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MEMORANDUM

To: Mayor; Supervisors

From: Jason Woodbury

Date: December 7, 2015

**Re: December 17, 2015 Board of Supervisors' Meeting; Appeal of
Carson City Community Development Department and Planning
Division File No. SUP-15-077; Disclosure of conflict of interest**

This *Memorandum* is presented in accordance with the provisions of NRS 281A.420 which provides, in pertinent part, as follows:

1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:
 - (a) Regarding which the public officer or employee has accepted a gift or loan;
 - (b) In which the public officer or employee has a significant pecuniary interest;or
 - (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person,

→without disclosing information concerning the gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of the person that is sufficient to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's significant pecuniary interest, or upon the person to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall

make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

....

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

- (a) The public officer's acceptance of a gift or loan;
- (b) The public officer's significant pecuniary interest; or
- (c) The public officer's commitment in a private capacity to the interests of another person.

In compliance with NRS 281A.420(1), this *Memorandum* is intended to provide notice of the following:

- My wife and I are parties to a contract with Robert and Pamela Bauter.
- Under the terms of the contract, my wife and I are presently tenants in a residence owned by Robert and Pamela Bauter.
- Under the terms of the contract, my wife and I are obligated to pay a certain sum each month to Robert and Pamela Bauter for rental of the residence.
- The terms of the contract contemplate our purchase of the residence from Robert and Pamela Bauter on or before a date certain in the future.
- The residence which is the subject of the above-referenced contract is not involved in, adjacent to, or near the project which is the subject of the appeal above-referenced.
- Robert and Pamela Bauter are appellants in that certain appeal of File No. SUP-15-077 approved by the Carson City Planning Commission on September 30, 2015.
- I am the Carson City District Attorney.
- The Carson City District Attorney's office serves a dual role in regard to this appeal in that it advises and represents the Carson City Community Development Department and Planning Division and also advises and represents the Carson City Board of Supervisors, which presides over this appeal and will make Carson City's final decision concerning the above referenced application.
- As to the above-referenced appeal, I serve as the legal advisor to the Carson City Community Development Department and Planning Division and Chief Deputy District Attorney Adriana G. Fralick serves as the legal advisor to the Carson City Board of Supervisors.

- Based on this, NRS 281A.420 requires that I disclose this “commitment in a private capacity” based on my “substantial and continuing business relationship” with Robert and Pamela Bauter.
- Because this matter involves neither my contractual relationship with Robert and Pamela Bauter nor the residence which is the subject of that contractual relationship, it is my opinion that my commitment in a private capacity to Robert and Pamela Bauter does not “materially affect” my “independence of judgment” and would not “materially affect” “the independence of judgment of a reasonable person” in my situation. Further, this matter would not reasonably be affected by my private commitment should I participate in this matter.
- Therefore, it is my intent to participate in this matter insofar as my participation is necessary and appropriate as legal advisor to the Carson City Community Development Department and Planning Division.