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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, June 1, 2006, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 8:30 a.m.

PRESENT:	Marv Teixeira	Mayor
	Robin Williamson	Supervisor, Ward 1
	Shelly Aldean	Supervisor, Ward 2
	Pete Livermore	Supervisor, Ward 3
	Richard S. Staub	Supervisor, Ward 4
STAFF PRESENT:	Linda Ritter	City Manager
	Alan Glover	Clerk-Recorder
	Ken Furlong	Sheriff
	Al Kramer	Treasurer
	Andrew Burnham	Public Works Director
	Roger Moellendorf	Parks and Recreation Director
	Daren Winkelman	Health Director
	Larry Werner	City Engineer
	Cheryl Adams	Purchasing and Contracts Manager
	Michael Suglia	Senior Deputy District Attorney
	Katherine McLaughlin	Recording Secretary
	(BOS 6/1/06 Recording 8:29:03)	

NOTE: Unless otherwise indicated, each item was introduced by staff's reading/outlining/clarifying the Agenda Report and/or supporting documentation. Staff members making the presentation are listed following Department's heading. Any other individuals who spoke are listed immediately following the item heading. A recording of these proceedings is on file in the Clerk-Recorder's office. It is available for review and inspection during normal business hours.

**CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, INVOCATION** - Roll call was taken. The entire Board was present, constituting a quorum. Supervisor Williamson led the Pledge of Allegiance. Rev. Ken Haskins of the First Christian Church gave the Invocation.

**CITIZEN COMMENTS ON NON-AGENIZED ITEMS (8:31:09)** - Rev. Ken Haskins invited the public to attend the *Tribute to Buddy Holly, Ritchie Valens, and the Big Bopper* on Friday evening, June 23, at the Community Center Theater at 7:30 p.m. Mayor Teixeira and Governor Guinn had allegedly declared June 23 the Richie Valens' Day for the City and State. Media coverage was explained. The public was urged to attend. Rev. Haskins briefly highlighted the tribute and his personal review of it. Seating commences at 7 p.m. Locations where tickets can be obtained were explained. Additional comments were solicited but none were given.

**1. ACTION ON APPROVAL OF MINUTES (8:33:00)** - None.

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**2. CHANGES TO THE AGENDA (8:33:15)** - Supervisor Staub asked that items under heading number 14 be heard before those under heading number 13.

**3. SPECIAL PRESENTATION - PRESENTATION OF A PROCLAMATION TO THE WNCC WILDCATS BASEBALL TEAM (8:33:54)** - Mayor Teixeira introduced the item. Supervisor Williamson read the resolution commemorating the Wildcats' winning season into the record. Head Coach D. J. Whitmore read the names of the players and coaches. (A copy is in the file.) The proclamation was given to Coach Whitmore. Copies were to be provided to the team later. Coach Whitmore thanked the Board for the recognition and explained that it had been a team effort. The team's grade point averaged 3.3 for the Fall Semester and 3.9 for the Spring Semester. Mayor Teixeira complimented the coaching team on its selection of players. This is the team's first year. They had recruited the best players possible and won the Scenic West Conference. Coach Whitmore credited his Assistant Coaches for making it a successful year with lots of practice. He also explained that they had recruited two Carson City High School students and do consider walk-ons. They have scholarships for 24 players. The team needs 34 players as a minimum. Only one individual had been "red shirted" due to an injury. Discussion also indicated that the field is available for use by other teams/players under a joint use agreement. They are working to make the stadium "safe". They hope to hold a summer camp at the field and for community games to occur there. The stadium holds 300 people. The crowds ranged between 200 and 400. The community support was appreciated. Supervisor Livermore congratulated the team on its efforts and, specifically, Coach Whitmore for bringing sports to the local junior college. He looked forward to working with him on the community center. He also congratulated the staff on their community education efforts and outreach to make the college an active part of the community. Supervisor Aldean recognized Coach Whitmore's coaching expertise. She also acknowledged his family's legacy in the community and substantial donation to the college. No formal action was required or taken.

**4. CONSENT AGENDA (8:44:35)**

**4-1. PURCHASING AND CONTRACTS**

**A. ACTION TO APPROVE THE EXTENSION OF CONTRACT NO. 0304-015, JOINDER CONTRACT WITH TNT AUCTION, INC., THROUGH STATE PURCHASING TO PROVIDE AUCTIONING SERVICES THROUGH MAY 31, 2007**

**B. ACTION TO APPROVE THE RENEWAL OF CONTRACT NO. 0304-088, WITH R SUPPLY CO, A FERGUSON SUBSIDIARY, AND WESTERN NEVADA SUPPLY COMPANY TO PURCHASE WATER INVENTORY PARTS THROUGH JUNE 17, 2007, WITH THE SAME TERMS AND CONDITIONS AS ORIGINALLY AWARDED AND WITH THE PRICES SUBJECT TO THE CONTRACT'S ESCALATION AND DE-ESCALATION CLAUSES**

**C. ACTION TO APPROVE THE RENEWAL OF CONTRACT NO. 0304-086, MECHANICAL FUELS/VEGETATION TREATMENT TO DJ SIERRA NEVADA EMERGENCY SUPPORT, INC., THROUGH JUNE 30, 2007, WITH THE SAME TERMS AND CONDITIONS AS ORIGINALLY BID ON MARCH 25, 2004, AND WITH A FIVE PERCENT (5%) INCREASE IN PRICES**

**D. ACTION TO APPROVE THE RENEWAL OF CONTRACT NO. 0304-092, COLLECTION SERVICES WITH NATIONAL BUSINESS FACTORS, INC., TO PROVIDE COLLECTION SERVICES FROM JULY 1, 2006, THROUGH JUNE 30, 2007, AT THE SAME PRICES, TERMS, AND CONDITIONS AS ORIGINALLY AWARDED ON JUNE 17, 2004**

**E. ACTION TO APPROVE CONTRACT NO. 0607-003, A REQUEST FOR**

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**PROFESSIONAL SERVICES TO BE PROVIDED BY JOSEPH E. MCELLISTREM, PH.D., FOR THE CARSON CITY JAIL FROM JULY 1, 2006, THROUGH JUNE 30, 2009, FOR A NOT TO EXCEED COST OF \$65,000 PER FISCAL YEAR**

**F. ACTION TO APPROVE CONTRACT NO. 0607-007, A REQUEST FOR PROFESSIONAL SERVICES TO BE PROVIDED BY ACORDIA OF NEVADA, INC., TO BE THE BROKER OF RECORD FOR THE CITY'S PROPERTY, LIABILITY, WORKERS COMPENSATION, AND BONDS PROGRAMS FROM AUGUST 2, 2006, THROUGH JUNE 30, 2009**

**G. ACTION TO APPROVE CONTRACT NO. 0607-001, A REQUEST FOR PROFESSIONAL SERVICES TO BE PROVIDED BY FORENSIC PATHOLOGY SERVICES, A DIVISION OF SIERRA PATHOLOGY ASSOCIATES, INC., FOR THE SHERIFF'S DEPARTMENT THROUGH JUNE 30, 2007, FOR A NOT TO EXCEED COST OF \$52,000**

**H. ACTION TO APPROVE THE AWARD OF CONTRACT NO. 0607-009, BOB BOLDRICK THEATER THEATRICAL LIGHTING EQUIPMENT TO MUSSON THEATRICAL, INC., AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO N.R.S. CHAPTER 332 FOR A TOTAL COST OF \$99,191**

**4-2. PUBLIC WORKS - CONTRACTS - ACTION TO ACCEPT THE RECOMMENDATION OF PUBLIC WORKS TO ACCEPT THE WORK AS COMPLETED, TO ACCEPT THE CONTRACT SUMMARY AS PRESENTED, AND APPROVE THIS RELEASE OF FINAL PAYMENT IN THE AMOUNT OF \$44,672.41 ON THE QUILL RANCH WATER TREATMENT PLANT IMPROVEMENTS AND 2005 ASH CANYON TRANSFER PUMP UPGRADE, PROJECT, CONTRACT NO. 2004-129, TO RDC, DOING BUSINESS AS RESOURCE DEVELOPMENT COMPANY, 2300 GLENDALE AVENUE, SUITE 10, SPARKS, NEVADA 89431 - Supervisor Livermore moved to approve the Consent Agenda consisting of eight items from Purchasing and Contracts and one item from Public Works - Contracts as presented. Supervisor Staub seconded the motion. Motion carried 5-0.**

**5. ECONOMIC DEVELOPMENT / REDEVELOPMENT - Deputy Economic Development/Redevelopment Officer Angelo Barosso - ACTION TO ADOPT ON SECOND READING, BILL NO. 112, AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN FOR PROJECT AREA NO. 2 BY ADDING 171 PARCELS OF REAL PROPERTY LOCATED IN SOUTH CARSON CITY TO THE EXISTING REDEVELOPMENT PLAN AREA NO. 2 WHICH WOULD NOT AFFECT THE MASTER PLAN AS ADOPTED BY THE BOARD OF SUPERVISORS (8:45:25) - Supervisor Staub advised that he will abstain as he owns property in the proposed area. Supervisor Aldean advised that she will abstain for the same reason. Supervisor Williamson moved to adopt on second reading Bill No. 112, Ordinance No. 2006-12, AN ORDINANCE AMENDING THE REDEVELOPMENT PLAN FOR PROJECT AREA NO. 2 BY ADDING 171 PARCELS OF REAL PROPERTY LOCATED IN SOUTH CARSON CITY TO THE EXISTING REDEVELOPMENT PLAN AREA NO. 2 WHICH WOULD NOT AFFECT THE MASTER PLAN AS ADOPTED BY THE BOARD OF SUPERVISORS. Supervisor Livermore seconded the motion. Motion carried 3-0-2 with Supervisors Staub and Aldean abstaining.**

**6. PUBLIC WORKS - CONTRACTS - City Engineer Larry Werner**

**A. ACTION TO ACCEPT PUBLIC WORKS RECOMMENDATION AND AWARD THE TIMBERLINE AND COMBS CANYON STORM WATER DRAINAGE PROJECT, CON-**

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**TRACT NO. 2005-163, TO BIDDER NO. 1, RAPID CONSTRUCTION, INC., 355 GENTRY WAY, SUITE A, RENO, NEVADA 89502, FOR A CONTRACT AMOUNT OF \$2,144,441.20 AND A CONTINGENCY AMOUNT OF \$214,444.00 (8:47:08)** - Mr. Werner's introduction noted that NDOT will be reimbursing the City for the costs incurred for the drainage improvements required as part of the Carson freeway. Discussion explained that the original project had been estimated to cost \$1.86 million. The Contract is for \$2.1 million. Staff will keep a close eye on the budget. The effort to have more accurate estimates was described. Two million dollars had been allocated for this project. The bid was only \$14,000 over it. Supervisor Aldean moved to accept Public Works' recommendation and award the Timberline Combs Canyon Storm Water Drainage Project, Contract No. 2005-163, to Bidder No. 1, RaPid Construction, Inc., 355 Gentry Way, Suite A, Reno, Nevada 89502, for a contract amount of \$2,144,441.20 and a Contingency Amount of \$214,444.00, and the fiscal impact is not to exceed \$2,358,885.20 and the funding source is Account No. 505-3705-437-7802 as provided for in FY 2005-06. Mayor Teixeira directed the City Manager to change the account number in the future to indicate the actual funding source. Supervisor Williamson seconded the motion. Motion carried 5-0.

**B. ACTION TO ACCEPT PUBLIC WORKS RECOMMENDATION AND AWARD THE 2006 SLURRY SEAL PROJECT, CONTRACT NO. 2005-189 TO BIDDER NO. 1 INTERMOUNTAIN SLURRY SEAL, INC., FOR A CONTRACT AMOUNT OF \$640,153.20 AND A CONTINGENCY AMOUNT OF \$64,000.00 (8:50:34)** - Public Works Director Andrew Burnham - Discussion between Mayor Teixeira and Mr. Werner noted construction problems with the streets in Mountain Park and that the staff had not accepted some of their dedications for that reason. The slurry seal project should commence in 10 days. Notification to the project area(s) will then be given. A media report will also be given. Mr. Werner agreed provide the report to both Cable Access Television (SNCAT) and Dave Morgan. Clarification indicated that the project is funded with gas tax monies. It is not under RTC's purview. RTC is to be involved with the gas tax funding allocations in the future. Justification for not having RTC review this project was provided. Mayor Teixeira justified having RTC handle the allocations in the future. Mr. Werner indicated that the agreement between the City and RTC will be amended to include these funds. Mr. Werner then described the pavement rating study which is conducted annually. Slurry sealing occurs only when it is cost effective to do so.

Mr. Burnham further limned the process used to determine which roads will be slurry sealed. The program calls for an eight-year cycle. The City is currently operating on a ten-year cycle. For this reason they are doing \$600,000 worth of sealing this year and next. It is hoped that this will allow the City to return to an eight-year cycle.

Supervisor Staub moved to accept Public Works' recommendation and award the 2006 Slurry Seal Project, Contract No. 2005-189, to Bidder No. 1, Intermountain Slurry Seal, Inc., for a Contract Amount of \$640,153.15 and a Contingency Amount of \$64,000; fiscal impact is not to exceed \$704,153.15; and the funding source is 256-3038-431-0487 as provided for in Fiscal Year 2004-2005. Mayor Teixeira indicated that the funding source will be fixed by the next Board meeting. Supervisor Aldean seconded the motion. Motion carried 5-0.

**C. ACTION TO ACCEPT PUBLIC WORKS RECOMMENDATION AND AWARD THE SOUTHEAST SEWER EXTENSION, PHASE VII, PROJECT, CONTRACT NO. 2005-172, TO**

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**BIDDER NO. 2, RAPID CONSTRUCTION, INC., 355 GENTRY WAY, SUITE A, RENO, NEVADA 89502, FOR A CONTRACT AMOUNT OF \$789,987 AND A CONTINGENCY AMOUNT OF \$79,000 (8:57:54)** - Mr. Werner's introduction included an explanation of the incentive program used to get the residents connected during the first two years after the project is completed. Discussion noted that the bids were higher than the estimate and that the start date for the project is June 12. Public comments were solicited but none were given. Supervisor Aldean moved to accept Public Works' recommendation and award the Southeast Sewer Extension, Phase VII, Project, Contract No. 2005-172, to Bidder No. 2, RaPid Construction, Inc., 355 Gentry Way, Suite A, Reno, Nevada 89502, for a contract amount of \$789,987 and a contingency amount of \$79,000; fiscal impact is not to exceed \$868,987; and that the account numbers will not be mentioned. There are adequate funds available in an account. Supervisor Williamson seconded the motion. Motion carried 5-0.

Mr. Werner advised the Board that staff is now getting the projects out. The Board should start seeing bids for construction projects regularly.

**7. HEALTH AND HUMAN SERVICES - Director Daren Winkelman - ACTION TO APPROVE A GRANT AWARD IN THE AMOUNT OF \$151,037 FROM THE NEVADA DEPARTMENT OF HUMAN RESOURCES, HEALTH DIVISION, FOR FUNDS TO SUPPORT NURSING ACTIVITIES AT THE CARSON CITY COMMUNITY HEALTH CLINIC (9:02:29)** - Physicians Select Management Director Leonard Haymore - The provider may be Med-Direct which is under Physicians Select Management. Staff had considered taking on the program until Supervisor Staub suggested Med-Direct and Physicians Select. They have been "wonderful" to work with. Supervisor Livermore disclosed that he is a Member of Med-Direct's Board of Directors. He does not receive any direct compensation for serving on its Board and will vote on the grant. Supervisor Staub congratulated Mr. Winkelman and Leonard Haymore on the program. Justification for his suggestion was provided. He introduced its Executive Director, Leonard Haymore. He congratulated both on their program.

Mr. Haymore felt that it is a pleasure to work with Mr. Winkelman and his staff. He advised that their staff is familiar with the community and includes qualified personnel with Spanish-speaking abilities. He was excited about the public-private venture. They will be located at the former hospital building which is a supportive environment. Mayor Teixeira disclosed that he had met with him and complimented Supervisor Staub on his suggestion.

Supervisor Staub moved to approve a grant award in the amount of \$151,037 from the Nevada Department of Human Resources, Health Division, for funds to support nursing activities at the Carson City Community Health Clinic. Supervisor Williamson seconded the motion. Motion carried 5-0.

**8. PARKS AND RECREATION - Director Roger Moellendorf**

**A. ACTION TO ADOPT A RESOLUTION AMENDING RESOLUTION NO. 1995-R-41, WHICH IS A RESOLUTION CHANGING EXISTING OR ADDING NEW GENERAL FEE POLICIES (9:06:51)** - Mayor Teixeira indicated that the procedure has been a sensitive issue in the community. He believed that the proposed resolution is a valid concept. Supervisor Livermore moved to adopt Resolution No. 2006-R-23, A RESOLUTION AMENDING RESOLUTION NO. 1995-R-41, WHICH

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IS A RESOLUTION CHANGING EXISTING OR ADDING NEW GENERAL FEE POLICIES. Supervisor Williamson seconded the motion. Motion carried 5-0.

**B. ACTION TO ADOPT A RESOLUTION SETTING POLICIES AND FEES FOR COMMERCIAL CAR SHOWS IN CITY PARKS (9:09:37)** - Discussion indicated that reservations for automobiles sales at a later date can be made in City Parks. Sales in City parks are prohibited. The salesman can make an appointment for selling the car at the dealer's lot. Mr. Moellendorf had discussed the concept with the manager of Capital Ford. He allegedly liked the policies, however, would like to have seen reduced fees. He had suggested the sale prohibition. He was not concerned with accepting reservations. Supervisor Livermore explained that the Parks and Recreation Commission had debated the issue at length. They had taken the concept to the Planning Commission who had granted its permission. His reasons for supporting the concept were provided. He also indicated that commercial car shows will not be allowed in City Parks during holidays or when other events are occurring. Supervisor Livermore moved to adopt Resolution No. 2006-R-24, A RESOLUTION SETTING POLICIES AND FEES FOR COMMERCIAL CAR SHOWS IN CITY PARKS. Supervisor Aldean seconded the motion. Motion carried 5-0.

**C. ACTION TO AUTHORIZE THE OPEN SPACE MANAGER TO SIGN A GRANT AGREEMENT BETWEEN THE U.S. DEPARTMENT OF AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE AND CARSON CITY FOR THE CARSON CITY EROSION CONTROL PROJECT (9:13:55)** - City Manager Linda Ritter - Additional funds are also being sought. The grant funds cannot be used on private property. The Forest Service is doing its own work. The funds have been appropriated. Supervisor Williamson moved to authorize the Open Space Manager to sign a grant agreement between the U.S. Department of Agriculture Natural Resources Conservation Service and Carson City for the Carson City Erosion Control Project; fiscal impact is that Carson City will have the ability to use \$309,000 for erosion control related projects within the Waterfall Fire area. Supervisor Livermore seconded the motion. Motion carried 5-0.

**9. PUBLIC WORKS - PLANNING AND ZONING** - Community Development Director Walter Sullivan

**A. ACTION TO ADOPT ON SECOND READING, BILL NO. 114, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18 ZONING, CHAPTER 18.02 ADMINISTRATIVE PROVISIONS, SECTION 18.02.110 ADMINISTRATIVE PERMITS, BY CHANGING THE REQUIREMENTS FOR A VARIANCE TO A SETBACK AND A VARIANCE RELATED TO BUILDING HEIGHT, ADDING THE REQUIREMENT THAT ADMINISTRATIVE PERMITS BE OBTAINED FOR DRIVE-THRU WINDOWS FACING STREETS AND REQUIRING THE HEARINGS EXAMINER TO MAKE VARIANCE FINDINGS AS REQUIRED IN THE CODE, AMENDING CHAPTER 18.03 DEFINITIONS, SECTION 18.03.010 WORDS AND TERMS DEFINED, BY ADDING THE DEFINITION OF "VARIANCE" AND OTHER MATTERS PROPERLY RELATED THERETO. FILE ZCA 06-055 (9:17:07)** - Mr. Sullivan indicated that he had not received any comments either pro or con on the ordinance since the first reading. Public comments were solicited but none were received. Supervisor Aldean moved to adopt on second reading Bill No. 114, Ordinance No. 2006-13, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18 ZONING, CHAPTER 18.02 ADMINISTRATIVE PROVISIONS, SECTION 18.02.110 ADMINISTRATIVE PERMITS, BY

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CHANGING THE REQUIREMENTS FOR A VARIANCE TO A SETBACK AND A VARIANCE RELATED TO BUILDING HEIGHT, ADDING THE REQUIREMENT THAT ADMINISTRATIVE PERMITS BE OBTAINED FOR DRIVE-THRU WINDOWS FACING STREETS AND REQUIRING THE HEARINGS EXAMINER TO MAKE VARIANCE FINDINGS AS REQUIRED IN THE CODE, AMENDING CHAPTER 18.03 DEFINITIONS, SECTION 18.03.010 WORDS AND TERMS DEFINED, BY ADDING THE DEFINITION OF "VARIANCE" AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Staub and Livermore seconded the motion. Motion carried 5-0.

**B. ACTION TO INTRODUCE ON FIRST READING, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18 ZONING, CHAPTER 18.04 USE DISTRICTS, SECTION 18.04.020 DETERMINATION OF DISTRICTS, 18.04.020(6) BY ALLOWING DEVELOPMENT ON SPLIT-ZONED PARCELS WITH APPROVAL OF A SPECIAL USE PERMIT AND OTHER MATTERS PROPERLY RELATED THERETO, FILE ZCA 06-081 (9:18:57)** - Public comments were solicited but none were given. Supervisor Williamson moved to introduce on first reading Bill No. 115, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18 ZONING, CHAPTER 18.04 USE DISTRICTS, SECTION 18.04.020 DETERMINATION OF DISTRICTS, 18.04.020(6) BY ALLOWING DEVELOPMENT ON SPLIT-ZONED PARCELS WITH APPROVAL OF A SPECIAL USE PERMIT AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisors Aldean and Staub seconded the motion. Motion carried 5-0.

RECESS: A recess was declared at 9:20 a.m. The entire Board was present when Mayor Teixeira reconvened the meeting at 9:28 a.m., constituting a quorum.

**10. FINANCE (9:28:17)** - Bond Counselor Jennifer Stern requested the items under this heading be taken in a different order and that Item B under the Redevelopment Authority and Item C under the Board of Supervisors be pulled as they were unnecessary.

**C. ACTION TO ADOPT A RESOLUTION CONCERNING AN INCREMENT FINANCING FOR THE CARSON CITY REDEVELOPMENT AUTHORITY; AUTHORIZING THE ISSUANCE OF AND SPECIFYING THE DETAILS FOR THE AUTHORITY'S REDEVELOPMENT REFUNDING BOND, SERIES 2006; CREATING CERTAIN FUNDS AND ACCOUNTS; AUTHORIZING THE EXECUTION AND DELIVERY OF THE LOAN AGREEMENT; AUTHORIZING AND RATIFYING THE SALE OF THE BOND TO THE CITY; SPECIFYING THE INTEREST RATE ON AND OTHER TERMS AND CONDITIONS OF SUCH BOND AND ITS FORM; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO (9:28:17)** - Pulled.

**E. ACTION TO ADOPT A RESOLUTION OF INTENT, PROPOSING THE ISSUANCE OF, AND AUTHORIZING THE PUBLICATION OF NOTICES RELATING TO, GENERAL OBLIGATION (LIMITED TAX) PARK BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES) IN THE MAXIMUM PRINCIPAL AMOUNT OF \$3,500,000 FOR THE PURPOSE OF FINANCING PARK PROJECTS FOR THE CITY; PROVIDING THE MANNER, FORM AND CONTENTS OF THE NOTICES THEREOF; PROVIDING OTHER MATTERS PROPERLY RELATED THERETO; AND PROVIDING THE EFFECTIVE DATE HEREOF (9:29:45)** - Bond Counselor Jennifer Stern - Public comments were solicited but none were given. Supervisor Livermore

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moved to adopt Resolution No. 2006-R-25, A RESOLUTION OF INTENT, PROPOSING THE ISSUANCE OF, AND AUTHORIZING THE PUBLICATION OF NOTICES RELATING TO, GENERAL OBLIGATION (LIMITED TAX) PARK BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES) IN THE MAXIMUM PRINCIPAL AMOUNT OF \$3.5 MILLION FOR THE PURPOSE OF FINANCING PARK PROJECTS FOR THE CITY; PROVIDING THE MANNER, FORM AND CONTENTS OF THE NOTICES THEREOF; PROVIDING OTHER MATTERS PROPERLY RELATED THERETO; AND PROVIDING THE EFFECTIVE DATE HEREOF. Supervisor Staub seconded the motion. Motion carried 5-0.

**F. ACTION TO ADOPT ON SECOND READING, BILL NO. 113, AN ORDINANCE AUTHORIZING THE ISSUANCE OF A MEDIUM-TERM OBLIGATION FOR THE REFINANCING OF CERTAIN REDEVELOPMENT PROJECTS; SPECIFYING THE DETAILS FOR THE CARSON CITY, NEVADA, MEDIUM-TERM NOTE IN THE PRINCIPAL AMOUNT OF \$1,800,000; SPECIFYING THE TERMS AND CONDITIONS OF SUCH MEDIUM-TERM NOTE, THE METHOD OF PAYING THE NOTE AND ITS FORM; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO (9:31:18)** - Bond Counselor Jennifer Stern - The exact amount of the loan is \$1,654,300 which will refinance the outstanding 1996 Redevelopment Bonds. The interest rate for the Bonds will be 3.97%. The Bank of America has asked that Sections 7 and 8 be added. They relate to "Events of Default" and "Remedies of Default" and are on Pages 5 and 6 which had been distributed to the Board during the recess. (Copies of these pages are in the file.) These changes are not substantial. Public comments were solicited but none were given. Supervisor Staub moved to adopt on second reading Bill No. 113, Ordinance No. 2006-14, AN ORDINANCE AUTHORIZING THE ISSUANCE OF A MEDIUM-TERM OBLIGATION FOR THE REFINANCING OF CERTAIN REDEVELOPMENT PROJECTS; SPECIFYING THE DETAILS FOR THE CARSON CITY, NEVADA, MEDIUM-TERM NOTE IN THE PRINCIPAL AMOUNT OF \$1,800,000; SPECIFYING THE TERMS AND CONDITIONS OF SUCH MEDIUM-TERM NOTE, THE METHOD OF PAYING THE NOTE AND ITS FORM; AND PROVIDING OTHER MATTERS PROPERLY RELATING THERETO which will include a default provision requested by the Bank of America; fiscal impact is \$1,800,000; and the funding source is the Redevelopment tax increment funding. Supervisor Livermore seconded the motion. Motion carried 5-0.

**D. ACTION TO ADOPT A RESOLUTION MAKING CERTAIN DETERMINATIONS IN CONNECTION WITH A LOAN TO THE CARSON CITY REDEVELOPMENT AUTHORITY; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO (9:33:39)** - Bond Counselor Jennifer Stern reviewed the terms of the loan. Mayor Teixeira opened the public hearing and called for public comments. None were given. Mayor Teixeira closed the public hearing. Supervisor Livermore moved to adopt Resolution No. 2006-R-26, A RESOLUTION MAKING CERTAIN DETERMINATIONS IN CONNECTION WITH A LOAN TO THE CARSON CITY REDEVELOPMENT AUTHORITY; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO; fiscal impact is an annual debt service savings of over \$20,000 per year for the next seven years. Supervisor Williamson seconded the motion. Motion carried 5-0.

**REDEVELOPMENT AUTHORITY (9:35:24)** - Mayor Teixeira then recessed the Board of Supervisors session and passed the gavel to Chairperson Williamson who convened the Redevelopment Authority. For Minutes of the Redevelopment Authority, see its folder.



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**BOARD OF SUPERVISORS (9:42:03)** - Following adjournment of the Redevelopment Authority, Chairperson Williamson returned the gavel to Mayor Teixeira who reconvened the Board of Supervisors session. The entire Board was present, constituting a quorum.

**14. AIRPORT AUTHORITY - Counsel Steve Tackes**

**A. ACTION TO APPROVE ASSIGNMENT OF AIRPORT LEASE FROM WT INVESTMENTS LLC TO CARSON EXECUTIVE HANGERS CONDOMINIUM ASSOCIATION (9:42:23)** - Sam Dehne, Encyclopedia of Reno Government - Mr. Tackes' introduction included introducing Authority Member Collie Hutter, a review of the lease, and the reasons the Authority supported the assignment. Comments were solicited.

Mr. Dehne felt that no one opposed the proposal although he neither supported nor opposed it. He then indicated his "adamant" support of the assignment and anything else that will help the Carson Airport. The airport needs to expand rapidly and on a large scale. The City is the only State Capitol without an airline service. Approval of the assignment will allow expansion to occur. Mayor Teixeira explained that the assignment merely allows the Authority to work with one firm and not two. He also felt that the community does not want to have 727s flying in and out of the Airport. Mr. Dehne explained that he wanted regional airline service. Mayor Teixeira thanked him for his comments.

Supervisor Staub moved to approve the assignment of Airport Lease from WT Investments LLC to Carson Executive Hangers Condominium Association with no fiscal impact. Supervisors Williamson and Livermore seconded the motion. Motion carried 5-0.

**B. ACTION TO APPROVE THE AIRPORT LAND PURCHASE AGREEMENT BY CARSON CITY ON BEHALF OF THE CARSON CITY AIRPORT AUTHORITY WITH DGD DEVELOPMENT, LP, TO ACQUIRE 24.85 ACRES OF LAND IDENTIFIED IN THE MASTER PLAN PER AIRPORT AUTHORITY ACTION ADOPTED MAY 18, 2006 (9:46:17)** - Airport Authority Member Collie Hutter; Sam Dehne, Encyclopedia of Reno Government - The acquisition will allow them to begin development of their runway as conceived in the master plan. Discussion indicated that the acquisition will allow them to relocate the runway away from the homes on Apollo. The Authority will provide the matching five percent for the FAA grant. Reasons it has taken five years to obtain the grant were noted. Mayor Teixeira complimented them on the record for their diligence and perseverance in sensitizing the FAA on the City's need for improvements. He congratulated them on the great sales job. Mr. Tackes indicated that it was a team effort. The Authority will be responsible for \$414,000 of the acquisition. Efforts to obtain additional Federal funds and work with Mr. Serpa on "no cash" solutions are being pursued. Mr. Hutter explained Mr. Serpa's desire to sell to the Airport and cooperation. Mr. Tackes explained an encroachment made ten years ago onto a utility easement and the damages that were assessed as a result.

Mr. Dehne expressed his support for the acquisition and indicated that he attends all of the Reno meetings. His belief that the City will have airline services within ten years was limned. Justification for his belief was based on his background as a pilot and his flights in and out of "more dangerous airports than Carson City's". Although he supported the acquisition, he opposed the use of FAA funds to acquire the property for an airport that "will never have airline service". He also opposed the need to provide five percent matching funds as

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the property was not worth the amount indicated a few years ago. He urged the City to “think” about the concept of having airline service in and out of the City particularly if this large amount of money is being spent to support the facility. Carson City is the only capitol in the United States without airline service. Mayor Teixeira indicated that the City will never have airline service. He asked that the discussion return to the issue as agenzed. Additional public comments were solicited but none were given.

Supervisor Staub moved to approve the Airport Land Purchase Agreement by Carson City on behalf of the Carson City Airport Authority with DGD Development, LP, to acquire 24.85 acres of land identified in the Master Plan and authorize the Mayor and the City Manager to sign such documents as are necessary to effectuate the Agreement; fiscal impact is \$9.4 million and 95% of the funding will come from the FAA and 5% will come from the Carson City Airport Authority. Supervisor Livermore seconded the motion. Motion carried 5-0.

**C. ACTION TO CONFIRM AND RATIFY THE SUPERVISOR ACTION AUTHORIZING TRANSFER TO THE AIRPORT AUTHORITY OF REAL AND PERSONAL PROPERTY TAXES DERIVED FROM PROPERTY LOCATED ON THE CARSON CITY AIRPORT AND AVIATION PROPERTY LOCATED ADJACENT TO THE CARSON CITY AIRPORT (9:56:04)** - Senior Deputy Michael Suglia; Assessor Dave Dawley; Sam Dehne, Encyclopedia of Reno Government - Minutes approving the transfer of taxes for the property to the Authority could not be found. Ratification of the program will clarify the record. The hangars on adjacent property that are considered through-the-fence sites are included in the program. Hangars that may be constructed on the manufacturing sites on the northeast side of the Airport are included in the program. Mr. Tackes did not believe that it was necessary to codify the process. The process has been used for many years. Justification for ratifying/approving the program at this time was provided. The Assessor’s office has been providing the information to the Authority since 2000 or 2001.

Mr. Dehne noted that he normally objects to taxes and wasting tax monies. In this case, however, he supported the taxes as it increases the strength of the Carson City Airport so that there may be an airline service provided here in the future. Additional comments were solicited but none were given.

Supervisor Staub moved to confirm and ratify the City’s decision to transfer to the Airport Authority the City’s share of real and personal property taxes derived from property located at the Carson City Airport and taxes derived from aviation property located adjacent to the Carson City Airport, “I don’t think we need the word Authority”, for use in maintaining and improving the Airport. Supervisor Aldean seconded the motion. Motion carried 5-0.

Mayor Teixeira thanked Mr. Tackes and Authority Members for “taking care of the Airport”.

**11. PUBLIC WORKS - Operations Manager Tom Hoffert - ACTION TO ADOPT THE WASTE-WATER MANAGEMENT PLAN, DATED MAY 24, 2006, AND INSTRUCT STAFF TO FORWARD THE PLAN TO THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION (10:03:07)** - Bill Desormier - Mr. Hoffert summarized the plan. In 2003 work commenced on its implementation. In April 2006, staff received a letter from NDEP addressed to the Carson Water Subconservancy District that changed the thinking and philosophy. It allows discharges into the River under the City’s Carson River 208 Plan. As

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a result, the plan was modified. The draft plan that was provided to the Board and at the public review is missing the April 11 minutes. These minutes will be added to the final version. A less expensive and more environmentally sensitive plan has now been developed. The new plan's six elements were limned. It will take 18 months to compile enough data to illustrate that the discharge will meet the River's standards. The new plan will not require lining the Brunswick Reservoir as was originally proposed. If the springs are not allowed to discharge into the River, the runoff will be captured and put into the reuse system. This could add an additional 2,000 acre feet of water to the reuse system. The estimated cost of the plan to discharge into the River is \$63 million. The original plan, that did not discharge into the River, was estimated to cost over \$70 million. Increases to the sewer rate will be required regardless of the plan implemented.

Supervisor Livermore disclosed that he had attended the April 11 meeting. At that time there was an NDEP deadline of June 30. The plan contained numerous rapid infiltration basins along the southern part of the City. He had asked that other elements be added to the plan including enhancements to the plant which the newly proposed plan provides. The new plan also reduces the impacts on the southern portion of the City. Although the City had wanted the 208 plan revised, they were not aware of the NDEP decision to do so at the time of the meeting. Turnout from the residents of the southeastern section of the City was described. He was excited about the change in philosophy. He also noted that future growth in the community will impact the total volume of reuse water available. He was glad to hear that the State had reconsidered its position. He also hoped that the majority of the community will support the plan. The elements of the plan still remain to be developed.

Mr. Hoffert indicated that the plan will take the community to approximately 2015. As the community grows, additional decisions will be required regarding the system in order to meet future needs. Staff is working to develop a system that will provide the necessary water quality analysis for both the reuse water and the River as well as the loading of the discharge permits to River. Elements required by the plan were reiterated. He also indicated that the public, the stakeholders, and NDEP will be involved throughout the process. If the plan is approved today, staff will bring back amendments to support efforts to meet its commitments. The phosphorus treatment process will be added to the current contract for expansion of the plant. The plant's expansion is scheduled to start construction next June or July. Funding options will be studied in an attempt to make it affordable for the City. This will include the benefits to the downstream users as a higher quality of water will be discharged. Supervisor Aldean complimented staff on its willingness to consider the marketing opportunities. She suggested consideration of a "rafting" tax for individuals on the River as the volume of water in the River will be increased. She appreciated staff's consideration of creative funding opportunities. Public comments were solicited.

Mr. Desormier expressed his pleasure with the plan including cleaning up the wastewater and the removal of the main "ribs" that are uphill from his water well. He was concerned, however, as the proposed prison farm ribs are uphill from numerous water wells. He wanted the City to work with those homeowners to test their wells and to ensure that there will be noticing and protection if the wastewater reaches the domestic wells. Additional comments were solicited but none were given.

Mr. Hoffert reiterated that a water quality analysis will be conducted on the River loading. If the "ribs" are necessary at the prison farm, there is another environmental impact ground water study that will be required

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in order to meet NDEP requirements. They envision down gradient recovery wells to reclaim the water for the beneficial use of the community.

Mr. Desormier indicated that he wanted staff to work with the residents. They plan to work with NDEP. They want to have the protections necessary to keep their children from drinking wastewater.

Mayor Teixeira explained that the ribs at the prison farm will be installed only if the City does not get a permit from NDEP. Mr. Hoffert committed to working with Mr. Desormier and the residents which will include water quality testing of private wells. If the ribs are necessary, they will be a major part of the process with the residents. The issue will be mute if the ribs are not required. The City works with a lot of the residents on ground water issues. Staff will work with the residents now to develop "back ground information". Additional public comments were requested. None were given. Mayor Teixeira asked if NDEP had a representative present. No one was present.

Supervisor Livermore moved to adopt the Effluent Management Plan dated May 24, 2006, and instruct staff to forward the Plan to the Nevada Division of Environmental Protection. Supervisor Williamson seconded the motion. Motion carried 5-0.

**12. CITY MANAGER - Linda Ritter - ACTION TO SUPPORT AN APPLICATION TO THE NEVADA COMMISSION ON ECONOMIC DEVELOPMENT FROM BASALITE CONCRETE PRODUCTS FOR ECONOMIC INCENTIVES AS A RESULT OF THEIR BUSINESS EXPANSION IN CARSON CITY (10:20:57) -** Northern Nevada Development Authority (NNDA) Business Development Manager Larie Trippet, Assessor Dave Dawley - Mr. Dawley indicated that the process does not create a problem for his staff. There are two other firms that are handled in the same manner. It is a "small hit". Supervisor Livermore explained the NNDA's purpose. Discussion indicated that Mr. Trippet and Carson City's Economic Development-Redevelopment Manager Joe McCarthy work closely together on economic development projects. Examples illustrating the cooperation were provided. Additional comments were solicited but none were given. Supervisor Livermore moved to support an application to the Nevada Commission on Economic Development from Basalite Concrete Products for economic incentives as a result of their business expansion in Carson City. Supervisor Staub seconded the motion. Motion carried 5-0.

RECESS: A recess was declared at 10:24 a.m. The entire Board was present when Mayor Teixeira reconvened the meeting at 10:33 a.m., constituting a quorum.

**13. DISTRICT ATTORNEY - Senior Deputy District Attorney Michael Suglia - DISCUSSION REGARDING LONG TERM ENCROACHMENTS ON CITY LAND PATENTED BY THE BLM FOR RECREATIONAL USES AND ACTION TO DIRECT THE DISTRICT ATTORNEY'S OFFICE TO FILE A LAWSUIT AGAINST CAPITAL CITY LOANS TO REMOVE THE ENCROACHMENTS ON THE CITY PROPERTY AND INCLUDE IN THE CLAIM FOR RELIEF AN ENVIRONMENTAL ASSESSMENT AND, IF NECESSARY, A CLEAN UP OF THE PROPERTY AS WELL AS ANY OTHER APPROPRIATE CLAIMS FOR RELIEF (10:32:42) -** BLM Representative Charles Kim, City Manager Linda Ritter, Assessor Dave Dawley, Former Assessor Kit Weaver, Attorney Laura Fitzsimmons, Jerry Vaccaro - Mr. Suglia used the map in the supporting documents to explain the encroachment. Justification for bringing the matter to the Board's attention was provided including Mr.

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Suglia's role in the request that the cars be removed from the sign area. Mr. Burnaugh and his Attorney Laura Fitzsimmons alleged that there was an agreement with a previous Deputy District Attorney allowing them to use the area. This agreement is not in writing. The property was obtained by the City through the BLM Recreational and Public Purposes (R&PP) process. Local BLM Representative Chuck Pope had, for many years, purportedly wanted the City to have the vehicles removed from the encroached area. Mr. Pope has subsequently retired. Mr. Suglia had discussed the matter with BLM Representative Charles Kim who allegedly is not that concerned about the encroachment. In 2001 the City asked BLM to transfer the land to Carson City without the R&PP restrictions. This process had included a survey. Nothing came of this effort.

Mr. Kim agreed that they had been working on it for some time. BLM is in the process of updating its Bureau land use plan which will allow the land to be disposed. Such sites can be disposed of through a public sale which must be in accord with the land use plan. Currently all BLM land in Carson City is designated for R&PP uses. Until this designation is changed, the land could not be disposed of for any other purpose. For this reason there is a reversionary clause in the patent. BLM wants to allow the City to use it for whatever purpose desired. Discussion indicated that BLM holds title to the land. The patent includes a reversionary clause which allows the City to use the land for R&PP purposes only. The property cannot be rented to a commercial operation for that reason. Mr. Kim also indicated that the patent is not in jeopardy if nothing is done today. BLM is working with the City to resolve the issue. The process will take time to resolve the issues due to City and BLM bureaucratic issues. Clarification indicated that, so long as the only action taken by the Board today instructs staff to work with BLM and Mr. Burnaugh to dispose of the property, no formal action will be taken by BLM against the patent. Discussion also indicated that renting the property and using the monies for public purposes would be too much of a stretch. The restriction is very "black and white". When asked how long the process could take to change the land use plan, Mr. Kim indicated that he was uncertain. An attempt to attach a rider in a statement for two other land use statements had been tried. They had fallen off track with the effort due to a lack of funding. The process is now in the "creative interpretation status". If the Reno BLM Office can be convinced to support the concept, the land use revision could move forward. The proposed disposal process does not include an application procedure. If the disposal is processed under the Federal Land Sale Act, BLM must initiate the disposal process. A letter is not needed from the public to support the disposal. BLM is working to move the process along.

Supervisor Williamson explained that Carson City is working on a Federal Land Bill for the transfer of several Forest Service parcels from the Forest Service to BLM and then to the City. The proposed land use for the majority of these parcels is for open space for management at a local level, however, some are for disposal. She suggested consideration of this avenue. Preliminary research on this process is being conducted. It may, however, take one or two years to complete the process.

Ms. Ritter explained that the patent process takes BLM property and maintains it in public use. The Lands Bill process takes pieces and could address the issue as the land could be sold for public use. They are continuing the public process for the City's Master Plan. The Lands Bill may be introduced in Congress next year. It may take a year or two more to get it through Congress. She felt that the City's process will be faster than adding it to another County's Land Bill as it continues the public use.

Mayor Teixeira noted that the parcel is next to the site proposed for the V&T Railroad depot. He disclosed that he is on that Committee. It has already spent more than \$1.5 million acquiring property abutting the

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southeast corner of the parcel. They need to acquire two more parcels in order to reach Highway 50. Consideration has been given to using the area as a parking lot for the depot. It may be three to four years before this occurs. There are lots of other issues which must be resolved including the current problem. The R&PP uses fit within the Railroad plan. The property will not remain as open space.

Mr. Kim explained that the reversionary clause is currently being considered for only the small portion of property is located in front of the Capital City Loans building. The other portion east of it could be used by the City. A parking facility for a recreational activity is within the scope of the R&PP regulations. He then questioned what had happened to the Humane Society for whom the property had been considered at one time. Comments noted that this entity is gone. Board comments thanked Mr. Kim for his comments and asked that he remain for the rest of the discussion.

Mr. Suglia explained that the sign had been constructed with a City permit, however, there had been representations indicating that the sign was to be located on private property close to the Highway 50 easement. He then explained the legal concerns regarding commercial use of City property and the related liability if someone is hurt on the property. The City does not have any protection from such lawsuits as it has not attempted to stop the use of the City property. He also expressed philosophical concerns about granting a special benefit to one individual by allowing free use of the land for special purposes. There is no legal precedent allowing such single beneficial, free use of City property. He also felt that discussions have been occurring for six years without a successful resolution. His discussions to date have been unsuccessful. A second survey has been conducted as he did not see another solution except to seek legal recourse or to continue to do nothing. He then indicated that he was not asking that the Board take on the issue of the structure, which is also located on City property under the R&PP grant. There is an encroachment permit for it. He was not asking to stop the permissive use from Highway 50 to the business. BLM purportedly does not have a problem with allowing the access over the property. He asked that the Board approve allowing him to seek court approval of the request that the fence, sign and cars be removed. The City property should then be fenced. He indicated that if the City fences its property now without a court ruling, the City may be the defendant in a lawsuit involving reverse condemnation. He preferred to be a plaintiff rather than the defendant in a lawsuit. Discussion reiterated the request that the cars and the fence be removed. A fence should then be placed on the property line. Mr. Suglia also felt that a misrepresentation had been made when the sign permit was requested. He could not recommend that the sign be allowed to remain at its present location. Discussion ensued on the reasons Mr. Suglia felt that NRS Chapter 40, regarding willful trespass, should be considered and that Mr. Burnaugh should have known that he was encroaching on City property based on public records. The survey will correct the Assessor's maps. He also explained that every Assessor's map includes a disclaimer that the map is not to be used as a legal boundary description. An astute businessperson should know what property he/she is acquiring when buying it. He was not cognizant of whether Mr. Burnaugh had paid the City anything for the property.

Assessor Dawley indicated he only became aware of the problem two days ago. Discussion between Mayor Teixeira and Assessor Dawley indicated that the property was added to Mr. Burnaugh's property in 1995 for unknown reasons. There are no documents indicating why this was done. No formal document was recorded by the Recorder's Office to justify the addition. Records also indicate that Mr. Burnaugh has paid taxes on a per acre basis for 11 years. The parcel includes the area under discussion.

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Former Assessor Weaver explained that the recorded document was an abandonment of a right-of-way. During the 1980s and 1990s the Federal highway rights-of-way contained a lot of property. The Feds began the process and the State followed suit of abandoning a portion of the rights-of-way along Highways 50 and 395. These pieces of right-of-way were in front of privately owned parcels. The property owners had been allowed to use this right-of-way. He felt that the abandonment was recorded in 1993. It was a "big" project for his office to solve the issue of unwanted property. All of the property owners along Highway 50 with one, two, or three acres acquired a strip of land approximately 40 or 50 feet wide adjacent to their parcels. The uniqueness of Mr. Burnaugh's property is that this could not be done. Mr. Weaver learned in the late 1990s or early 2000 from Jim Hadden that the property was owned by the City and could not be abandoned to Mr. Burnaugh. It was the only strip of right-of-way that could not be abandoned to the adjacent property owner along Highways 395 and 50. Mr. Burnaugh could use it before it was abandoned. Mr. Burnaugh was the only businessman/property owner who did not benefit from the abandonment of right-of-way along Highway 50. Mr. Weaver indicated that the City had abandoned it in the early 1990s. He had worked with Deputy District Attorney Melanie Bruketta on the issue with BLM. Mr. Hadden was hired to determine the amount of property involved. He felt that there is an acre east of Mr. Burnaugh's property. The plan was to determine the amount that Mr. Burnaugh needed and to sell it to him at full cash value. The one acre parcel could then, if desired, be auctioned off. This intent was never recorded. The Assessor works with recorded documents. Nothing was recorded correcting the situation. He hoped that the map is corrected with Mr. Hadden's new survey. To his knowledge there was no correspondence on this intent. He was unsure when Mr. Burnaugh became aware of the situation. He had not taken any action pending receipt of a recorded document. He felt that Mr. Hadden knew that the City could not abandon the property in 2000. Mr. Weaver was purportedly told second-handedly that he had incorrectly abandoned the property. The individual was not Mr. Hadden. Mr. Weaver thought the issue would be resolved in one or two years as BLM was doing the project and notifying the public. This process was to have been started within a year of his learning about the problem. Mayor Teixeira thanked him for attending the meeting.

Discussion between Supervisor Staub and Mr. Suglia indicated he had contacted Former Deputy District Attorney Mark Forsberg. Mr. Forsberg had indicated to him that there is no formal understanding regarding the removal of the fence and vehicles, which were done. Mr. Forsberg's notes in the file indicate that he had requested their removal. Mr. Suglia was uncertain whether the vehicles parked around the sign were included in the request.

Supervisor Williamson explained her participation at a Board meeting in a discussion regarding the encroachment. She felt certain that Mr. Burnaugh was aware at that time that the property did not belong to him. She felt that the issue was resolved at that time. She believed that a land sale or Federal action was to occur. There was definite recognition that the property did not belong to Mr. Burnaugh for his use. Supervisor Livermore agreed. He was contacted by a Mr. Vaccaro, who is present, regarding ongoing discussions on the matter. He believed that Mr. Vaccaro filed suit against the Board of Supervisors. He was uncertain of the outcome of the suit. He felt that there was a lot of information at the meeting regarding the matter.

(11:04:20) Mr. Burnaugh distributed exhibits to the Board and Clerk. (A copy is included in the file.) Ms. Fitzsimmons felt that the City's patent is not an issue. The City and BLM have been working together on the issue for some time. She pointed out that the City has already entered into litigation on another land issue which it lost at a huge expense. She felt that there was an agreement between herself and Mr. Forsberg

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regarding the issue. Supervisor Aldean asked the reason a written agreement was not provided. Ms. Fitzsimmons responded that the Board had been briefed on the agreement in 1999 and alleged that Mr. Forsberg was willing to be a witness for them if the matter goes to trial. She then advised that as a result of the 1998 agreement Mr. Burnaugh had moved the vehicles as indicated in a 2001 exhibit. She purported that the matter was raised at Mr. Vaccaro request and resulted in Mr. Burnaugh's arrest for trespassing in 1998. She advised that Mr. Forsberg had asked that the Board contact him regarding this matter if there are questions. The agreement was not put in writing as everyone was trustworthy and had dealt with each other for years. Performance was occurring under the agreement. She then alleged that the agreement was not in writing as it involves BLM and BLM will not issue a contract with them as they are a third party. She was comfortable with the fact that Mr. Forsberg would testify that they had negotiated the matter and had not put the agreement in writing due to the lack of knowledge regarding the amount of time it would take for BLM to complete its process. They had trusted each other. The matter had not been a problem until now. She then explained that the original issue had not been the small strip of area between the business and Highway 50 but rather the significant quantity of vehicles in an area to the east of the business. The area was used for parking of employee vehicles as well as for storage and display of vehicles for sale. Mr. Burnaugh agreed to pull the vehicles back and disallow employee and storage parking there. Mr. Vaccaro allegedly called the City again and as a result additional vehicles were removed and BLM was to be contacted and asked to seek relinquishment of the patent rights. Mr. Burnaugh also needed a small portion of the larger piece that is adjacent to the Railroad property. He was willing to go through the legal public process to obtain the property. The process includes either a direct sale or an auction with the City getting the revenue. There was no desire to proceed with litigation. Mr. Forsberg came to the Board and briefed it. She did not believe that the Board is extending a benefit to one person. The City permitted the area for parking and landscaping in 1994. The right-of-way strip is now used for display of vehicles for sale as well as landscaping and the sign. This is the only site that can be used for display of vehicles for sale. The vehicles are one-third of the revenue for the business. If the vehicles cannot be placed in that area, they will have to close the business due to the competitive nature of the business. They employ 12 individuals and paid Carson City \$650,000 in sales taxes over the last ten years. Examples of contributions made to the community were limned. She reiterated that they are not asking for special consideration. The matter is not an issue for BLM. They have been working with the City in good faith. They ask that the Board honor its commitments. The land will lay fallow if they stop the current use. The business will be closed. They have been paying taxes on the strip. She did not understand the reasons they were being brought back to the Board. She then reviewed each of the exhibits that Mr. Burnaugh had distributed to the Board and Clerk. (Copies are in the file.) They indicated that: The patent was issued to the City for the use of the land in 1973. The R&PP restriction does not prohibit the site's use for parking for the Railroad Depot. She was uncertain whether the land could be used for purposes other than those spelled out in the land use designations without removal of the patent. She agreed that a businessperson should have obtained a survey of the land. She then described how Mr. Burnaugh acquired the property which had been developed by a former owner. Assessor's Parcel Map is Exhibit A. It clearly indicates that the strip of land is included in the parcel. Exhibit B is the original parcel map which does not show any indication of a BLM patented area. There is a gas line easement between the highway and the property. The parcel map was filed and approved by the City. The property was developed by a Jack Dossey as indicated in the site plan which is Exhibit C. There is an encroachment permit for the roof line of the building. There is no mention in the public record of a patent or restriction by the City. A later lot line adjustment was approved by the City and recorded by the entities. Page 3 of Exhibit D is a stamped survey that was recorded. It shows the location of Highway 50. It has a ten-foot Sierra Pacific Power utility



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easement, which is not under discussion. One would not know anything about a BLM patent. Discussion indicated that Ms. Fitzsimmons felt that the BLM portion was “lost over the years and had been overlooked repeatedly”. She had purportedly not seen a copy of the Title Insurance on the property and that Mr. Burnaugh did not have a copy of it due to the Waterfall Fire which had burned down his residence. The 2001 recorded documents referenced by Mr. Weaver were included in the exhibits. Exhibit E relates to adjacent property. In 1988 NDOT allowed that businessman to use the strip of land in front of his/her business for parking. There are still vehicles parked in that location even though the NDOT license to do so has expired. She felt that the patent had been overlooked by everyone. Exhibit F is the NDOT relinquishment which was recorded in December 1993 and discussed by Mr. Weaver. When the relinquishment was recorded, Mr. Weaver gave the property to Mr. Burnaugh. Mr. Burnaugh has been assessed property taxes for the strip since 1995. In 1994 Mr. Burnaugh applied for a business license at the location. Exhibit H is the submitted and approved landscape plan. The area of alleged trespass is designated as parking and landscaping. The City approved the plan in 1994. She alleged that she had shown the documents to Mr. Suglia a year ago. Clarification reiterated that the stamp of approval on Exhibit H is found on its second page. The sign permit was cited as clearly indicating that it had been permitted and approved by the City. The sign was constructed in the indicated location. Mr. Burnaugh had not misrepresented the location. Everything had proceeded under the understanding that his parcel included the strip. Signage on the building was eliminated in order to allow him to have the sign located in front of his building. Mr. Burnaugh was cited in 1998. She had met with Mr. Forsberg and worked out an arrangement that Mr. Burnaugh fulfilled by removing the cars. Exhibit J is Mr. Hadden’s survey. Exhibit K is a title report. The Title Report covers three parcels. She alleged that the City had the property surveyed and obtained a Title Report on the property. The City did not correct the Assessor’s records as a result of that Title Report. Exhibit L is Former City Manager John Berkich’s letter to Mr. Kim requesting that they proceed with the previously discussed intent to have the reversionary clause removed from the R&PP grant and included a list of property owners in the area along with Title Reports for their properties. Since 2001 when the agreement was reached between Mr. Burnaugh and Mr. Forsberg, she had repeatedly contacted or attempted to contact Mr. Pope to determine the status of the reversionary clause. Mr. Pope had purportedly repeatedly assured her that the process takes time to complete and that they are getting to it. A year ago she received a letter from Mr. Suglia. Upon the assumption that he had been misinformed about the status of the parcel, she called him and arranged a meeting. During the meeting their position was given. They have substantial rights. Removal of the cars from a permitted area will not allow them to continue to operate. She had purportedly requested copies of the Centennial Park plan but has not received it. She was surprised to learn that the matter was agenzized for the Board. She hoped that a resolution can be found which will allow them to continue to function rather than proceed with litigation. A balanced policy should be created considering the entire big picture if even the legal position is not that strong. She asked the Board to deny Mr. Suglia’s request to proceed with litigation. The citation was issued in 1998. Mr. Vaccaro will speak to the Board. She explained that Mr. Burnaugh and Mr. Dossey had built the property. The court records regarding Mr. Vaccaro’s claims are available. Mr. Vaccaro had been the tenant and was allegedly over a year behind in his rent payments. The property was sold through bankruptcy proceedings. She felt that for him to keep stirring the issue up is not a sufficient reason to bring it forward when they were all working together toward a solution. Mr. Burnaugh indicated that he did not wish to make a statement.

Discussion between Ms. Fitzsimmons and Mayor Teixeira indicated that they will not remove the cars as it will force them to go out of business. Additional comments were solicited.

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(11:36:50) Mr. Kim explained his knowledge of railroad and highway department transactions where rights-of-way have been abandoned back to adjacent land owners, however, in this instance BLM is the base landlord who gave the right-of-way to the Federal Highway Department. The Federal Highway Department may have given an easement deed, which is an unfortunate choice of wording, to NDOT. Easement deed is an unfortunate wording as it conveys a sense of ownership. BLM does not give grants of right-of-way. It sells them. Federal highways have a 200-foot right-of-way from the center line. It has been decided that 200 feet of right-of-way is not needed in urban areas. Rights-of-way in urban areas have, therefore, been reduced to 100 feet. The people (highway departments) may feel they own the land and they either sell or give it back to the adjacent property owner. He felt certain that in this case there is a reservation for the right-of-way for the highway so that when the extra width is abandoned in BLM's interpretation the rights disappear and it cannot be given away. The park land for Centennial was disencumbered for that portion of the right-of-way burden. Ownership was not given. He had many discussions with Mr. Pope prior to his retirement regarding this issue. He had been concerned about the location of the cars. He was adamant that the Bureau as the supervisor over the City property had to have the cars and signs removed from the property. Mr. Kim was certain that Mr. Suglia had held similar discussions with Mr. Pope. He did not believe that the patent is in jeopardy today as they are working on the matter together. The City could lose it if no action occurs. Board action instructing staff, Mr. Burnaugh, and his Attorney to resolve the issue could place the patent in jeopardy. Mayor Teixeira indicated that it is a "he said, she said" situation. He thanked Mr. Kim for his input.

Mr. Vaccaro alleged that the Board had reviewed the information in February 1999 and that Supervisors Livermore and Williamson and Mr. Forsberg were present. Mr. Forsberg had allegedly advised the Board that there was no violation of the U.S. patent. It is indicated that there is a violation of the U.S. patent. The District Attorney's office has failed to perform its legal duties to enforce them. The Board told Mr. Vaccaro to take the issue to court, which he did. District Judge Fondi purportedly told him that his court could not hear the dispute regarding the District Attorney's failure to prosecute the criminal trespass citation. Judge Fondi suggested that he seek recourse through the ballot box. A legal resolution through the court process was not provided. Discussion between Mr. Vaccaro and Supervisor Aldean indicated that he did not have a vested interest beyond that of a U.S. citizen. Mr. Vaccaro advised the Board that he had run a business at the location under a master lease purchase agreement. A City Inspector brought to his attention the physical encroachment of the building. He had an issue with Jack Dossey and could not get a clear point on it. He alleged to have a copy of a stop work order regarding it. He alleged that Mr. Burnaugh approached Mr. Dossey and expressed a willingness to acquire the building. Mr. Vaccaro alleged to have had an escrow at Northern Nevada Title which was being handled by Hank Thomas. When Mr. Vaccaro tendered the money at the conclusion of the purchase of the property, he was informed that the property had been sold to Mr. Burnaugh and the escrow had been handled by Escrow One and Brenda Chapman. Supervisor Williamson cautioned Mr. Vaccaro against slandering individuals. Mr. Vaccaro indicated that he is merely attempting to explain the miscue. In Mr. Vaccaro's eyes the property was illegally obtained. He brought the physical encroachment issue to Mr. Forsberg's attention. Mr. Forsberg allegedly issued a criminal citation which has not been adjudicated. Mr. Forsberg allegedly told Mr. Vaccaro that the District Attorney's office has sole discretion in enforcing the criminal citation. His video tape allegedly contains information Mr. Forsberg gave at the Board meeting that Board meeting was not the place to discuss this issue. Mr. Vaccaro then went to Messrs. Kim, Conrad, and Pope at BLM. They advised him that it would take four or five years to address the situation. He was amazed that neither the City nor BLM have corrected the matter since he raised it in 1995 or 1996. Mr. Burnaugh has been asked to remove the encroachments and refused to do so. He has paid sales taxes and given to charity.

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These acts should not entitle him to continue an illegal operation. To do so is not fair to the Carson City citizens. There are laws telling you how to enforce it. It is the Board's duty to follow them. He urged the Board to support Mr. Suglia's request and allow the court to settle the matter.

Mr. Suglia explained that he had received several telephone messages during the discussion from Community Development Director Walter Sullivan. Mr. Sullivan had indicated that if the sign remains at its current location, a special use permit is required as the sign is located off-premise. He also indicated that the land abandonment request referenced by Mr. Weaver had not been considered by either the Planning Commission or the Board of Supervisors. Mr. Suglia felt that some of Ms. Fitzsimmons' comments seemed to be a little personal. He had dealt with Mr. Pope and had received phone calls from him. They had not exchanged letters. As Mr. Kim had indicated, he had been encouraged to get something done about the situation as it is under the R&PP patent. Mr. Pope also noted that BLM and the City have a good working relationship. He was not anxious to take land away from the City, however, something needed to be done. Chief Deputy District Attorney Melanie Bruketta had allegedly supported resolving the issue as BLM wanted something done but had not set a deadline for its accomplishment. He understood Ms. Fitzsimmons' confusion. A citation had been issued. The matter came to the Board. He had seen the video referenced by Mr. Vaccaro. Mr. Forsberg had asked the Board not to enter into the criminal issue. The agreement could have been that, as Mr. Burnaugh had moved the cars and removed the fence, the criminal trespass issue was dismissed. There was no agreement by the District Attorney or himself regarding the civil resolution. That power lies in the hands of the Board. Mr. Suglia had discussed the correction of the Assessor's maps with Mr. Hadden. Mr. Hadden purportedly had not done a record of survey which would correct the maps. Mr. Suglia noted that evidently there are different levels of surveys. He pointed out that the Assessor's maps contain a disclaimer, as indicated on Exhibit A, which he read into the record. He also indicated that, from what he knows of the survey that was just completed, the map is not accurate. The record of survey was conducted and will have Mylar copies that will correct the Assessor's map. He did not understand what had changed originally. The NDOT area is in front of the sign and did not go to Mr. Burnaugh. NDOT had purportedly not conferred any rights to Mr. Burnaugh. NDOT allegedly provided Mr. Suglia with a letter indicating that they do not have an agreement with Mr. Burnaugh that allows him to use that land.

Supervisor Aldean expressed her feeling that the issues are murky and that there may have been missteps on both sides. To force the issue at this time would be punitive. She suggested, as a method of resolving the liability issue, that Mr. Burnaugh include the City on his insurance policy. A special use permit will allow the sign to remain. Discussion with Mayor Teixeira indicated her feeling that the matter is being worked on, therefore, BLM is willing to allow it to remain. Supervisor Aldean expressed her amazement that there was no paper trail regarding the matter. She pointed out that there is no guarantee that Mr. Burnaugh will be able to obtain the land. She also expressed her feeling that going to court is not in the public's best interest.

Discussion between Supervisor Staub and Mr. Suglia indicated that the disclaimer warns against reliance upon the Assessor's maps as evidence of property lines. Yet, both Mr. Burnaugh and the City have done so as evidenced by the fact that he has been paying taxes on the property. Supervisor Staub supported Supervisor Aldean's analysis. He also felt that the lack of a paper trail would confuse a jury. There are no injured parties in this case. He did not believe that the City will lose its patent or that BLM is willing to go to the Attorney General and file junctive action at this time. The City will not be harmed by waiting. The intent is to abandon the property and sell it. He was certain that Mr. Vaccaro will be present when the sale occurs. He

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also acknowledged that the City had lost a huge amount when it went to court recently. He had no desire to take the matter to court. Mr. Burnaugh has been patient. The matter is being worked on and, hopefully will eventually be resolved. He did not wish to pursue an expense of a lawsuit regarding this matter.

Supervisor Williamson acknowledged that the paper trails are tax documents. No one notified Mr. Burnaugh of the discrepancy. She has been working on a Federal Lands Bill. The City needs the land on the north side of Highway 50 for public purposes. She felt that the Board should go forward and get the issue resolved at the Federal level before taking the matter to court.

Supervisor Livermore felt that there was some confusion regarding the ownership and the lack of a paper trail. He supported Supervisor Staub's comments regarding the cost of litigation. He also felt that a jury will be concerned about the acceptance of tax payments, the belief that Mr. Burnaugh owned the property, and the City's use of his money. He did not want to go to court and allow a jury to make the decision. He understood Mr. Suglia's position as the Board must enforce the City ordinances. He also understood the time element as it has taken more than ten years to resolve the issues. Mr. Vaccaro wants a resolution and the process completed. Supervisor Livermore could not prudently recommend going to court.

Mayor Teixeira understood the direction of the Board and that a motion should be made. He understood that the matter is mixed up. He complimented Mr. Suglia on his willingness to force the issue. He could not believe that a citation had been issued in 1998 without anything happening. He also felt that Mr. Burnaugh shared a portion of the blame. He indicated that he would vote against the motion to send a message. He will be involved in the process and progress must occur. He did not want the matter dropped. He wanted the motion to include language that six month progress reports are to be provided. He also wanted the City's "ground" off Mr. Burnaugh's tax role. For it to remain weakens the City's position in court and in negotiations.

Mr. Dawley explained that he had asked Mr. Suglia if they could remove the property from the tax roles. He felt that Mr. Suglia had indicated that he could not. Clarification by Mr. Suglia indicated that taxing him is a bad idea and it should be removed. Mr. Dawley reiterated that he had only learned about the issue yesterday. Mayor Teixeira expressed his hope that the City is no longer doing handshake deals. All deals should be in writing. He is currently dealing with two other handshake issues. He also pointed out that Mr. Burnaugh is a professional who understands the need for a paper trail. He then requested a motion.

(12:05:04) Supervisor Staub moved to deny the filing of a lawsuit against Capital City Loans to remove the encroachments on City property and include in the claim for relief an environmental assessment, if necessary, a clean up of the property as well as any other appropriate claims for relief and direct City staff to, with the utmost importance, negotiate either through Congress or with the Bureau of Land Management a resolution of the current patent that exists on the subject property and request the staff to return to this Board within six months with a status as to what progress (has occurred) in this regard. Supervisor Aldean suggested that a directive be included in the motion to the Assessor's office to remove the property from the tax roles and instruct that as long as the property is being used by Mr. Burnaugh that the City will be listed as an additional insured on the commercial liability policy and that the City will determine what the limits should be. Mr. Suglia pointed out that this issue is not agenized. Supervisor Aldean pointed out that the discussion had included it. Mayor Teixeira indicated that the motion could be amended after additional discussion. Mr.

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Suglia reiterated his concern about the noticing. Mayor Teixeira felt that the intent is to get something going. The motion is to provide direction. Supervisor Staub agreed to amend the motion as indicated by Supervisor Aldean. Supervisor Aldean then seconded the motion.

Mr. Kim cautioned the Board about including the insurance and giving a permit. The signing of any authorization will formalize the activity which makes it a known situation rather than a “muddy” circumstance. The “tricky part about the Recreational and Public Purposes Act conveyances and its reversionary clause is that the reversion is automatic when a violation occurs”. The Attorney General will say that when you give the permit to an individual or to allow it in a formal manner, you lose the patent which will include the entire parcel, e.g., Centennial Park. The land will revert to BLM when we send you the paperwork. Mayor Teixeira felt that he had led them to this point, they are attempting to do something, and now he is cautioning against doing anything as they could lose everything. The Board, however, feels that doing nothing is unacceptable to BLM. The intent is to speed up the process. The Board’s action is correct. Mr. Kim explained that the amendment is the concern. It formally places the City’s name on a document. Supervisor Aldean explained her intent to address the liability concern created when the special use permit for the sign is issued. Mr. Kim responded that he is not an attorney. Mayor Teixeira explained that the Board was being asked to give Mr. Suglia permission to proceed with a lawsuit or do nothing. He suggested that a better approach may be to obtain letters of intent from BLM and Mr. Burnaugh. Mr. Kim’s position is not at a management or policy making level. It is believed that BLM does not have a problem with the situation; however, there is no proof of that. Mr. Kim explained a property dispute in Angels Camp regarding a similar situation. The resolution automatically caused the reversion of its title to its sewer treatment plant. The R&PP now has to be reprocessed. Discussion between Mayor Teixeira and Mr. Suglia indicated that there is a legal concern but not an immediate threat. The threat centers on Centennial Park and makes it a serious problem. This is the reason Mr. Suglia had brought the matter to the Board for direction. Mayor Teixeira felt that the Board’s concern is that a lawsuit would be like rolling the dice. The City has lost a lot of lawsuits. It should not consider the issue blindly. Mr. Burnaugh does not wish to move the vehicles. BLM is saying to be careful and not jeopardize the patent by denying a legal remedy. He suggested that the Board action continue or table the matter. Supervisor Staub pointed out that nothing has happened during the last six years. He was unsure what action the Board should take. He withdrew his original motion. **Supervisor Staub moved to table the matter with instructions to staff with all due expeditiousness and with speed to resolve the issue regarding the property with BLM and/or with the United States Congress. Supervisor Livermore seconded the motion. Motion was voted by roll call with the following result: Supervisor Staub - Yes; Supervisor Livermore - Yes; Mayor Teixeira - I am supposed to vote last - Yes; Supervisor Aldean - Yes; and Supervisor Williamson - Yes. Motion carried 5-0.** Mayor Teixeira thanked everyone for attending and not setting on it.

**15. BOARD OF SUPERVISORS - NON-ACTION ITEMS:**

**A. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (12:15:34)-**  
Supervisor Livermore explained an incident on the Carson River and suggested that a tribute/commendation award be given to the individual. Mayor Teixeira agreed and asked him to follow up on it. Mayor Teixeira then editorialized a media report concerning the Hospital’s decision to reduce staffing/eliminate several functions including portions of the behavioral science facility. He had been receiving numerous calls regarding this decision. The decision was made without consulting the Board or prior notification to the

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Board. He hoped that better communication can be established with the Hospital in the future. The elimination/reduction of these services will seriously impact 800 individuals in the community who must seek the services elsewhere. The need for these services in the community was stressed. No formal action was taken or required on either of these matters.

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

**16. ACTION TO ADJOURN (12:19:05)** - Supervisor Aldean moved to adjourn. Supervisor Williamson seconded the motion. Motion carried 5-0. Mayor Teixeira adjourned the meeting at 12:20 p.m.

The Minutes of the June 1, 2006, Carson City Board of Supervisors meeting

ARE SO APPROVED ON July 20, 2006.

/s/  
\_\_\_\_\_  
Marv Teixeira, Mayor

ATTEST:

/s/  
\_\_\_\_\_  
Alan Glover, Clerk-Recorder