’s convenient. It’s going to cost us more to move.”

In consideration of the Public Works Department option, Mr. Werner discussed the need to identify additional space for the economic development / redevelopment function currently located in the BRIC. In response to a question, Mr. Providenti advised that the City has no bonding capacity. The installment purchase agreement is the only statutory option to issue debt. Discussion ensued.

Mayor Crowell entertained public comment. (10:54:06) Jerry Vaccaro advised of not having seen the appraisal, but having visited the Proctor Street location approximately two weeks ago. He expressed the opinion that the stairway is likely not legal, and suggested postponing the purchase until such time as the building meets all building and safety codes. Chief Building Official Kevin Gattis explained that the Proctor Street staircase is “referred to as ‘existing, nonconforming.’ When the City went into that building, it was a ‘B’ occupancy. We did not change the use of that building so there was no trigger that the Code would require us to bring that up to current Code. So that’s why that staircase is the way it is.” He acknowledged exceptions in the Americans with Disabilities Act for historic buildings.

Mr. Providenti advised of having revised Article 5.3 of the Installment Purchase Agreement, pursuant to Supervisor Bonkowski’s recommendation “that we change the modification language from \$50,000 to \$200,000.”

Mayor Crowell entertained additional public comment and, when none was forthcoming, a motion. **Supervisor Bonkowski moved to adopt Bill No. 105, on second reading, Ordinance No. 2013-10, an ordinance authorizing an Installment Purchase Agreement, Deed of Trust, and Security Agreement, for the purpose of acquiring, improving, and equipping a building project; authorizing the execution of the agreement and other documents related to the agreement; granting a security interest in such building project; and providing the effective date hereof. Supervisor McKenna seconded the motion, and suggested an amendment to find that this is in the best interests of the people of Carson City. Supervisor Bonkowski accepted the amendment. Motion carried 4-1.**

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**20. PUBLIC WORKS DEPARTMENT, BUILDING DIVISION - POSSIBLE ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE, TITLE 15, BUILDINGS AND CONSTRUCTION, CHAPTER 15.05, BUILDING CODE, SECTION 15.05.020, ADOPTION AND ADMINISTRATION OF BUILDING CODES, BY ADOPTING THE 2012 EDITIONS OF THE INTERNATIONAL BUILDING CODE, INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL MECHANICAL CODE, UNIFORM MECHANICAL CODE, UNIFORM PLUMBING CODE, INTERNATIONAL FUEL GAS CODE, INTERNATIONAL PROPERTY MAINTENANCE CODE, INTERNATIONAL EXISTING BUILDING CODE, AND INTERNATIONAL SWIMMING POOL AND SPA CODE, THE 2011 EDITION OF THE NATIONAL ELECTRIC CODE, THE 2012 NORTHERN NEVADA AMENDMENTS, THE 2011 NORTHERN NEVADA ENERGY CODE AMENDMENTS; AND OTHER MATTERS PROPERLY RELATED THERETO (11:00:04)** - Mayor Crowell introduced this item, and Chief Building Official Kevin Gattis reviewed the agenda materials. At Supervisor Abowd's request, Mr. Gattis discussed the eleven-month process which included regional building industry stakeholders. He reviewed clerical corrections to be made, and responded to questions of clarification.

(11:05:58) At Supervisor Bonkowski's request, Builders Association of Western Nevada Executive Officer Director Sheena Shrum expressed support for the proposed amendments.

Mayor Crowell entertained additional public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to introduce, on first reading, Bill No. 106, an ordinance amending the Carson City Municipal Code, Title 15, Buildings and Construction, Chapter 15.05, Building Code, Section 15.05.020, Adoption and Administration of Building Codes, by adopting the 2012 Editions of the International Building Code, International Residential Code, International Mechanical Code, Uniform Mechanical Code, Uniform Plumbing Code, International Fuel Gas Code, International Property Maintenance Code, International Existing Building Code, and International Swimming Pool and Spa Code; the 2011 Edition of the National Electric Code; the 2012 Northern Nevada Amendments; the 2011 Northern Nevada Energy Code Amendments; and other matters properly related thereto, effective September 1, 2013. Supervisor Bonkowski seconded the motion. Motion carried 5-0.** Mayor Crowell thanked Mr. Gattis and Ms. Shrum.

**21. PARKS AND RECREATION DEPARTMENT**

**21(A) POSSIBLE ACTION TO ACCEPT THE CULTURAL COMMISSION'S 2012 / 13 ANNUAL REPORT AND APPROVE THE COMMISSION'S 2013 / 14 WORK PLAN (11:08:30)** - Mayor Crowell introduced this item. Park Planner Vern Krahn introduced Cultural Commission Chair Gene Paslov, and provided background information on this item.

(11:09:49) Dr. Paslov introduced himself for the record, and thanked Supervisor Abowd for her encouragement and support. He commended Parks and Recreation Department Director Roger Moellendorf and Mr. Krahn for their staff support. Dr. Paslov reviewed the annual report and work plan which was included in the agenda materials.

Mayor Crowell thanked Dr. Paslov and requested him to convey the Board's gratitude to the Cultural Commissioners. Dr. Paslov acknowledged the intention to work with the Brewery Arts Center ("BAC")

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as part of the strategic plan. He described the BAC as “a core institution for the strategic planning process.” Supervisor Abowd thanked Dr. Paslov for his service and Mr. Moellendorf for appointing Vern Krahn as the commission’s staff representative. She commended Mr. Krahn on a job well done.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Bonkowski moved to accept the Cultural Commission’s 2012 / 2013 Annual Report and approve the Commission’s 2013 / 2014 work plan. Supervisor Abowd seconded the motion. Motion carried 5-0.**

**21(B) POSSIBLE ACTION TO APPROVE THE SUBMITTAL OF A RECREATION TRAILS GRANT APPLICATION TO THE NEVADA DIVISION OF STATE PARKS FOR PATH MAINTENANCE AND SAFETY UPGRADES ON THE HIGHWAY 50 EAST MULTI-USE PATH, BETWEEN LOMPA LANE AND EAST COLLEGE PARKWAY / FAIRVIEW DRIVE, AND TO AUTHORIZE MAYOR ROBERT L. CROWELL TO SIGN A LETTER OF SUPPORT ON BEHALF OF CARSON CITY (11:19:36)** - Mayor Crowell introduced this item, and Park Planner Vern Krahn reviewed the agenda materials. Senior Transportation Planner Dan Doenges introduced himself for the record, explained the match requirements associated with the grant funding, and reviewed the project costs. In response to a question, Mr. Krahn advised that the Public Works Department will be responsible for tracking the grant funding. In response to a further question, he advised that quarterly reports will be required over a period of 18 months and estimated minimal staff time. Mr. Krahn and Mr. Doenges responded to questions of clarification regarding project details. Mr. Doenges acknowledged that affected businesses will be notified of the project.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to approve the submittal of a Recreation Trails Grant application to the Nevada Division of State Parks for path maintenance and safety upgrades on the Highway 50 East multi-use path, between Lompa Lane and East College Parkway and Fairview Drive and authorize Mayor Robert L. Crowell to sign a letter of support on behalf of Carson City. Supervisor Bonkowski seconded the motion. Motion carried 5-0.**

**22. PUBLIC WORKS DEPARTMENT**

**22(A) POSSIBLE ACTION, PURSUANT TO RESOLUTION NO. 2013-R-11, A RESOLUTION DECLARING INTENTION TO SELL EASEMENTS ON CITY PROPERTY, APN 008-523-09, LOCATED IMMEDIATELY ADJACENT TO 5951 HIGHWAY 50 EAST (CAPITOL CITY LOANS), DULY POSTED AND PUBLISHED, SEALED BIDS NOT LESS THAN THE FAIR MARKET VALUE OF \$30,000 THAT ARE TIMELY DELIVERED TO THE CARSON CITY CLERK - RECORDER, AT 8:30 A.M. ON APRIL 4, 2013, OR BEFORE THE BOARD’S CONSIDERATION OF THIS MATTER AT THE CARSON CITY COMMUNITY CENTER SIERRA ROOM, 851 EAST WILLIAM STREET, CARSON CITY NEVADA, ON THAT DAY, WITH AN IMMEDIATE ABILITY TO PAY AT THE TIME OF THE BID, WILL BE OPENED, EXAMINED, AND DECLARED TO THE PUBLIC BY THE BOARD OF SUPERVISORS; PRIOR TO ANY DECISION ON THE WRITTEN BIDS, THE MAYOR WILL CALL FOR ANY ORAL BIDS FROM RESPONSIBLE PERSONS, IN COMPLIANCE WITH NRS 244.282; AFTER WHICH THE BOARD MAY DELIBERATE AND ACCEPT THE HIGHEST WRITTEN BID, OR ACCEPT THE HIGHEST ORAL BID THAT EXCEEDS, BY AT LEAST FIVE PERCENT, THE HIGHEST WRITTEN BID, OR REJECT ALL BIDS AND INSTRUCT NEW BIDS TO BE SOLICITED, OR REJECT ALL BIDS AND WITHDRAW THE EASEMENTS FROM SALE, OR DEFER ITS**

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**DECISION TO A FUTURE PUBLIC MEETING WITHIN TEN CALENDAR DAYS (11:31:23)** - Mayor Crowell introduced this item, noting the previous request to postpone the item for a 120-day period. He entertained a motion; however, none was forthcoming. City Engineer Jeff Sharp provided background information on this item and reviewed the agenda materials. He advised that Mr. Glover was in possession of the sealed bids. He acknowledged that anyone could have bid on the property and that the City did not conduct due diligence for any of the bidders. In response to a question, Mr. Sharp clarified the definition of “an immediate ability to pay at the time of the bid,” that “within two hours of the opening of the bids, they need to have a cashier’s check to the Treasurer’s Office.” Mr. Glover advised of having received one bid at 8:20 a.m., and he delivered it to Mayor Crowell.

In response to a question, Mr. Sharp advised that an appraisal established the value at \$30,000. He advised of the statutory provision for oral bids to be accepted once the sealed bids are opened. He explained the criteria associated with accepting an oral bid. Mr. Glover and Mr. Munn responded to additional questions of clarification relative to the sealed bid requirements. Mayor Crowell opened the sealed bid, dated April 4, 2013, and read into the record “Capitol City Loans, William Burnaugh.” He noted an enclosed cashier’s check in the amount of \$30,000. Mr. Glover acknowledged this as the only written bid.

Mayor Crowell entertained oral bids and, when none were forthcoming, entertained public comment. (11:36:12) Jerry Vaccaro advised of having requested the Board to postpone this item “for a very good reason.” He expressed the opinion that the Board is “helping perpetrate a fraud,” and advised that he has “records ...” He advised of having requested the postponement so “that you people could be better informed on how this process has taken 20 years of illegal use and with inside help from City Hall for Mr. Burnaugh to be able to prevail on getting an easement which is ... depreciating the property’s value.” He noted that the property was originally leased to the City by the BLM for recreation and public purpose. He advised that Mr. Burnaugh is an “ex-Carson City supervisor; [that] he was well informed 20 years ago that he was using the property illegal [sic]. He has paid you no rent. He has paid no property taxes on that property and now you’re gifting him with an easement to go ahead and continue to use the property and that, if you ever surplus that property and make it for public sale, ... it’s called adverse condemnation where you’re selling a piece of property where you granted an easement to somebody that’s used it illegal [sic] for 20 years and is an ex-Carson City politician.” Mr. Vaccaro reiterated the request to postpone action, and requested the opportunity to present “full documentation to show you how this fraud has been committed.”

Mr. Munn advised that the “last time Mr. Vaccaro showed upon this particular item, which was about eight months ago, ... he made the same representation and said that he would provide his information to the D.A.’s office. He never did that.” Mr. Munn noted the “information in the public record. This matter has gone on for many, many years and, if we were trying to perpetrate a fraud, we certainly wouldn’t do it in public.”

Mayor Crowell entertained additional public comment and, when none was forthcoming, a motion. **With respect to the sale of easements on City property, fully set forth in Resolution No. 2013-R-11, located on APN 008-523-09, Supervisor Abowd moved to accept the highest written bid of William Burnaugh in the amount of \$30,000. Supervisor Bonkowski seconded the motion.** In response to a question, Mr. Munn advised that the cashier’s check is sufficient representation of a bid. Mayor Crowell called for a vote on the pending motion. **Motion carried 5-0.**

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(11:40:02) Mayor Crowell entertained comment from William Burnaugh, who provided background information on this matter. He advised of having paid property taxes on the easement for many, many years. He discussed his community involvement, and thanked the Board. Mayor Crowell turned the cashier's check over to Mr. Glover.

**22(B) POSSIBLE ACTION TO ADOPT A RESOLUTION ACCEPTING THE HIGHEST BID FOR PURCHASE OF EASEMENTS ON CITY PROPERTY FULLY SET FORTH IN RESOLUTION NO. 2013-R-11, LOCATED ON APN 008-523-09, AND IN COMPLIANCE WITH NRS 244.282, AND AUTHORIZING THE MAYOR TO EXECUTE TO THE PURCHASER ALL SUCH EASEMENTS CREATED THEREBY** (11:41:49) - Mayor Crowell introduced this item, and Mr. Sharp reviewed the agenda materials. Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to adopt Resolution No. 2013-R-17, accepting the highest bid of William Burnaugh, in the amount of \$30,000, for the purchase of easements on City property, fully set forth in Resolution No. 2013-R-11, located on APN 008-523-09, in compliance with NRS 244.282, and authorizing the Mayor to execute to the purchaser all such easement created thereby. Supervisor McKenna seconded the motion.** Mayor Crowell entertained discussion.

(11:43:01) Jerry Vaccaro inquired as to the method by which to appeal the Board's decision. Mr. Munn advised that anyone challenging the Board to act upon their statutory authority would have to file a writ of mandamus in district court. He advised that Mr. Vaccaro had previously attempted a writ of mandamus, and that the district court had dismissed it "because, essentially, this is a discretionary matter on your part." Discussion followed.

Mayor Crowell called for a vote on the pending motion. **Motion carried 5-0.**

**23. CITY MANAGER - POSSIBLE ACTION TO APPOINT ONE MEMBER TO THE CARSON CITY REDEVELOPMENT AUTHORITY CITIZENS COMMITTEE AS A "BUSINESS OPERATOR" OR "PROPERTY OWNER" FROM THE REDEVELOPMENT AREA 1 TO FILL A THREE-YEAR TERM THAT EXPIRES IN JANUARY 2016** (11:46:16) - Mayor Crowell introduced this item, and Mr. Werner introduced Lacy Sheck. Mayor Crowell entertained a motion. **Supervisor Bonkowski moved to appoint Lacy Sheck to the Carson City Redevelopment Authority Citizens Committee as a business operator or property owner from Redevelopment Area No. 1 to fill a three-year term that expires January 2016. Supervisor Abowd seconded the motion. Motion carried 5-0.** Mayor Crowell thanked Ms. Sheck for her service to the community.

**24. BOARD OF SUPERVISORS**

**24(A) DISCUSSION AND POSSIBLE ACTION TO CONVEY TO THE 2013 LEGISLATURE THE BOARD'S POSITION ON AB 401 (BDR 24-58), A BILL TO REVISE PROVISIONS GOVERNING THE DESIGNATION OF CERTAIN CITY NONPARTISAN OFFICES** (11:50:15) - Mayor Crowell introduced and provided background information on this item. Mr. Glover provided additional background information, and advised of having submitted a letter on behalf of the District Attorney, the Sheriff, the Assessor, the Treasurer, and the Clerk - Recorder in opposition to the bill. Discussion ensued, and Mayor Crowell entertained a motion. **Supervisor Abowd moved to convey to the 2013 Legislature the Board's position to oppose AB 401, BDR 24-58, a bill to revise provisions governing the designation of certain City non-partisan offices. Supervisor Bonkowski seconded the motion. Motion carried 5-0.**

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**24(B) NON-ACTION ITEMS:**

**LEGISLATIVE MATTERS** (11:56:19) - Mr. Werner discussed two bills, AB 417 and SB 353, and discussion took place with regard to the same.

**STATUS REVIEW OF PROJECTS**

**INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS**

**CORRESPONDENCE TO THE BOARD OF SUPERVISORS**

**STATUS REPORTS AND COMMENTS FROM BOARD MEMBERS** (12:05:24) - Supervisor Abowd advised of a special Convention and Visitors Bureau meeting following adjournment of this meeting to select a new executive director. Mayor Crowell announced a ceremony to open an exhibit at the legislature, scheduled for April 19<sup>th</sup> at 1:00 p.m.

**STAFF COMMENTS AND STATUS REPORT**

**25. PUBLIC COMMENT** (12:06:27) - Mayor Crowell entertained public comment; however, none was forthcoming.

**26. ACTION TO ADJOURN** (12:06:36) - Mayor Crowell adjourned the meeting at 12:06 p.m.

The Minutes of the April 4, 2013 Carson City Board of Supervisors meeting are so approved this \_\_\_\_\_ day of June, 2013.

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ROBERT L. CROWELL, Mayor

ATTEST:

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ALAN GLOVER, Clerk - Recorder