

**Carson City
Agenda Report**

Date Submitted: July 6, 2012

Agenda Date Requested: July 19, 2012
Time Requested: 30 minutes

To: Mayor and Board of Supervisors

From: Randal Munn, Chief Deputy District Attorney

Subject Title: For Possible Action: to introduce, on first reading, Bill. No. ____, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 2 - ADMINISTRATION AND PERSONNEL, CREATING A NEW CHAPTER 2.44 - FINANCIAL ADMINISTRATION, AND CREATING A NEW SECTION 2.44.010 - MAJORITY VOTING REQUIRED ON USE OF PUBLIC FUNDING FOR CARSON CITY CENTER PROJECT, TO REQUIRE AN AFFIRMATIVE VOTE OF THE MAJORITY OF THE PEOPLE BEFORE PUBLIC FUNDING CAN BE USED FOR THE CARSON CITY CENTER PROJECT, AND OTHER MATTERS PROPERLY RELATED THERETO.
(Randal Munn)

Staff Summary: Pursuant to NRS 295.095 Petitioners filed their Affidavit For Petitioners' Committee and sample Initiative Petition ordinance at the Clerk-Recorder's office on February 1, 2012. The Initiative Petition ordinance, as signed by various Carson City voters, was submitted on June 27, 2012, for "Certification of Sufficiency" pursuant to NRS 295.105. On July 6, 2012, the Certification of Sufficiency that the petition contained sufficient signatures to qualify for consideration was issued by the Clerk-Recorder. The 30-day time limit ("within 30 days after the date the petition was finally determined sufficient" NRS 295.115(1)) for the Carson City Board of Supervisors to adopt the certified initiative ordinance expires on Sunday August 5, 2012. The initiative ordinance adopted by the Board, if any, must be "without any change in substance" from that of the circulated petition's. If the Board adopts the initiative ordinance on first reading at its July 19, 2012 meeting, a second reading adoption at its August 2, 2012 meeting would satisfy both the Carson City Charter and NRS 295.115(1). If the Board rejects adoption, then the Board must submit the Initiative Petition ordinance to the voters as a ballot question at the November 6, 2012 general election or otherwise sue to keep it off the ballot. Arguments for and against would be developed by appointed committees pursuant to NRS 295.121.

Type of Action Requested:

- | | |
|---|--|
| ☐ Resolution | ☒ Ordinance- First Reading |
| ☐ Formal Action/Motion | ☐ Other (Specify) |

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to introduce, on first reading, Bill. No. ____, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 2 - ADMINISTRATION AND PERSONNEL, CREATING A NEW CHAPTER 2.44 - FINANCIAL ADMINISTRATION, AND CREATING A NEW SECTION 2.44.010 - MAJORITY VOTING REQUIRED ON USE OF PUBLIC FUNDING FOR CARSON CITY CENTER PROJECT, TO REQUIRE AN AFFIRMATIVE VOTE OF THE MAJORITY OF

THE PEOPLE BEFORE PUBLIC FUNDING CAN BE USED FOR THE CARSON CITY CENTER PROJECT, AND OTHER MATTERS PROPERLY RELATED THERETO.

Explanation for Recommended Board Action: The circulated and certified Initiative Petition, which proposes a new ordinance for Carson City, states:

"The people of Carson City, Nevada do enact as follows: 'No public funding shall be used for the proposed Carson City Center Project (commonly known as the Nugget Economic Development Project or the Nugget Project) without a majority vote of the people approving such public funding.'

Effect: The general election ballot for 2012 would have a provision to vote that no public funding shall be used for the proposed Carson City Center (commonly known as the Nugget Economic Development Project or the Nugget Project) without a majority vote of the people approving such public funding.

County of Carson City (ONLY REGISTERED VOTERS OF THIS COUNTY MAY SIGN BELOW."

The District Attorney's Office believes this Initiative Petition language can be successfully challenged in court as exceeding the authority of the people under Nevada Supreme Court precedent regarding an initiative ordinance that contradicts the authority of the Board of Supervisors granted by the Carson City Charter and the Nevada Revised Statutes.

Nevertheless, this Board is within its authority to choose to comply with the initiative ordinance regardless of its potential legal infirmities and adopt it rather than challenge it in court. However, there is no Nevada Supreme Court case similar to this unique circumstance. The Board has previously expressed its intent to voluntarily comply with the initiative petition ordinance by adopting its own ballot question (pursuant to its Resolution 2012-R15) for the November 6, 2012 election.

Upon any decision of this Board to adopt the initiative ordinance rather than authorize a lawsuit, the District Attorney's Office advises this Board (and any future Board) that it may also choose at a future date to ignore it as voidable, or repeal the adopted initiative ordinance which would be the Board's right under NRS 295.125 even if it was adopted by the vote of the people.

If the Board decides not to adopt, the Nevada Supreme Court requires that the Board to cause the initiative ordinance be placed upon the November 6, 2012 general election ballot or otherwise bring a lawsuit to prevent its placement on the ballot. Las Vegas Taxpayers Accountability v. City Council of Las Vegas, 125 Nev. ___, 208 P.3d 429 (2009).

Applicable Statute, Code, Policy, Rule or Regulation: Nevada Revised Statutes 295.105, NRS 295.115 and NRS 295.121.

Fiscal Impact: On June 21, 2012, the Carson City Board of Supervisors adopted a Resolution 2012-R15, placing its own ballot question on the November 6, 2012 general election ballot to provide for voter approval of up to ¼ of 1 percent sales tax for bond

financing of the proposed City Center Project. Therefore, any decision on this agenda item does not separately have a fiscal impact.

Explanation of Impact: N/A

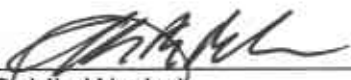
Funding Source: N/A

Alternatives: 1) Refer back to staff and District Attorney's office for further review
2) Do not introduce the ordinance (rejection of initiative ordinance)

Supporting Material: Ordinance

Prepared By: Randal Munn, Chief Deputy District Attorney, Civil Division

Reviewed By:


(Public Works)

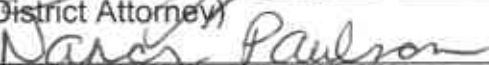
Date: 7-10-12


(City Manager)

Date: 7/10/12


(District Attorney)

Date: 7/10/12


(Finance Director)

Date: 7/10/12

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

(Vote Recorded By)

ORDINANCE NO. _____

BILL NO. _____

AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE TITLE 2 - ADMINISTRATION AND PERSONNEL, CREATING A NEW CHAPTER 2.44 – FINANCIAL ADMINISTRATION, AND CREATING A NEW SECTION 2.44.010 – MAJORITY VOTING REQUIRED ON USE OF PUBLIC FUNDING FOR CARSON CITY CENTER PROJECT, TO REQUIRE AN AFFIRMATIVE VOTE OF THE MAJORITY OF THE PEOPLE BEFORE PUBLIC FUNDING CAN BE USED FOR THE CARSON CITY CENTER PROJECT, AND OTHER MATTERS PROPERLY RELATED THERETO.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: Title 2, ADMINISTRATION AND PERSONNEL, of the Carson City Municipal Code is hereby amended by creating a new Chapter 2.44 – FINANCIAL ADMINISTRATION, by creating a new Section 2.44.010 – Majority voting required on use of public funding for Carson City Center Project, as follows:

Chapter 2.44 – FINANCIAL ADMINISTRATION

2.44.010 – Majority voting required on use of public funding for Carson City Center Project.

No public funding shall be used for the proposed Carson City Center Project (commonly known as the Nugget Economic Development Project or the Nugget Project) without a majority vote of the people approving such public funding.

Section II: That no other provisions of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____ (month) _____ (day), 2012.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2012.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

ALAN GLOVER
CLERK/RECORDER.

This ordinance shall be in force and effect from and after the __ day of the
month of _____ of the year, 2012.



ALAN GLOVER
CARSON CITY CLERK - RECORDER
ELECTION DIVISION

885 East Musser Street, Suite 1025
Carson City, Nevada 89701 - 4475

Telephone: (775) 887-2087

Fax: (775) 887-2146

July 6, 2012

Honorable Robert Crowell
Mayor of Carson City of Carson City
201 North Carson Street
Carson City, NV 89701

Dear Mayor and Members of Board of Supervisors:

Enclosed are the certified results of the Carson City Center Project Initiative Petition. We have found that the petition does qualify for submission to the Board of Supervisors per NRS 295.105.

Sincerely

A handwritten signature in cursive script that reads "Alan Glover".

Alan Glover
Clerk-Recorder

Petition Certificate of Results

"No Public funding shall be used for the proposed Carson City Center Project (commonly known as the Nugget Economic Development Project or the Nugget Project) without a majority vote of the people approving such public funding."

Signature Verification

I, Alan Glover, the duly appointed, qualified County Clerk of Carson City, State of Nevada, do hereby certify that the above entitled petition was submitted to my office on June 27, 2012; that the petition consists of 63 document; that each document contains signatures purporting to be the signatures of registered voters within Carson City; the raw count of the total number of signatures affixed to the documents was determined to be 4,555, I conducted or caused to be conducted an examination of the signatures affixed, and determined what number of those signatures were valid signatures of registered voters in Carson City by examining the registration records on file in my office; and from that examination I have determined that the **PETITION IS SUFFICIENT** based on the following results:

1.	Number of signatures examined	540
2.	Number of signatures found to be registered voters	463
3.	Number of signatures found NOT to be registered voters.	34
4.	Number of signatures found to be duplicates	1
5.	Number of signatures not signed in ink.....	0
6.	Number of other reasons signatures were rejected	42
7.	Total of numbers 3, 4, 5, and 6	77

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on July 6, 2012.


Carson City Clerk-Recorder