

CARSON CITY BOARD OF SUPERVISORS  
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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, March 6, 2008, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 8:30 a.m.

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

STAFF PRESENT:	Larry Werner	City Manager
	Alan Glover	Clerk-Recorder
	Al Kramer	Treasurer
	Walter Sullivan	Development Services Director
	Kevin Gattis	Chief Building Official
	Andrew Burnham	Public Works Director
	Melanie Bruketta	Chief Deputy District Attorney
	Jeff Sharp	City Engineer
	Ken Arnold	Public Works Project Manager
	Cheryl Adams	Purchasing and Contracts Manager
	Katherine McLaughlin	Recording Secretary
	Sandy Scott	Contracts Coordinator

(BOS 3/6/08 Recording 8:30:40)

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 the Department's heading. Any other individuals who spoke are listed immediately following the item's 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** - Mayor Teixeira convened the meeting at 8:30 a.m. Supervisor Williamson lead the Pledge of Allegiance. Rev. Bruce Kochsmeier of the First Presbyterian Church gave the Invocation.

**PUBLIC COMMENTS AND DISCUSSION (8:33:08)** - Sam Dehne espoused Rev. Kochsmeier's use of the term "wisdom" and hoped that the Board would use "wisdom" in its deliberations today. He acknowledged the presence of City Manager Werner and noted that he still did not have a name plate. He then alleged that three individuals have repeatedly asked his reasons for not playing his guitar at the Board meetings. He tells them that "Mayor Tex" objects to his playing. He disclosed that individuals wishing to hear him should go to his website on the YouTube. He allegedly had sent Supervisor Livermore a copy. He indicated that it would be possible to see cameos of the Supervisors and former City Manager along with Santa Claus during the video. He then expressed an intent to instill wisdom in himself. He felt that

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today's agenda was the longest he had seen for the Board in the two years that he had been attending the meetings. Additional public comments were solicited but none were given. No formal action was required or taken.

1. **ACTION ON APPROVAL OF MINUTES (8:36:58) - None.**
2. **CHANGES TO THE AGENDA (8:37:05) - Items 9A and B were pulled.**

**LIQUOR AND ENTERTAINMENT BOARD (8:38:00) -** Mayor Teixeira then recessed the Board of Supervisors session and convened the Liquor and Entertainment Board. For Minutes of the Liquor and Entertainment Board, see its folder for this date.

**BOARD OF SUPERVISORS (9:18:33) -** Following adjournment of the Liquor and Entertainment Board, Mayor Teixeira reconvened the Board of Supervisors session. The entire Board was present, constituting a quorum.

4. **CONSENT AGENDA (9:18:35)**

4-1. **DEVELOPMENT SERVICES - PLANNING - ACTION TO APPROVE A REQUEST FROM JENNY LOPICCOLO (PROPERTY OWNER: LOPICCOLO INVESTMENTS LLC) FOR HISTORICAL TAX DEFERMENT STATUS ON PROPERTY LOCATED WITHIN THE HISTORIC DISTRICT, 310 SOUTH CARSON STREET, APN 003-113-09 (ST. CHARLES HOTEL) FILE HRC-07-207**

4-2. **PURCHASING AND CONTRACTS - ACTION TO APPROVE AMENDMENT NO. 3 FOR CONTRACT NO. 2006-094, OPEN SPACE WETLAND REHABILITATION PROJECT WITH WOOD RODGERS, INC., FOR A NOT TO EXCEED AMOUNT OF \$26,540 TO BE FUNDED FROM THE OPEN SPACE RAFFERTY WETLAND MITIGATION ACCOUNT NO. 254-5047-452-7850 IN THE AMOUNT OF \$6,243 AND FROM THE MAINTENANCE ACCOUNT NO. 254-5047-452-0450 IN THE AMOUNT OF \$20,297 AS PROVIDED IN FISCAL YEAR 2007-2008**

4-3. **AIRPORT AUTHORITY - ACTION TO CONFIRM AND APPROVE INCLUSION OF LOT NO. 72A AND OTHER PARCELS (APNS 8-127-05, 06, 08; 8-134-03; 8-406-22 INCLUSIVE) INTO THE CARSON CITY AIRPORT PROPERTY, AMEND THE 1990 COOPERATIVE AGREEMENT BETWEEN CARSON CITY (BOARD OF SUPERVISORS) AND AUTHORIZE THE CARSON CITY AIRPORT AUTHORITY TO MANAGE THESE AREAS AS PART OF THE CARSON CITY AIRPORT**

4-4. **PUBLIC WORKS - ACTION TO APPOINT AND AUTHORIZE THE MAYOR, THE CITY CLERK-RECORDER, OR DESIGNEE TO SWEAR JOHNSON AND PERKINS (MRS. CINDY FOGEL, REPRESENTATIVE) AS THE APPRAISER FOR CARSON CITY WITH REGARD TO THE SELF-CONTAINED APPRAISAL OF THE FOLLOWING PROPERTY IN CARSON CITY FOR BOTH TEMPORARY AND PERMANENT WATER LINE EASEMENTS, APN 4-022-01 AND APN 4-021-13 -** Supervisor Aldean pulled Item 4-2 for discussion. Supervisor Livermore moved to approve the Consent Agenda with the three items remaining which is Item 4-1 -

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Development Services - Planning, and Item 4-3 - Airport Authority and Item 4-4 - Public Works as presented. Supervisor Staub seconded the motion. Motion carried 5-0.

**4-2. (9:19:15)** - Open Space Manager Juan Guzman - Supervisor Aldean expressed concern about the contract's lack of a termination date or end to the project. She questioned whether there are extenuating circumstances or if the contractor misjudged the project. Mr. Guzman explained that there had been extenuating circumstances. Staff had assumed that the project would be able to tap into NDOT's water and electrical lines. NDOT did not allow that to happen. Staff is still discussing it with NDOT. Staff also determined that there were two grants available for projects dealing with the wetlands which were not part of the original project. One grant was for identification of species in the arboreum area. NDEP also had grants available that required highly technical information and modeling the water quality before and after the wetlands. This was a major change in the scope of work. NDEP will pay for some of this work. Staff has also asked the contractor to "eat" some of the costs. This information has not been provided to the Board previously even though it often happens. City Manager Larry Werner explained that the standard practice for amendments to professional contracts has not required bringing an amendment to the amount to the Board unless the scope is changed. Supervisor Aldean explained that she had been surprised that there were three amendments to the contract. Mr. Guzman explained that wetlands require basic science work to determine the conditions and provide demonstrations to the Army Corps and NDEP that the wetlands is or is not changed. It was assumed that a certain number of hours would be required. It took more time than envisioned. He assured the Board that the staff is happy with the work being conducted by the contractor. Supervisor Staub complimented staff on the financial breakdown in the report. Mr. Guzman justified the use of the Maintenance Account to pay the \$20,297. Clarification indicated that the Maintenance Account is part of the Open Space funds. Mayor Teixeira corrected a typographical error in Item 2.2.1 on Page 1 which should be "CONSULTANT". Mr. Guzman explained that Sandy Scott and Cheryl Adams had revised his original report. The Board sent their compliments to them for the understandable and readable report. Supervisor Aldean moved to approve Amendment No. 3 for Contract No. 2006-094, Open Space Wetland Rehabilitation Project with Wood Rodgers, Inc., for a not to exceed amount of \$26,540 to be funded from Open Space Rafferty Wetland Mitigation Account No. 254-5047-452-7850 in the amount of \$6,243 and from the Maintenance Account No. 254-5047-452-0450 in the amount of \$20,297 as provided in Fiscal Year 2007-2008. Supervisor Livermore seconded the motion. Motion carried. 5-0.

Supervisor Aldean felt assured that staff works aggressively with the consultants whenever the scope of work has not been changed or they have not done a good job of estimating the project. In those cases, the contractors are being required to perform the work at their expense. She requested this information be shared with the Board members. Mr. Werner explained the process which is used to get them to complete a project. As this matter was not agendized, discussion was terminated.

**5. DEVELOPMENT SERVICES - ENGINEERING - ACTION TO APPROVE DEDICATION OF WATERLINE EASEMENT FROM CARSON-TAHOE HOSPITAL TO CARSON CITY ALONG THE ALIGNMENT OF AN EXISTING PUBLIC WATERLINE; A PORTION OF APN 01-201-25 AS SHOWN ON THE MAP (9:30:52)** - City Engineer Jeff Sharp - Supervisor Livermore

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disclosed his membership on the Hospital's Board of Trustees. The request could benefit the Hospital. He indicated that he will abstain. Supervisor Staub disclosed that he is an unpaid volunteer of the Hospital's Finance Committee and that he will participate in the discussion and action. Public comments were solicited but none were given. Supervisor Aldean moved to approve dedication of a waterline easement from Carson-Tahoe Hospital to Carson City along the alignment of an existing public waterline being a portion of APN 01-201-25 as shown on the map attached as Exhibit B. Supervisor Williamson seconded the motion. Motion carried 4-0-1 with Supervisor Livermore abstaining.

**6. TREASURER - Al Kramer**

**A. ACTION TO SET THE COMPENSATION FOR THE PARKING ADMINISTRATION HEARING OFFICER AT \$200 PER MONTH EFFECTIVE JANUARY 2008 (9:32:42)** - Discussion indicated that the number of hearings varies from one month to the next. In January there were 13 hearings. The number had increased as a result of the increase in the patrol volunteers and as a result of incidents at the schools. Supervisor Livermore stressed the importance of keeping and maintaining a calendar for the hearings. Mr. Kramer concurred. Discussion indicated that there is an interlocal agreement with the School District that allows citations to be issued on school property. The School District has adopted the City's Municipal Code Sections pertaining to parking. The school handout declares that the City has authority over the parking area. The funds generated by the citations on school property go into the City's parking administration fund. Supervisor Williamson moved to set the compensation for the parking administration hearing officer at \$200 per month effective January 2008. Supervisor Aldean seconded the motion. Motion carried 5-0.

**B. ACTION TO INTRODUCE ON FIRST READING, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 2, ADMINISTRATION AND PERSONNEL, BY ADDING A NEW CHAPTER TO TITLE 2 DESIGNATED CHAPTER 2.41, COLLECTION OF TAXES ON PERSONAL PROPERTY, BY ADDING A NEW SECTION TO CHAPTER 2.41 DESIGNATED AS SECTION 2.41.010, COUNTY TREASURER TO COLLECT TAXES ON PERSONAL PROPERTY, AND OTHER MATTERS PROPERLY RELATING THERETO (9:35:40)** - Assessor Dave Dawley - Comments noted that Carson City is one of the last counties to have the Treasurer collect the taxes on personal property. The process will allegedly eliminate staffing. Supervisor Staub moved to introduce on first reading Bill No. 110, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 2, ADMINISTRATION AND PERSONNEL, BY ADDING A NEW CHAPTER TO TITLE 2, DESIGNATED AS CHAPTER 2.41, COLLECTION OF TAXES ON PERSONAL PROPERTY, BY ADDING A NEW SECTION TO CHAPTER 2.41 DESIGNATED AS SECTION 2.41.010, COUNTY TREASURER TO COLLECT TAXES ON PERSONAL PROPERTY, AND OTHER MATTERS PROPERLY RELATING THERETO. Supervisor Livermore seconded the motion. Motion carried 5-0.

RECESS: A recess was declared at 9:38 a.m. The entire Board was present when Mayor Teixeira reconvened the meeting at 9:44 a.m., constituting a quorum.

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**7. BREWERY ARTS CENTER - Director John Procaccini - PRESENTATION BY THE BREWERY ARTS CENTER ON ITS ACCESS ACTIVITIES PLAN AND BUDGET OUTLINING ACTIVITIES AND PROGRAMS PLANNED FOR THE FOLLOWING FISCAL YEAR WITH FUNDS AND CHANNELS RECEIVED BY THE CITY (9:44:30) -** Production Coordinator Darla Bayer, General Manager Mike Furlong, Charter Communications General Manager Scott Dockery, David Morgan, Bruce Kittess - A report was distributed to the Board and Clerk. (A copy is in the file.) A power point display was used to summarize the report. Additional producers were solicited. It was felt that they have a good group of supporters. SYNCAT's rates had been used in the development of the rates. The imposition of a \$65 fee for training individuals on how to use the cameras is being considered. A two-page survey is being developed. It will be sent to 600 individuals. The current list of individuals who will receive it includes the Brewery members and any other individuals who interact with the Brewery. Lists may be purchased in the future. A final determination on who will receive it has not yet been made. Discussion noted that there must be a public meeting regarding the Access Activities. Today's meeting fills that requirement. Ms. Bayer advised that the Bulletin Board carries the station's telephone number. The website can also be used to contact the station. She also explained that her personal cell phone rings when the audio signal is lost. Mr. Procaccini advised that the new telephone system will use the Brewery Arts Center as a backup when no one is at the station. He felt that the new system will be installed in 10 days. He also advised that testimonials were included in the packet. A quarterly newsletter is sent to anyone who signs up for it or is a Brewery Arts Center member. It contains a full page on the station. The March newsletter will be out on March 15.

Mr. Furlong described the variety of shows/materials shown on the stations. He also explained that real time web streaming is available as well as the ability to show power point programs. The plan to air live programs from the Legislative Building was discussed. An impartial committee will select the programs which are to be aired from the Legislative Building. The High School may be adding the station's programs to its curriculum. It was felt that the Western Nevada College will also participate in this program. Discussion explained that the Legislative programs can be aired live to Douglas and Washoe County residents.

Mr. Dockery agreed that the ability to show the Legislature in action is something only Carson Access Television has. He disclosed that fiber optics is already in the Legislative Building. Carson Access Television can market it as soon as it is ready to go. Discussion indicated that it may be some time before a live feed to Las Vegas may be possible. Douglas and Washoe Counties can now be served with live streaming.

Mr. Procaccini agreed that it may be possible to use this service to obtain sponsors, however, the sponsor level is down this year. They hope that they can "grow" it. He advised that efforts are underway to obtain sponsorships from Sierra Pacific Electric Company and Southwest Gas.

Mr. Furlong also noted that on demand service is now available.

Mr. Morgan advised that the City already has a "line around the world" due to the technology available

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through certain cameras.

Mr. Procaccini continued with the financial portion of the report. The Board members complimented the Mr. Procaccini and his staff on their efforts and dedication.

Mr. Kittess questioned the need to produce bilingual programs. He felt that the United States had existed for many years as an English speaking country.

Mayor Teixeira thanked Mr. Procaccini for the report. Mr. Procaccini felt that the cooperation between the City, Charter Communications, and Carson Access Television's staff and its advisory board make it a huge success. No formal action was required or taken.

**8. DEVELOPMENT SERVICES - City Manager Larry Werner - ACTION TO ADOPT BILL NO. 104, ON SECOND READING, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 2, ADMINISTRATION AND PERSONNEL, BY ADDING CHAPTER 2.42, CARSON CITY BUILDING PERMIT ENTERPRISE FUND ADVISORY COMMITTEE, AND ADDING SECTION 2.42.010, DEFINITIONS, SECTION 2.42.020, PURPOSE, SECTION 2.42.030, ORGANIZATION, SECTION 2.42.040, MEMBERSHIP REQUIREMENTS, SECTION 2.42.050, TERM OF OFFICE, SECTION 2.42.060, MEETINGS AND OFFICERS – LEGISLATIVE PROCEDURE – REMOVAL OF COMMISSIONER – NO COMPENSATION, SECTION 2.42.070, REMOVAL FOR CAUSE, SECTION 2.42.080, DUTIES AND RESPONSIBILITIES, SECTION 2.42.090, SEVERABILITY, AND OTHER MATTERS PROPERLY RELATING THERETO (10:20:19) - Staff had not received any comments regarding the ordinance since the first reading. It was noted that Builders Association of Western Nevada Representative Sheena Beaver was present. Public comments were solicited but none were given. Supervisor Williamson moved to adopt Bill No. 104 on second reading, Ordinance No. 2008-5, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 2, ADMINISTRATION AND PERSONNEL, BY ADDING CHAPTER 2.42, CARSON CITY BUILDING PERMIT ENTERPRISE FUND ADVISORY COMMITTEE, AND ADDING SECTION 2.42.010, DEFINITIONS, SECTION 2.42.020, PURPOSE, SECTION 2.42.030, ORGANIZATION, SECTION 2.42.040, MEMBERSHIP REQUIREMENTS, SECTION 2.42.050, TERM OF OFFICE, SECTION 2.42.060, MEETINGS AND OFFICERS – LEGISLATIVE PROCEDURE – REMOVAL OF COMMISSIONER – NO COMPENSATION, SECTION 2.42.070, REMOVAL FOR CAUSE, SECTION 2.42.080, DUTIES AND RESPONSIBILITIES, SECTION 2.42.090, SEVERABILITY, AND OTHER MATTERS PROPERLY RELATING THERETO. Supervisor Aldean seconded the motion. Motion carried 5-0.**

**9. PUBLIC WORKS - Operations Manager Ken Arnold**

**A. ACTION TO APPROVE A RESOLUTION DECLARING THE PUBLIC INTEREST AND NECESSITY IN THE AUTHORIZATION OF A LAWSUIT TO EXERCISE THE POWER OF EMINENT DOMAIN FOR RIGHT-OF-WAY OF APPROXIMATELY 6,856.5 SQUARE FEET OF LAND FOR APN 009-084-01 AND 4,238.8 SQUARE FEET OF LAND FOR APN 009-089-01,**

**FOR A PUBLIC UTILITY EASEMENT OF APPROXIMATELY 130 SQUARE FEET AND 2,501 SQUARE FEET FOR APN 009-084-01 AND 4,238.8 SQUARE FEET FOR APN 009-089-01, AND A TEMPORARY CONSTRUCTION EASEMENT OF APPROXIMATELY 2,850.6 SQUARE FEET FOR APN 009-084-01 AND 469.7 SQUARE FEET FOR APN 009-089-01 OWNED BY SINV, LLC, FOR THE WIDENING OF FAIRVIEW DRIVE AND TO AUTHORIZE A STIPULATION FOR ENTRY ON TO THE LAND, AND TO AUTHORIZE ALL OTHER ACTIONS NECESSARY TO ACCOMPLISH THE TAKING (8:37:05) - Pulled.**

**B. ACTION TO ACCEPT THE REGIONAL TRANSPORTATION COMMISSION'S FEBRUARY 13, 2008, MEETING RECOMMENDATION THAT THE BOARD OF SUPERVISORS APPROVE A RESOLUTION DECLARING THE PUBLIC INTEREST AND NECESSITY IN THE AUTHORIZATION OF A LAWSUIT TO EXERCISE THE POWER OF EMINENT DOMAIN FOR RIGHT-OF-WAY OF APPROXIMATELY 4,843.5 SQUARE FEET OF LAND, FOR A PUBLIC UTILITY EASEMENT OF APPROXIMATELY 2,999.4 SQUARE FEET OF LAND AND A TEMPORARY CONSTRUCTION EASEMENT OF APPROXIMATELY 4,227.5 SQUARE FEET OF LAND WHICH IS A PORTION OF APN 09-552-01 OWNED BY MISSION OF NEVADA, INC, FOR THE WIDENING OF FAIRVIEW DRIVE AND TO AUTHORIZE A STIPULATION FOR ENTRY ON TO THE LAND, AND TO AUTHORIZE ALL OTHER ACTIONS NECESSARY TO ACCOMPLISH THE TAKING (8:37:05) - Pulled.**

**C. ACTION TO ADOPT ON SECOND READING, BILL NO. 105, AN ORDINANCE AMENDING TITLE 12, WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.10, RECLAIMED WATER USE RATES, SECTION 12.10.020, SCHEDULE OF RATES, BY DECREASING ALL RATES, EXCEPT THE MONTHLY METER SERVICE CHARGE, FROM \$0.21 PER THOUSAND GALLONS TO \$0.10 PER THOUSAND GALLONS EFFECTIVE ON BILLS DATED ON OR AFTER APRIL 1, 2009, AND OTHER MATTERS PROPERLY RELATED THERETO (10:22:00) - Revisions directed by the Board at the last meeting had been made to the ordinance. The ordinance will be effective on April 1, 2009. Communication from Silver Oak Golf Course was included in the packet. Noone was present representing Silver Oak Golf Course. Clarification indicated that the contractor's installed service increases are not included in this draft of the ordinance. They had been removed from the original draft. Supervisor Aldean moved to adopt on second reading Ordinance No. 2008-6, AN ORDINANCE AMENDING TITLE 12, WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.10, RECLAIMED WATER USE RATES, SECTION 12.10.020, SCHEDULE OF RATES, BY DECREASING ALL RATES, EXCEPT THE MONTHLY METER SERVICE CHARGE, FROM \$0.21 PER THOUSAND GALLONS TO \$0.10 PER THOUSAND GALLONS EFFECTIVE ON BILLS DATED ON OR AFTER APRIL 1, 2009 AND OTHER MATTERS PROPERLY RELATED THERETO with the one amendment which basically delayed any increase in the contractor's installed services. Supervisor Livermore seconded the motion. Motion carried 5-0.**

**D. ACTION TO ADOPT, ON SECOND READING, BILL NO. 106, AN ORDINANCE AMENDING TITLE 12 WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.17 STORM WATER SERVICE CHARGES SECTION 12.17.040 SERVICE CHARGE RATES BY**

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**INCREASING THE SERVICE CHARGE RATES BY 5% ON BILLS DATED ON OR AFTER JULY 1, 2008, AND OTHER MATTERS PROPERLY RELATED THERETO (10:24:03) -** Comments were solicited but none were given. Supervisor Livermore moved to adopt on second reading Bill No. 106, Ordinance No. 2008-7, AMENDING TITLE 12 WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.17 STORM WATER SERVICE CHARGES, SECTION 12.17.040 SERVICE CHARGE RATES BY INCREASING THE SERVICE CHARGE RATES BY 5% ON BILLS DATED ON OR AFTER JULY 1, 2008, AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Staub seconded the motion. Motion carried 5-0.

**E. ACTION TO ADOPT ON SECOND READING, BILL NO. 107, AN ORDINANCE AMENDING TITLE 12, WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.01, WATER CONNECTION CHARGES AND USE RATES, SECTION 12.01.010, DEFINITIONS, SECTION 12.01.050, WAIVER OF CONNECTION AND TAPPING CHARGES, SECTION 12.01.090, PROTESTS TO RATES AND CHARGES AND METER TESTS, SECTION 12.01.105, DELINQUENT CHARGES AS LIENS, SECTION 12.01.120, WASTE OF WATER PROHIBITED, SECTION 12.01.130, LIMITATIONS ON IRRIGATION, SECTION 12.01.170, APPLICATION FOR SERVICE, SECTION 12.01.180, NOTICES AND SECTION 12.01.210, MAIN EXTENSIONS, BY CHANGING VARIOUS REFERENCE TO THE UTILITIES DIRECTOR AND THE UTILITIES DEPARTMENT TO REFERENCES TO THE PUBLIC WORKS DIRECTOR AND PUBLIC WORKS DEPARTMENT; AMENDING SECTION 12.01.020, SCHEDULE OF RATES, BY INCREASING ALL RATES 6% EFFECTIVE ON BILLS DATED ON OR AFTER JULY 1, 2008, AND CHANGING REFERENCES TO UTILITIES DIRECTOR TO REFERENCES TO THE PUBLIC WORKS DIRECTOR; AMENDING SECTION 12.01.030, SCHEDULE OF WATER CONNECTION CHARGES, LATERAL AND METER BOX SETS, AND METER SET FEES, BY INCREASING ALL CHARGES AND FEES, EXCEPT WATER CONNECTION CHARGES, 6% ON BILLS DATED ON OR AFTER JULY 1, 2008, AND CHANGING CERTAIN REFERENCES TO UTILITIES DIRECTOR TO REFERENCE TO PUBLIC WORKS DIRECTOR; AMENDING SECTION 12.01.160, DESCRIPTION OF SERVICE, BY PROVIDING THAT CARSON CITY MAY PROVIDE WATER SERVICE OUTSIDE OF CARSON CITY AT RATES ESTABLISHED BY THE BOARD OF SUPERVISORS; AND OTHER MATTERS PROPERLY RELATING THERETO (10:24:57) -** Comments were solicited but none were given. Supervisor Staub moved to adopt on second reading Bill No. 107, Ordinance No. 2008-8, AMENDING TITLE 12, WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.01, WATER CONNECTION CHARGES AND USE RATES, SECTION 12.01.010, DEFINITIONS, SECTION 12.01.050, WAIVER OF CONNECTION AND TAPPING CHARGES, SECTION 12.01.090, PROTESTS TO RATES AND CHARGES AND METER TESTS, SECTION 12.01.105, DELINQUENT CHARGES AS LIENS, SECTION 12.01.120, WASTE OF WATER PROHIBITED, SECTION 12.01.130, LIMITATIONS ON IRRIGATION, SECTION 12.01.170, APPLICATION FOR SERVICE, SECTION 12.01.180, NOTICES AND SECTION 12.01.210, MAIN EXTENSIONS, BY CHANGING VARIOUS REFERENCE TO THE UTILITIES DIRECTOR AND THE UTILITIES DEPARTMENT TO REFERENCES TO THE PUBLIC WORKS DIRECTOR AND PUBLIC WORKS DEPARTMENT; AMENDING SECTION 12.01.020, SCHEDULE OF RATES, BY INCREASING ALL RATES 6% EFFECTIVE ON BILLS DATED ON OR AFTER



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JULY 1, 2008, AND CHANGING REFERENCES TO UTILITIES DIRECTOR TO REFERENCES TO THE PUBLIC WORKS DIRECTOR; AMENDING SECTION 12.01.030, SCHEDULE OF WATER CONNECTION CHARGES, LATERAL AND METER BOX SETS, AND METER SET FEES, BY INCREASING ALL CHARGES AND FEES, EXCEPT WATER CONNECTION CHARGES, 6% ON BILLS DATED ON OR AFTER JULY 1, 2008, AND CHANGING CERTAIN REFERENCES TO UTILITIES DIRECTOR TO REFERENCE TO PUBLIC WORKS DIRECTOR; AMENDING SECTION 12.01.160, DESCRIPTION OF SERVICE, BY PROVIDING THAT CARSON CITY MAY PROVIDE WATER SERVICE OUTSIDE OF CARSON CITY AT RATES ESTABLISHED BY THE BOARD OF SUPERVISORS; AND OTHER MATTERS PROPERLY RELATING THERETO. Supervisor Livermore seconded the motion. City Manager Larry Werner advised that staff will look at the rate structure and talk to the industries impacted by the higher tiers. Additional recommendations may be made in the future. The motion to adopt Ordinance 2008-8 was voted and carried 5-0.

Discussion ensued regarding the protocol on the amount of the ordinance title required to be read.

**F. ACTION TO FIND THAT THE PROPOSED ORDINANCE AMENDING TITLE 12, WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.03, SEWER CONNECTION CHARGES AND USE RATES, SECTION 12.03.020, SCHEDULE OF RATES, BY INCREASING ALL RATES TWELVE (12%) PERCENT EFFECTIVE APRIL 1, 2008, AND AN ADDITIONAL TWELVE (12%) PERCENT EFFECTIVE JULY 1, 2008, AND OTHER MATTERS PROPERLY RELATED THERETO, DOES IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN ON A BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A BUSINESS, THAT A BUSINESS IMPACT STATEMENT HAS BEEN PREPARED, ACCEPTED AND IS ON FILE WITH THE BOARD OF SUPERVISORS AND THAT THE REQUIREMENTS OF THE NRS 237.080 AND 237.090 HAVE BEEN MET (10:28:53)** - Mr. Arnold's introduction pointed out that the rate increase will have an impact. He also noted that the proposed rate increase was 12% effective on 4/1 and 12% effective on 7/1. He had not received any formal objections to the proposed increases. He had met with Mr. Geyser of Mission Linen regarding the impact. The business experiences a lot of evaporation in its operation which needs to be considered. Supervisor Staub moved to find that the proposed ordinance amending Title 12, Water, Sewerage and Drainage, Chapter 12.03, Sewer Connection Charges and Use Rates, Section 12.03.020, Schedule of Rates, by increasing all rates twelve percent effective April 1, 2008, and an additional twelve percent effective July 1, 2008, and other matters properly related thereto, does impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business, that a business impact statement has been prepared, accepted and is on file with the Board of Supervisors and that the requirements of the NRS 237.080 and 237.090 have been met. Supervisor Livermore seconded the motion. Supervisor Williamson disclosed that she is on a septic system and does not have to pay the fee increase. She acknowledged the need for the increase and regretted having to do it. The motion was voted and carried 5-0.

**G. ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE AMENDING TITLE 12, WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.03, SEWER CONNECTION**

**CHARGES AND USE RATES, SECTION 12.03.020, SCHEDULE OF RATES, BY INCREASING ALL RATES TWELVE (12%) PERCENT EFFECTIVE APRIL 1, 2008 AND AN ADDITIONAL TWELVE (12%) PERCENT EFFECTIVE JULY 1, 2008, AND OTHER MATTERS PROPERLY RELATED THERETO (10:31:46)** - Chief Deputy District Attorney Melanie Bruketta, City Manager Larry Werner, Public Works Director Andrew Burnham - Supervisor Aldean disclosed that she had discussed the proposed rate increase with Finance Director Providenti. The compounding created by the proposed two tier rate increase had been discussed at a Chamber of Commerce meeting. It was recommended that the rate increase be imposed on July 1. Her discussion with Mr. Providenti indicated that the bond commitments will be met if a one time rate increase of 24% is implemented. Mayor Teixeira supported her suggested one time increase. Ms. Bruketta opined that the Board could decrease the rate increase without having to start the process over. Mr. Arnold explained that the sharp decrease in connection fees had created the need for the large rate increase. He also advised that it will be necessary to delay capital improvements to the plant. They would have required a huge increase to the rates in order to fund them. Discussion indicated that the delay will not create additional odors. Board comments advised that the Board Members are receiving calls about the odors from the residents living in the vicinity. Mr. Werner advised that the rates will keep the utility "afloat" but not make any improvements. Improvements may be made when connection fees "start coming in". The need to expand the facility or lose capacity as well as the aging of the facility were noted. The need is a high priority. The odor solution is part of Phase 2. Mr. Burnham explained that water conservation is creating concentrated effluent which is creating the odors. This problem is occurring nationwide. The second phase is several years away and will cost at least \$2 million. An honest estimation indicated that it may be six years before it is constructed. Mr. Werner explained that the expansion is needed before the odor problem can be addressed. Additional comments were solicited but none were given. Supervisor Aldean moved to introduce on first reading Bill No. 112, AN ORDINANCE AMENDING TITLE 12, WATER, SEWERAGE AND DRAINAGE, CHAPTER 12.03, SEWER CONNECTION CHARGES AND USE RATES, SECTION 12.03.020, SCHEDULE OF RATES, BY INCREASING ALL RATES TWENTY-FOUR PERCENT EFFECTIVE JULY 1, 2008, AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Williamson seconded the motion. Motion carried 4-1 with Supervisor Staub voting Naye.

RECESS: A recess was declared at 10:41 a.m. The entire Board was present when Mayor Teixeira reconvened the meeting at 10:49 a.m., constituting a quorum.

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

**A. ACTION TO APPROVE AND AUTHORIZE THE MAYOR TO SIGN A FUNDING AGREEMENT BETWEEN CARSON CITY (GRANTEE) AND THE STATE OF NEVADA, DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES, DIVISION OF STATE LANDS (GRANTOR) FOR \$264,000 IN GRANT FUNDS TO BE USED TOWARDS IMPROVEMENTS TO THE EXISTING MORGAN MILL ROAD TRAILHEAD (10:48:48)** - Open Space Coordinator Ann Bollinger - Discussion explained the funding sources. Supervisor Livermore stressed the importance of grants and proposed trailhead. He felt that the public will be pleased with the trail, the picnic area, and the river access that will be provided. He complimented Ms. Bollinger on her

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grant writing ability. Discussion also indicated that there is a maintenance budget already in place for the facility. Picnic tables have been installed and are being used. Supervisor Livermore moved to approve and authorize the Mayor to sign a funding agreement between Carson City, Grantee, and the State of Nevada, Department of Conservation and Natural Resources, Division of State Lands, Grantor, for \$264,000 in grant funds to be used towards the improvements to the existing Morgan Mill Road Trailhead. Supervisor Staub seconded the motion. Motion carried 5-0.

**B. ACTION TO APPROVE IN CONCEPT THE PRELIMINARY BUILDING AND SITE PLANS FOR THE MULTI-PURPOSE INDOOR RECREATION CENTER LOCATED ADJACENT TO THE BOYS AND GIRL'S CLUB OF WESTERN NEVADA CLUB HOUSE LOCATED AT NORTHRIDGE DRIVE AND RUSSELL WAY (10:57:05)** - Architect Brent Tippetts of Valentiner Crane Architects, Bill Ackard, Boys and Girls Club Board of Directors President Jason Woodbury, Chief Deputy District Attorney Melanie Bruketta - Mr. Tippetts used a power point program to illustrate the search for a site for the multi-purpose indoor recreational center, the elements proposed for the facility, the issues with the proposed location, the proposed Boys and Girls Club facility, its need for a recreational facility/gym, its conceptual design, the proposed concept which would have the City and the Club own their own facilities, and, through the use of a joint use agreement, enable each to use the other's facility. Discussion noted the proposal to have a splash pad, skate park, and rock climbing wall. At this time they are included in the site plan as possible alternates to the center if funding is available. Discussion noted that the action being requested of the Board is for conceptual approval only. The Club has already constructed its facility. The proposal allows for separation of the two structures.

Mr. Ackard explained his association with the Club's tennis program. He had worked with Bob Phillips, who developed the current facilities. He questioned whether there will be tennis facilities at the new location as the drawings do not include them. Mr. Woodbury advised that there is full funding for the tennis courts from the May Foundation. Construction has not started on them. As soon as they are able, they will begin their construction. Mr. Ackard supported the concept of shared facilities. Mayor Teixeira complimented him on his efforts at the Club and resurfacing the tennis. He also pointed out that the Club will be using the courts two to three hours a day. When not in use by the Club, they can be used by the public-at-large. Mr. Ackard explained that Mr. Phillips should be complimented for his efforts as he had done most of the work. Mayor Teixeira complimented him also. Supervisor Livermore pointed out that the conceptual plan only considers the building. The Club will have its own facility plus fields and play areas on three to four acres that are not shown on the plan. He felt that it was a positive partnership for the site. Mayor Teixeira indicated that Pop Warner and soccer teams will be able to use some of the area after the Club closes for the day.

Mayor Teixeira disclosed that he is Past President for the Boys and Girls Club's Board of Directors and acknowledged that he is prejudiced about the partnership. Ms. Bruketta opined that he should abstain on this issue. Mayor Teixeira noted that he did not have a financial gain from the concept. He then passed the gavel to Mayor Pro-Tem Staub, recused himself and left the meeting-11:26 a.m. (A quorum was still present.)

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Mayor Pro-Tem Staub solicited additional comments. Supervisor Livermore explained that the recreation center was a part of the Question 18 concept approved by the electorate in 1996. It has taken a long time to find the appropriate location for the center. Mayor Pro-Tem Staub advised that none of the General Fund will be used for the center. Supervisor Livermore concurred that little to none of the General Fund will be used for the center. This will be indicated in the discussion of the following item. Additional public comments were solicited but none were given.

Supervisor Livermore moved to approve in concept the preliminary building and site plans for the multi-purpose indoor recreation center located adjacent to the Boys and Girls Club's of Western Nevada club house located on Northridge Drive and Russell Way. Supervisor Aldean seconded the motion. Motion carried 4-0-1 with Mayor Teixeira abstaining.

**C. DISCUSSION ONLY REGARDING A "RECREATION CENTER OPERATIONS PRO-FORMA" DEVELOPED BY KEN BALLARD OF BALLARD\*KING AND ASSOCIATES FOR THE PROPOSED MULTIPURPOSE INDOOR RECREATION CENTER TO BE LOCATED AT 1870 RUSSELL WAY (11:28:10) - Brent Tippets -** Mr. Moellendorf summarized the pro-forma including its assumptions. A determination of the Club's revenue stream will be made later in the process. Future programs using the facility will determine the staffing needs. The type of programs and their potential funding sources also impact the staffing needs for the facility, e.g., the School District could have a basketball program at the center. The District has its own budget and staffing. Supervisor Aldean pointed out that at some time in the future the facility will have a financial impact on the City's General Fund due to the projected need for four full-time maintenance employees in addition to "lots of part-time employees". She also explained the fees for a gym club which could impact the center's programs. She was concerned about the center's ability to sustain itself. Mr. Moellendorf concurred with the need to recognize the private sector's impact on the facility and its programs. The pro-forma had been developed by using communities with similar demographics. Therefore, it was felt that the impact would be included in the report. Supervisor Aldean indicated that she understood but felt that the report had failed to adequately consider such impacts. Mr. Moellendorf then explained the intent to relocate employees from the Community Center to the recreation center. These employees will be assigned new duties/jobs and functions. Some employees will be new but some will have several job functions. Supervisor Livermore pointed out the ability to work with the Club on the staffing. Mr. Moellendorf explained that the joint use agreement will allow the cross over which may provide full-time work for the part-time staff. The pro-forma may not have adequately considered this cross over. He also pointed out that Mr. Tippets had worked to eliminate wasteful space and to provide a tight design for efficient management opportunities. The examples cited illustrating this ability included the walking track and the management's view of the facility. Concerns were expressed regarding management and maintenance costs which may have been left out of the budget. For example, the outdoor building maintenance will be cost allocated back from the General Fund. It was believed that efficient operation and Question 18 funding should sustain the facility. Supervisor Livermore pointed out that Question 18's original split of the funding was 40-40-20. Twenty percent is currently used for maintenance. Once all of the facilities are constructed, their funding would be available for maintenance. Mr. Moellendorf continued his review of the pro-forma document by explaining his belief that the recovery rate of 93% could be anything in the 85 to 95% range. The

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Board needs to decide whether this is an acceptable rate. Mayor Pro-Tem Staub expressed his hope that communities with similar demographics had been used for comparison. Mr. Moellendorf assured the Board that they had been. Ballard\*King and Associates has performed similar pro-formas all over the country and has a large data base from which to draw its comparisons.

Mr. Tippets advised that they had done over 500 pro-formas and have been accurate in their analysis.

Mr. Moellendorf then reviewed the three options for future construction projects. Their viability had been included in the pro-forma. Their construction costs were not included in the report, however, their operational costs had been included. The skate park had a 53% deficit. The climbing wall had 104% return which would make it break even. The revenue for the splash pad was felt to be significant as it had a 121% return ratio. The caveats which had been included in the report were noted including the fact that design, size, and operational costs could create variables to the manpower required to supervise programs. The pro-forma had based its revenue on allowing access to all amenities once entrance into the center is allowed.

Supervisor Livermore pointed out that the facility would provide the ability to have parties within the center. Mr. Moellendorf described this concept which would make the center a desirable location for children's activities and parties. The fee structure included assessing a 25% increase for nonresident usage. It was felt that this revenue source may be understated in the report. Questions/comments were solicited but none were given. This was a discussion only item. Therefore, no action was taken or required.

**D. ACTION TO APPROVE A "MEMORANDUM OF UNDERSTANDING FOR THE DEVELOPMENT, CONSTRUCTION, AND OPERATION OF: (1) A MULTIPURPOSE INDOOR RECREATION CENTER; BETWEEN CARSON CITY AND THE BOYS AND GIRLS CLUB OF WESTERN NEVADA; (2) A CLUBHOUSE; AND (3) ATHLETIC FIELDS" (11:55:19) -** Deputy District Attorney William Geddes, Bruce Kittess, Boys and Girls Club Board of Directors President Jason Woodbury - The proposed memorandum (MOU) is not the final document. The joint use agreement will be the final document. It was approved by a vote of 7-1 by the Parks and Recreation Commission. The version in the Board's packet was version number six. A number seven version was distributed to the Board and Clerk. (A copy is in the file.) A site map illustrating how the parcel will be split was explained. (A copy is in the file.) It was indicated that the map is not to scale. It was used merely for illustration purposes. Discussion by Supervisor Livermore and Mr. Moellendorf emphasized that the City will not be required to purchase the land as originally proposed. The Club's land is to be transferred at no cost to the City in return for the ability to use the Center.

Supervisor Aldean explained her concern about the original plan to have the City acquire the property. The City owns other sites that could have been used for the center. She questioned the reasons the MOU did not include this intent. Mr. Geddes explained that the MOU's purpose is a good faith accounting of the intent, goals, and desires. The contract(s) that follows spells out the terms. They are drafted as a result of discussions/negotiations regarding the MOU items. He then highlighted the MOU which included the Club's desire to have the City acquire and develop Parcel B or the construction of a recreation center.

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Parcel B contains 7.27 acres. The concern regarding acquisition of the property is addressed in Item 14 which was read into the record. It indicates that the Club will convey the fee simple title to the remainder in exchange for receiving the valuable consideration and benefit of Carson City's development and construction of a recreation center. He emphasized that the Club is purchasing the center in exchange for the land. It is recognizing the value and benefit of having the ability to use the center. The land is not being donated. It is an exchange which was felt to be supportable in court. If the Board prefers, a grant could be given for it. The contracts will address development of the fields, ownership, and first right of refusal. Mayor Pro-Tem Staub suggested that the term "first right of refusal" be defined. Mr. Geddes indicated that it is addressed further in the document. The MOU envisions the use of three contracts—"contract, funding, and land conveyance agreements". The terms can be spelled out in the contract. The final document(s) should be completed within three months. Clarification indicated that the property is to be exchanged for the use of the recreation center at no cost to Carson City. Public comments were then solicited.

Mr. Kittess read his prepared statement into the record. A copy was given to the Clerk. (A copy is in the file.) He had been advised by the Assessor that his statement regarding the abated property tax is incorrect. He withdrew it. He noted that everything regarding the Club and center are conceptual/preliminary. The building has not been started. He pointed out that the nation is in a recession and questioned where are the \$9 million in funds for the center. He also noted that the operation will be a \$1 million business. He felt that the proposed facility will provide more talk about its operation than the water and sewer fund. The Board is talking about postponing major things while discussing a \$1 million operation and a multi-million dollar V&T. These are big jobs. Mayor Pro-Tem Staub offered staff and/or a Board Member's time to discuss the issues with him. Mr. Kittess then advised that he had spoken to Mayor Teixeira and Supervisor Livermore yesterday and thanked them for their time.

Mr. Woodbury pointed out a technical issue with the MOU versions. They indicate that he is legal counsel for the Club. He is not their legal counsel. Mayor Pro-Tem Staub indicated for the record that the Club will be without legal counsel in entering into the MOU. Mr. Woodbury also indicated that the MOU was approved by the Club's Board on February 21, 2008. He then noted that the Club had originally hoped that there would be an exchange of funds for the land. That is not now happening. It was an unrealistic expectation. They are excited that the project is again moving forward. The other property is being marketed. It is approximately half the size of the current site. Two years ago the property was being marketed at \$1.9 million. He hoped that everyone recognizes these facts. Mayor Pro-Tem Staub believed that it was being recognized. Additional comments were solicited but none were given.

Supervisor Livermore moved to approve a Memorandum of Understanding for the development, construction, and operation of: 1. A multi-purpose indoor recreation center between Carson City and the Boys and Girls Club of Western Nevada; and, 2. A clubhouse, and 3. Athletic fields with the noted changes in the document in Paragraph 14, the addition at no charge and the reference to counsel on the final signatory, as counsel so directed that he does not represent the Boys and Girls Club and that he represents himself as the President. Supervisors Aldean and Williamson seconded the motion. Supervisor Aldean also noted for clarification that they are approving Version No. 7. Supervisor Livermore

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concurrent. Mayor Pro-Tem Staub hoped that if an abyss, red flag, or deal breaker is reached that everyone will look at it objectively and bring it back to the Board. Supervisor Aldean's concerns are legitimate. The General Fund cannot assume any more contingencies or unknown liabilities. He disclosed that he had been involved to a degree in putting the package together. He complimented all of the individuals who had worked on it. He hoped that they can be stopped when they should if they cannot build and maintain the center for the benefit of the community. The motion to approve Version 7 of the MOU was voted and carried 4-0-1 with Mayor Teixeira abstaining.

SCHEDULING: (12:23:00) Discussion ensued regarding the time when interviews of the applicants for the Audit Committee should be conducted. Mayor Pro-Tem Staub directed that the Applicants be contacted and rescheduled for 2:15 p.m.

**11. PURCHASING AND CONTRACTS - Manager Cheryl Adams**

**A. ACTION TO DETERMINE THAT CONTRACT NO. 0708-105 IS A CONTRACT NOT REQUIRED TO BE SUBMITTED FOR PUBLIC BIDDING PURSUANT TO NRS 338.1718, AND TO APPROVE CONTRACT NO. 0708-105, A REQUEST FOR CONSTRUCTION MANAGER AS AGENT SERVICES TO BE PROVIDED BY METCALF BUILDERS, INC., TO BE THE CONSTRUCTION MANAGER AS AGENT FOR THE CARSON CITY INDOOR RECREATION CENTER/MULTI-PURPOSE GYM THROUGH DECEMBER 31, 2009, FOR A NOT TO EXCEED AMOUNT OF \$991,764 TO BE FUNDED FROM THE PARK IMPROVEMENT/NEW GYMNASIUM ACCOUNT 254-5046-452-7130 AS PROVIDED IN FISCAL YEAR 2007-08 (12:23:44) -** Public Works Director Andrew Burnham, Capital Program Manager Kim Belt, Senior Project Manager John Benzing, Reno Labor Union Representative Richard Daily, Senior Deputy District Attorney Joel Benton, Tom Metcalf of Metcalf Builders, Parks and Recreation Director Roger Moellendorf, School District Director of Operations Michael Mitchell, Beechum Builders Representative Mark Beechum, Miles Construction Vice President and Partner Kerry Richardson - During Ms. Adams' introduction Supervisor Aldean stepped from the room—12:24 p.m.—and returned—12:25 p.m. (A quorum was present the entire time. Mayor Teixeira was absent.) Ms. Adams indicated for the record that the bid had not been advertised. "An advertisement had been placed in the newspaper indicating that documentation would be provided to submit for the process." It was not a competitive process. The Statutes do not require it. It was posted on the City's website and in the newspaper. It was provided to as many contractors as they were aware of. They received seven proposals.

Ms. Belt summarized the process commencing with the Board's January 3<sup>rd</sup> authorization for staff to begin the selection process. An explanation of the use of the construction management process on the Sheriff's Administrative Building was provided. The process was proposed for the indoor recreation center/multi-purpose gym. A general contractor could have bid all of the contracts or used various subcontractors. The process had saved approximately \$130,000 on the Sheriff's Administrative Building. Public comments were then solicited.

Mr. Daily agreed that staff's comments regarding selection of a construction manager without going

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through the open bidding process under NRS 338 is correct. He supposed that statements that a general contractor could also bid the job may be true. The City, however, is a public body and cannot separate major public works projects into 38 trade contracts. He alleged that NRS 332 deals solely with contracts. Construction management provisions are under NRS 338. NRS 332.039 and 338.1373 were read into the record. He alleged that the proposed project does not fit into the options spelled out in these sections. He reiterated that the project could not be broken out into different trade sections as is proposed. NRS 338.169 to 1699 were purportedly added by the last Legislature. Various other sections of NRS 338 were also read into the record which purportedly supported his contention that the City could/should not proceed with the proposed construction management process. They allegedly included a requirement that subcontractors be selected through the competitive bidding process, a prohibition against having subcontractors bid the job, and the requirements for the as-built construction management process. He alleged that three quarters of the document relate to work which the general contractor performs. He felt that the City was selecting a general contractor for a public works project outside of the bidding requirements. If City proceeds with the project with a construction manager who does not perform any work on the project and without a general contractor, the City will be in violation of the Statutes. A definition of a general contractor and the various licenses issued to the different general contractor classes in NRS 624 were noted. He alleged that Metcalf holds a General License in the B category, which is a general builder. Without special subclasses of licenses he cannot do more than what is allowed under that category. The concrete and masonry work cannot be bid separately unless Metcalf holds the speciality license. Contract Provision 5.5 purportedly requires the contractor to comply with all Federal, State, and local rules and regulations. If Mr. Metcalf proceeds with the contract as proposed, he will allegedly be in violation of State Statutes. Contract Section 6.2.3.3 was read. It should follow NRS 338 regulations regarding competitive bidding for contractors. He alleged that the City was dividing the project up which fails to comply with the Statutes. Mayor Pro-Tem Staub requested that he sum up his argument. Mr. Daily repeated his assertion that the City was not following the Statutes and urged the City/Board to immediately send a notice as required in Contract Section 7.11 regarding faults within the contract documents to the contractor and architect.

Mr. Benton disagreed with Mr. Daily's interpretation of the construction management requirement for design builds. He felt that there is nothing that restricts the use of construction management for design builds. Court cases have held that placement in the Statutes is not law and does not define what it does. The actual legislative language must be considered. He then disclosed that he had discussed the matter with the Labor Commission, who enforces the public works provisions. He opined that the Board could split public works projects into multiple contracts so long as the law for each contract is followed. This is the process the City will follow. His personal checking indicated that many other public entities are following the same laws. It also indicated that the State Museum, the Legislative Council Bureau, and the State have used the same process. He felt that there is evidence indicating that the procedure complies with the Statutes and is defensible in a court of law. Supervisor Aldean questioned whether the term contractor, meaning the person/firm being retained, was creating the misunderstanding about the contract as the contract also uses it to mean general contractor. Mr. Benton used a dentist to illustrate how the process works. Supervisor Aldean then voiced her fundamental concern about the process due to her feeling that the cart was in front of the horse. She believed that the joint use agreement should be



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completed before moving forward. The Parks and Recreation Commission Minutes regarding the process contained statements from Mr. Tippetts repeatedly emphasizing the need to have a joint use agreement. She asked that the contract be contingent upon successful finalization of the joint use agreement. Mr. Benton indicated that Mr. Metcalf would have to agree to this contingency.

Mr. Metcalf pointed out that the contract is for an at-will professional services contract similar to an architect. His involvement in the up-front predesign and design services will make the MOU the best possible. The component on hourly rates for preconstruction were noted. The contract for the Sheriff's Administration Facility was the basic service contract for professional services. He felt that there was a savings of more than \$300,000 from his contract alone.

Mr. Moellendorf opined that the joint use agreement will be closely tied to the final design of the building. There is a conceptual plan for the building with several alternates. The discussions will include these alternates. The ramification of not having any of the items within the agreement make it necessary to have the final design before consummating the joint use agreement. Contracts with the architect and the engineering firm must be approved before the final design can be developed. He also felt that the joint use agreement's terms regarding the joint use of the facility can be developed quickly, however, the facility's amenities remain to be determined. Supervisor Aldean pointed out that the MOU provided three months in which to develop the agreement. The City is at risk for three months of work by the architect and contractor. Mr. Moellendorf concurred and pointed out that they will be at-will employees under a contract with a 30-day termination clause. Mr. Metcalf also pointed out the need to determine what amenities should be included in the facility and their estimated costs for inclusion of the items within the agreement.

Mr. Daily reiterated his allegation that the City should not divide out the project in order to evade the bidding process and prevailing wage. He also alleged that the call to the Labor Commission was out of line. He felt that the City hired its experts the same as he does. The City could challenge the law or meet with him and explain where he is wrong. He urged the Board to read NRS 338 which the labor union had lobbied. It is their business. A license is required in NRS 624. Supervisor Livermore pointed out that the School District is constructing a similar project. Mr. Daily concurred and indicated that they were behind the curve on it. He is now talking to the Lyon County Central Fire District regarding its project. He used the possibility of speeding across Washoe Valley to reach a designation to illustrate his point that even if he gets away with it, it does not make the act legal.

Mr. Mitchell disclosed that the School District is using and have used construction managers and has contracts with multiple primes. They have been advised that they are complying with the Statutes. They feel that it is the right delivery system for their project. They will stand by their acts and supports the City's interest in the process.

Supervisor Williamson explained her contact with the City Manager. The reason they were using the construction management process was due to the problems encountered with the aquatic facility under the general contractor process. The intent is not to avoid prevailing wage. The City will still be required to

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pay prevailing wages. Additional public comments were solicited.

Mr. Beechum acknowledged the bad experience with the aquatic facility. There are lots of projects that are constructed well and to standards. Construction management has also failed as illustrated by his understanding of the cost overrun at the Senior Center. He felt that the decreasing number of bidders was a bad sign. Illustrations of the low number of bidders were provided to support his point. His reasons for not bidding the contract were based on the belief he would not have received it. It costs time and money to submit a bid. They only submit bids that they believe they can win. He also pointed out that in the last seven years there had been four projects done that the City had used the same construction manager. He felt that the City pays 15% more when only one contractor bids a job. He felt that subcontractors are not comfortable with the construction management project. They do not like the bonding requirement. It is not the best value for the City. He reiterated his contention that the process did not work for the City as indicated by facts allegedly provided by the City. A copy of these documents will be provided to the Board if desired. Additional public comments were solicited.

Mr. Richardson commended Carson City on using construction management. It is an excellent program. He commended Carson City on the transparency of the selection process. The information they had received regarding their scores had helped them learn about the process. He wished that the national government's process was as transparent as the City's process. He advised that there is a relationship between Mr. Metcalf and Mr. Tippetts which he felt should have been disclosed before the selection process. He alleged that Mr. Metcalf had construction drawings that had not been made available to any of the other bidders or the City. It purportedly included detailed cost breakdowns. The architect was not at the interview. He was, however, communicating with the committee via a speaker telephone. The committee members' scores for those in the room had been consistent and "packed with notes". The architect's scores were not consistent and lacked any notes. If his score is discounted, the recommendation would be different. He acknowledged that Metcalf has conducted multiple jobs for the City and gives back to it. If "they" perceive that the process is not fair, "they" will not participate and the taxpayers will lose. Additional public comments were solicited but none were given. Mayor Pro-Tem Staub closed the public comments.

Supervisor Aldean felt that interesting points had been raised. Subjectivity will remain regardless of the efforts to eliminate it. Established relationships can skew the outcome. She was also concerned about not getting the largest bang for the City's buck by using the process.

Mr. Werner pointed out that lots of subcontractors bid more than one trade. That means that there were multiple bidders. Mr. Beechum's use of the number of bidders is not an accurate comparison. The construction management process is felt to be a better method for remodels as it can address unknown items not considered in the design. The Sheriff's Administrative Facility was under budget. The Senior Center was approximately \$200,000 over budget. It was a project that had to be rescued when it went over its budget. The use of a construction manager had pulled it back into line. He disagreed with Mr. Beechum's analysis. He felt that the City should be careful about where it is used. The City had been using it where difficulties are encountered rather than for new projects on bare ground.

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Supervisor Livermore pointed out that none of the Board members were involved with the process. The process is used daily to select professional service contractors. Insinuations that the staff is biased were felt to be unfounded. He had not personally seen any evidence to support those insinuations. It is unfortunate that the perception is that the five individuals and the architect were biased. He felt that there are other projects that were bid on the open market that were underfunded or never revitalized. The proposed project is important to the City. He was looking for the best possible project for the City.

Mayor Pro-Tem Staub complimented him on his statements and expressed his feeling that the Board is and will continue to look for the best construction project possible for the community.

Mr. Beechum requested any information that will allow him to look at the process in a different method. He also questioned other projects which have been done in the competitive bidding process. Mr. Burnham listed the City Hall expansion project for approximately \$500,000, Public Works facility for approximately \$400,000, and the "shade structure" for \$80,000 as illustrations. The majority of the City's projects are bid including public works, roads and underground infrastructure projects. He also reminded the Board and audience that projects were also bid during a time period when construction was crazy and it was difficult to obtain bidders. During that period some projects were not awarded as they were considered too expensive. Mr. Burnham then explained contract provisions regarding the fee expenses. The proposed contract provides a 3.5% fee. The School District as allegedly paid approximately 4%. Staff believed that save 1% to 1.5% on construction over bid projects. Staff believes it is an advantage to be able to control the costs for a project. The project estimate is matched to the bids. Without the estimate, the cost is unknown. He also pointed out that construction is now on "its heels", therefore the bids are under the construction estimates.

Mayor Pro-Tem Staub explained that he operates on the rule that people's perception is reality. If people believe that the process is not transparent and objective, the City needs to address the issues. He asked staff to take the comments into consideration and make the process transparent.

Supervisor Livermore moved to determine that Contract No. 0708-105 is a contract not required to be submitted for public bidding pursuant to NRS 338.1718 and to approve Contract No. 0708-105, a request for construction manager as agent services to be provided by Metcalf Builders, Inc., to be the Construction Manager as agent for the Carson City Indoor Recreation Center/Multipurpose Gym through December 31, 2009, for a not to exceed amount of \$991,764 to be funded from the Park Improvement-New Gymnasium Account 254-5046-452-7130 as provided in Fiscal Year 0708. Following a request for an amendment, Supervisor Livermore conditioned the motion upon the successful negotiations of the joint use agreement and related agreements under the MOU. Supervisor Aldean pointed out that Mr. Moellendorf and Mr. Metcalf determined that their services are needed to negotiate the joint use agreement. She had then withdrawn the condition. Supervisor Livermore withdrew the amendment. Supervisor Aldean then seconded the motion. Motion carried 4-0-1 with Mayor Teixeira abstaining.

**B. ACTION TO DETERMINE THAT CONTRACT NO. 0708-134 IS A CONTRACT FOR THE SERVICES OF A PROFESSIONAL ENGINEER, PROFESSIONAL LAND SURVEY-**

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**OR OR REGISTERED ARCHITECT; THAT THE SELECTION WAS MADE ON THE BASIS OF THE COMPETENCE AND QUALIFICATIONS OF THE ENGINEER, LAND SURVEYOR OR ARCHITECT FOR THE TYPE OF SERVICES TO BE PERFORMED AND NOT ON THE BASIS OF COMPETITIVE FEES; AND THEREFORE NOT SUITABLE FOR PUBLIC BIDDING PURSUANT TO NRS 625.530; AND TO APPROVE CONTRACT NO. 0708-134 WITH VALENTINER CRANE ARCHITECTS TO PROVIDE ARCHITECTURAL AND ENGINEERING SERVICES FOR THE CARSON CITY INDOOR RECREATION CENTER/MULTI-PURPOSE GYM THROUGH OCTOBER 31, 2009, FOR A NOT TO EXCEED COST OF \$701,900 TO BE FUNDED FROM THE PARK IMPROVEMENTS/NEW GYMNASIUM ACCOUNT 254-5046-452-7130 AS PROVIDED IN FY 2007-2008 (1:19:14)** - Mr. Moellendorf assured the Board statements of qualification had been received from several firms. They were evaluated. Justification for the recommendation was provided. Public comments were solicited but none were given. Supervisor Livermore moved to determine that Contract No. 0708-134 is a contract for the services of a professional engineer, professional land surveyor or registered architect; that the selection was made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees; and therefore not suitable for public bidding pursuant to NRS 625.530; and to approve Contract No. 0708-134 with Valentiner Crane Architects to provide Architectural and Engineering Services for the Carson City Indoor Recreation Center/Multipurpose Gym through October 31, 2009, for a not to exceed cost of \$701,900 to be funded from the Park Improvements-New Gymnasium Account 254-5046-452-730 as provided in Fiscal Year 0708. Supervisor Aldean seconded the motion. Following a request for an amendment, Supervisor Livermore amended the motion to reflect the Park Improvements-New Gymnasium Account No. as 254-5046-452-7130. Supervisor Aldean concurred. Motion carried 4-0-1 with Mayor Teixeira abstaining.

RECESS: A recess was declared at 1:21 p.m. Mayor Teixeira reconvened the meeting at 1:31 p.m. The entire Board was present, constituting a quorum.

**12. DISTRICT ATTORNEY - Chief Deputy District Attorney Melanie Bruketta - ACTION TO ADOPT ON SECOND READING, BILL NO. 108, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE CHAPTER 8.08 NUISANCES, SECTION 8.08.030 DEFINITIONS, AND CHAPTER 8.09 ENFORCEMENT PROVISIONS FOR NUISANCES, SECTION 8.09.040 DEFINITIONS TO REFERENCE THE CORRECT RESOLUTION IN THE DEFINITION OF "ENFORCEMENT OFFICIAL" AND OTHER MATTERS PROPERLY RELATED THERETO (1:34:32)** - Public comments were solicited but none were given. Supervisor Aldean moved to adopt on second reading Bill No. 108, Ordinance No. 2008-9, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE CHAPTER 8.08 NUISANCES, SECTION 8.08.030 DEFINITIONS, AND CHAPTER 8.09 ENFORCEMENT PROVISIONS FOR NUISANCES, SECTION 8.09.040 DEFINITIONS TO REFERENCE THE CORRECT RESOLUTION IN THE DEFINITION OF "ENFORCEMENT OFFICIAL" AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Staub seconded the motion. Motion carried 5-0.

**13. CITY AUDITOR - Sue Johnson - ACTION TO ADOPT ON SECOND READING, BILL NO.**

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**109, AN ORDINANCE DELETING CARSON CITY MUNICIPAL CODE CHAPTER 2.14 BOARD OF HEALTH, AND ADDING CHAPTER 2.14 CARSON CITY AUDIT COMMITTEE, SECTION 2.14.010 INTRODUCTION SETTING OUT THE REASONS FOR THE CREATION OF THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.020 PURPOSE OF THE CARSON CITY AUDIT COMMITTEE ESTABLISHING THE ROLE OF THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.030 COMPOSITION OF THE CARSON CITY AUDIT COMMITTEE ESTABLISHING THE MEMBERSHIP OF THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.040 RESPONSIBILITIES OF THE CARSON CITY AUDIT COMMITTEE SETTING FORTH THE DUTIES AND RESPONSIBILITIES OF THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.050 MEETINGS SETTING THE MEETING TIMES FOR THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.060 ORGANIZATIONAL CHART CREATING THE ORGANIZATIONAL CHART OF THE CARSON CITY AUDIT COMMITTEE AND OTHER MATTERS PROPERLY RELATED THERETO (1:32:02)** - No comments had been received regarding the ordinance. Public comments were solicited but none were given. Supervisor Staub moved to adopt on second reading Bill No. 109, Ordinance No. 2008-10, AN ORDINANCE DELETING CARSON CITY MUNICIPAL CODE CHAPTER 2.14 BOARD OF HEALTH, AND ADDING CHAPTER 2.14 CARSON CITY AUDIT COMMITTEE, SECTION 2.14.010 INTRODUCTION SETTING OUT THE REASONS FOR THE CREATION OF THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.020 PURPOSE OF THE CARSON CITY AUDIT COMMITTEE ESTABLISHING THE ROLE OF THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.030 COMPOSITION OF THE CARSON CITY AUDIT COMMITTEE ESTABLISHING THE MEMBERSHIP OF THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.040 RESPONSIBILITIES OF THE CARSON CITY AUDIT COMMITTEE SETTING FORTH THE DUTIES AND RESPONSIBILITIES OF THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.050 MEETINGS SETTING THE MEETING TIMES FOR THE CARSON CITY AUDIT COMMITTEE, ADDING SECTION 2.14.060 ORGANIZATIONAL CHART CREATING THE ORGANIZATIONAL CHART OF THE CARSON CITY AUDIT COMMITTEE AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Livermore and Williamson seconded the motion. Motion carried 5-0.

**14. CITY MANAGER - Larry Werner**

**A. ACTION TO APPOINT TWO MEMBERS TO THE AUDIT COMMITTEE ESTABLISHING THEIR INITIAL TERMS; THE APPOINTMENTS ARE INITIALLY STAGGERED, ONE TERM FOR ONE YEAR ENDING FEBRUARY 2009 AND THE OTHER TERM FOR TWO YEARS ENDING FEBRUARY 2010 (1:35:49)** - Mayor Teixeira thanked each applicant for applying. Interviews were conducted of Kenneth Brown; (1:42:27) Joe Eiben; and (1:49:09) John Warden. Supervisor Staub disclosed his personal knowledge of and recruitment of Mr. Brown. The polling of the Board selected Mr. Eiben for the one year term. Supervisor Livermore moved to appoint Joe Eiben to serve an initial term of one year ending February of 2009 to the Audit Committee. Supervisor Staub seconded the motion. Discussion noted the appointment terminates at the end of February. Motion carried 5-0.

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The Board was then polled and Mr. Brown was selected as the two-year appointee. Comments noted the qualification of the applicants. Supervisor Staub moved to appoint Ken Brown to serve an initial term of two years ending February 28, 2010, to the Audit Committee. Supervisor Livermore seconded the motion. Motion carried 5-0.

**B. ACTION TO REVIEW, EVALUATE AND RECOMMEND FOR APPROVAL THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECTS FUNDING RECOMMENDATIONS FOR THE FY 2008-09, AND TO OPEN A 30-DAY PUBLIC COMMENT PERIOD FROM MARCH 17, 2008, TO APRIL 17, 2008, THE CARSON CITY CDBG FY 2008-09 ANNUAL ACTION PLAN TO IMPLEMENT DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) PROGRAMS ASSOCIATED WITH THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM (2:05:00)** - Citizen Outreach/CDBG Coordinator Javier Ramirez, Community Development Block Grant Committee Chair Robin Bacon, Ron Wood Family Resource Center Director Joyce Buckingham, Nevada Legacy Corps Volunteer Midge Welter, Transportation Manager Patrick Pittenger - Mr. Ramirez thanked Chair Bacon and her Committee for their assistance in the process. A description of the committee's composition, the review process, and its recommendations were provided.

Ms. Buckingham explained the grant they had received last year and its use. She indicated that their goal had been met in the first six months after the award was made.

Ms. Welter read her prepared statement into the record. (A copy is in the file.) Her statement explained the services provided by the Legacy Corps and the proposed use of the grant. Their services do not overlap the RSVP Home Companion Program nor the Senior Center's daycare for seniors program.

Supervisor Williamson disclosed that she and Supervisor Aldean had at one time served on the selection committee. They had learned that there are a lot of boxes which must be checked in order to qualify for the Federal grants. Supervisor Williamson then moved to recommend for approval the Community Development Block Grant funding priorities for FY 2008-09 for the social services projects for Reach Up! for \$31,520 and the Community Counseling Center for \$33,932. Supervisor Aldean seconded the motion. Motion carried 5-0.

Discussion between Mayor Teixeira and Mr. Ramirez explained that Community Core had been contacted, however, had failed to submit an application.

Mr. Pittenger expressed his appreciation for the Committee's support. He hoped to continue to chip away at the list of needed ADA sidewalk improvements found in the City. An example was provided illustrating the need. Anything the City does to show progress is being made helps reduce the liability. He also indicated that half of the transit users are considered low income individuals. Supervisor Aldean explained that the need is a large unfunded liability. She also noted that the revitalization plans for the downtown area will wipe out three intersections. Supervisor Williamson noted the efforts being made by the Masons to improve the sidewalk at their location. Discussion between Mr. Pittenger and Mayor Teixeira noted

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examples of areas without any sidewalks that included Fifth Street, Roop Street, and Janell Street. Supervisor Aldean reiterated that the City is making progress and can show that it responds in a timely manner. The relationship with the Justice Department was described. Mr. Pittenger indicated that the RTC funds have been increased and that they are chipping away at the problems. He justified making the improvements at the recommended sites. Supervisor Aldean moved to recommend for approval the Community Development Block Grant project funding priorities for FY 2008-2009 for public facilities improvements which consist of ADA Sidewalk Improvements - Downtown Transit Accessibility for \$283,624 and moved further to open a 30-day public comment period from March 17, 2008, to April 17, 2008, for review of the Carson City CDBG FY 2008-09 Annual Action Plan to implement Department of Housing and Urban Development programs associated with the Community Development Block Grant Program and that the public comment period also applies to the public service program. Supervisor Williamson seconded the motion. Motion carried 5-0.

Discussion noted the portion of CDBG funding for administrative costs. Discussion also indicated that there is \$22,842.57 available for economic development or public improvements. It can be rolled over to the next fiscal year. Supervisor Aldean suggested that it be added to the funding for ADA improvements or the Community Counseling Center. Supervisor Aldean then moved to recommend for approval the Community Development Block Grant project funding priorities for FY 2008-09 consisting of under the public service category Project Reach Up! for \$31,520, Methamphetamine Treatment Program at the Community Counseling Center for \$33,932, and under public facilities and improvements ADA sidewalk improvements for the downtown transit accessibility for \$283,624 and adding the carryover amount from last year of \$22,842.57 and move further to open a 30-day public comment period from March 17, 2008, to April 17, 2008, for review of the Carson City CDBG FY 2008-09 Annual Action Plan to implement Department of Housing and Urban Development programs associated with the Community Development Block Grant Program. Supervisor Williamson seconded the motion. Motion carried 5-0. Both Mayor Teixeira and Supervisor Williamson thanked the Committee for its services.

**15. DEVELOPMENT SERVICES - PLANNING - Director Lee Plemel**

**A. ACTION TO ADOPT BILL NO. 102, ON SECOND READING, AN ORDINANCE TO CHANGE THE ZONING OF A PARCEL LOCATED AT 990 MINNESOTA STREET, APN 001-201-28, FROM PUBLIC COMMUNITY (PC) TO RESIDENTIAL OFFICE (RO) (FILE NO. ZMA-07-205) (2:39:17)** - No comments were received by staff regarding the ordinance since the first reading. Supervisor Livermore disclosed his intent to abstain as the property is owned by the Hospital and he serves on the Hospital Board of Trustees. Supervisor Staub disclosed that he is an unpaid volunteer on the Hospital Finance Committee. He expressed an intent to participate and vote on the request. Supervisor Aldean suggested that "will" be used in the first line of Section II on Page 1 rather than "would". Supervisor Aldean then moved to adopt Bill No 102 on second reading, Ordinance No. 2008-11, AN ORDINANCE TO CHANGE THE ZONING OF A PARCEL LOCATED AT 990 MINNESOTA STREET, APN 001-201-28, FROM PUBLIC COMMUNITY TO RESIDENTIAL OFFICE based on the findings contained in the staff report with the one correction noted on Page 1 in Section II. Supervisor Williamson seconded the motion. Motion carried 4-0-1 with Supervisor Livermore abstaining.

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**B. ACTION TO ADOPT BILL NO. 103, ON SECOND READING, AN ORDINANCE TO CHANGE THE ZONING FROM SINGLE FAMILY ONE ACRE (SF1A) TO SINGLE FAMILY 21,000 (SF21) ON FOUR PARCELS LOCATED AT 3820-4094 CENTER DRIVE, APN'S 009-775-24, -25, -26 AND -27 (FILE NO. ZMA-07-175) (2:41:47) -** No comments were received by staff regarding the ordinance since the first reading. Supervisor Aldean noted the need to make the same typographical correction in Section II. Supervisor Aldean moved to adopt Bill 103 on second reading, Ordinance No. 2008-12, AN ORDINANCE TO CHANGE THE ZONING FROM SINGLE FAMILY ONE ACRE TO SINGLE FAMILY 21,000 ON FOUR PARCELS LOCATED AT 3820-4094 CENTER DRIVE, APN'S 009-775-24, 25, 26 AND 27 subject to the one clerical change on Page 2 under Section II. Supervisor Livermore seconded the motion. Motion carried 5-0.

**C. ACTION REGARDING AN APPEAL OF THE PLANNING COMMISSION'S DECISION DENYING A VARIANCE APPLICATION FROM LESLIE J. AND JOANNE KYNETT TO REDUCE THE REQUIRED SIDE YARD SETBACK TO ALLOW EN-CROACHMENT OF A PREVIOUSLY CONSTRUCTED PROJECTION OF EAVES, LANDINGS, STAIRS AND RAILINGS, ON PROPERTY ZONED MULTI-FAMILY APARTMENT (MFA), LOCATED AT 925 AND 935 EAST FIFTH STREET, APN 004-042-24 (FILE NOS. MISC-08-011/VAR-07-121) (2:43:22) -** Building Official Kevin Gattis, Senior Planner Jennifer Pruitt, City Manager Larry Werner, Leslie and Joanne Kynett, Chief Deputy District Attorney Melanie Bruketta - Mr. Plemel's introduction noted that a set of plans showing the actual construction still need to be provided to the Building Department. Staff recommended that the Applicant redesign the landing and eaves to comply with the existing Building Code.

Supervisor Livermore disclosed that he had met with the Kynetts on several occasions regarding the issue. They had also met with the Planning staff in an effort to find an amicable solution. This effort was not successful. Supervisors Aldean and Williamson and Mayor Teixeira disclosed that they had met with the Kynetts regarding the issue. Supervisor Staub indicated that he had not met with the Kynetts. Discussion between the Board and staff explained the landing, eaves, and stairway encroachment into the three-foot setback and questioned when the Kynetts were advised about the setback requirement. It was felt that the City inspector had missed checking to verify the location of the footings and extension of the landing during construction. If he/she had the encroachment should have been found. A photo illustrating the encroachment was shown and explained. Mr. Werner explained that the CofO has not been issued and cannot be until the issue is resolved. A variance can be requested and granted by the Board or compliance with the Code should be required. Staff had attempted to ensure that the Applicant knew about the three-foot setback requirement which could not be encroached upon prior to construction. Construction in the field does not match that indicated on the building plans.

Mr. Kynett felt that the requirements were very confusing, ambiguous and hard to challenge. The Planning Commission had allegedly found the information to be unclear and had sympathized with the Kynetts but could not help them. They acquired the property in 1994 and wanted to develop it as a multi-family apartment. The property owner to their east allegedly filed objections to their application. He/she did not



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come to the meetings. He had developed his four parcels as an apartment complex. He allegedly had attempted to sell the property to the Kynetts. Mr. Kynett then explained the administrative variance which stated that the stairs could encroach no more than three feet and the eaves could not encroach more than an additional two feet. This created confusion as to the depth of the encroachment. His attempt to resolve the issue was to no avail. It is a legal question. It does not add any value to the structure. It did, however, create an emotional problem for all that are involved. The building has been constructed with three foot stairs and the eaves are extended an additional two feet which creates a five-foot encroachment into the setback. The issue was discovered during the inspection process. He felt that someone should have found the error and contacted them before the construction occurred. A change will now impact the tenant. Discussion between Mr. Kynett and Mayor Teixeira indicated that the two feet was not needed and there is no financial advantage to having it. The issue has been a major headache for the Kynetts.

Mrs. Kynett discussed with Supervisor Aldean their understanding that the eaves could encroach two additional feet over the stairs. Supervisor Aldean suggested that the bond be forfeited as a penalty for the encroachment. She also noted that three neighbors had objected to the encroachment. It was felt that they may willfully encroach if the Board grants a variance. Ms. Bruketta indicated a need to research the bond and the Code to determine if it is possible to forfeit the bond as a penalty for the encroachment. It might be possible to consider it as a misdemeanor violation of the Building Code.

Ms. Kynett explained that the landing and its eave encroached only a few inches. She felt that the engineers had given them the wrong information. They constructed the building as the plans state. She has notes regarding the conditions and changes that were made to the plans which make it clearer. She felt that the plans were not clear as indicated by her notes on the plans. One spot it indicates that the encroachment can be three feet and another spot says five feet. She had made the corrections as required which brought the eaves back to the beams and reduced the stairs to three feet. She believed that they had done everything they should have done.

Mr. Werner explained the purpose of the bond is to cover the cost of construction if another contractor is required to do the work. To forfeit the bond as a penalty could create a can of worms with future projects as it indicates that it is possible to buy your way out of compliance issues. He urged the Board to grant the variance or require compliance. Supervisor Aldean explained that she was attempting to find a reasonable compromise similar to those used by TRPA which penalize the property owner by issuing misdemeanor citations. Mayor Teixeira expressed concern about overriding a 7-0 vote by the Planning Commission. The issue is confusing. The Kynetts may have been warned. There is also the concern about the neighbors. He felt that if the eaves had been extended three feet over the stairs, they would have to be cut back. Public comments were solicited but none were given.

Mr. Plemel then used the computerized slide to illustrate the encroachment. He advised that a survey indicates that the landing encroaches 31 inches, the top encroaches seven inches, and the stairs encroach four inches beyond the allowed three-foot encroachment. Mrs. Kynett explained that the administrative variance addressed the stairs and the eaves. It did not address the landing. The structure's beams supports the landing and the enclosed eaves. Her variance request had included the two-foot encroachment for the

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landing as it is under the eaves. Clarification by Mr. Plemel explained that the Code allows landings to encroach into the setback a maximum of three feet. The structure's landing encroaches 31 inches beyond that. This area is designated by red on the photo. Mr. Kynett questioned where this information came from. Mr. Plemel explained that the Western Engineering Survey indicated this encroachment. It was submitted as part of their application for the variance. Mrs. Kynett alleged that the eaves have 3.5 inches of trim and the roof shingle extends 1.5 inches which are included in the encroachment. This totals five inches. Discussion indicated there is another 1.5 inches extension.

Supervisor Livermore explained his six-month involvement with this issue. He disclosed that he had visited the site. He felt that the majority of the time City staff and the Kynetts have small misunderstandings. The Kynetts had relied upon their engineering plans and an engineering company and the approval process more than others. They were not the carpenters who built the structure. It is a unique site. They have done a wonderful job on the site. It was originally under utilized and in poor condition. He had encouraged them to pursue the variance process as there was no other resolution. Supervisor Livermore then moved to reverse the Planning Commission's decision and approve Variance VAR-07-121 subject to the recommended conditions contained within the staff report to the Planning Commission. Mayor Teixeira seconded the motion. The motion was voted by roll call with the following result: Supervisor Livermore - Yes; Mayor Teixeira - Yes; Supervisor Staub - No; Supervisor Aldean - No; and Supervisor Williamson - No. Motion failed on a 2-3 vote.

Supervisor Aldean expressed a desire to uphold the Planning Commission's decision to deny the variance and issue a misdemeanor citation rather than mandate removal of the improvements. Ms. Bruketta advised that the Board could not issue a citation. The Board could ask Mr. Gattis to look into it. Mr. Gattis and his staff could not be forced to issue the citation. She was uncertain whether there is a misdemeanor citation process allowed in the Code. The Courts and District Attorney will establish the fine. Supervisor Aldean opined her belief that a fine was a more amenable process than requiring the Applicants to rip out the improvements. She suggested that the Code be amended to allow fines to be assessed during appeals. Ms. Bruketta opined that administrative fines could be assessed if enabled by the Code. Supervisor Aldean pointed out that this is not the issue before the Board. She then directed staff to investigate this option rather than mandating the removal of the improvements. Mr. Werner reiterated his belief that such an option would open a can of worms. There are life safety issues, right-of-way issues, etc. Staff will have to determine the circumstances under which citations could be issued. Citations can be issued now. When the matter reaches the courts, compliance is requested. The court orders the violator to fix the problem. There is no settlement process. Supervisor Aldean reiterated her belief that there should be a process that would allow a citation and fines to be issued for individuals who fail to abide by the Codes when it is believed that it was a unwillful act. Mr. Werner agreed to look into the concept. Mayor Teixeira advised that this must be an "off line issue". The Board is prohibited from taking any further action. The appeal was denied. The only other options open to the Kynetts is through the courts or removing the improvements.

Supervisor Williamson then moved to uphold the Planning Commission's decision to deny Variance VAR-07-121 based upon the findings for denial contained within the staff report to the Planning Commission.

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Supervisor Staub seconded the motion. Motion was voted by roll call with the following result: Supervisors Williamson, Staub and Aldean - Yes. Mayor Teixeira and Supervisor Livermore - No. Motion carried 3-2. Ms. Bruketta asked for the record the reasons for the aye votes. She also noted that under the definition of a variance, a variance is not allowed if it is a self-imposed condition. Supervisor Williamson indicated that was what she was going to state. It is her belief that, after studying all of the records, that most of the difficulties were self imposed. Supervisor Staub stated that his vote was based upon the grounds submitted before the Planning Commission. Supervisor Aldean stated that so were hers. Mayor Teixeira felt that there were ambiguous information and could not see how anyone could interpret what was asked of them.

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


**A. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS; CORRESPONDENCE TO THE BOARD OF SUPERVISORS, STATUS REPORTS AND COMMENTS FROM THE MEMBERS OF THE BOARD (3:32:07)** - Supervisor Staub expressed his condolences to the families of Jack Bird, Supervisor Livermore's father-in-law, and Ken Jones, a long time State Farm Agent in Carson City who also passed away. No formal action was required or taken.

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

**17. ACTION TO ADJOURN (3:32:29)** - Mayor Teixeira adjourned the meeting at 3:33 p.m.

The Minutes of the March 6, 2008, Carson City Board of Supervisors meeting

ARE SO APPROVED ON 5.15.08 ~~2008~~.

  
Marv Teixeira, Mayor

ATTEST:

  
Alan Glover, Clerk-Recorder