



STAFF REPORT

Report To: Board of Supervisors

Meeting Date: October 20, 2022

Staff Contact: Nancy Paulson, City Manager

Agenda Title: For Possible Action: Discussion and possible action: (1) regarding a business impact statement concerning a proposed ordinance repealing the Carson City building permit enterprise fund advisory committee; and (2) to introduce, on first reading, a proposed ordinance repealing the Carson City building permit enterprise fund advisory committee. (Nancy Paulson, npaulson@carson.org)

Staff Summary: This item is for the first reading of a proposed ordinance which, if enacted, will repeal the Carson City building permit enterprise fund advisory committee ("Advisory Committee"). NRS 237.080 requires a business impact statement to be prepared whenever an ordinance by the adoption of which the governing body of a local government exercises legislative powers. The business impact statement finds that the proposed ordinance will not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

Agenda Action: Ordinance - First Reading

Time Requested: 5 Minutes

Proposed Motion

I move to approve the business impact statement as presented and introduce, on first reading, Bill No. _____.

Board's Strategic Goal

Efficient Government

Previous Action

March 6, 2008 (Item 8) - the Board of Supervisors ("Board") adopted Bill No. 104, Ordinance No. 2008-5, which created the Advisory Committee.

Background/Issues & Analysis

Carson City maintains an enterprise fund which was created pursuant to NRS 354.612 "exclusively for building permit fees, fees imposed for the issuance of barricade permits and fees imposed for encroachment permits. The purpose of the enterprise fund is to recover the costs of operating the activity for which the fund was created, including overhead." Carson City Municipal Code ("CCMC") 2.42.020. Under certain circumstances, Nevada law requires a local government that establishes an enterprise fund to also create an advisory committee to review the operations of, and make recommendations relating to, the enterprise fund.

On March 6, 2008, the Board adopted Bill No. 104, Ordinance No. 2008-5, which created the Advisory Committee. However, upon a recent review of the City's boards, commissions and committees, it was determined that the Advisory Committee discontinued meetings several years ago and currently has no membership. After reviewing the relevant provisions of state law and consultation with the Nevada Department of Taxation, it was further determined that Carson City is not under a legal obligation to maintain the Advisory

Committee. Correspondence between the District Attorney's Office and the Department of Taxation discussing this legal determination is attached to this staff report as supporting material.

Because Carson City has no legal duty to maintain the Advisory Committee and also because the Advisory Committee ceased to operate several years ago and has no current membership, those provisions of CCMC governing the Advisory Committee are obsolete. This proposed ordinance is intended to repeal CCMC Chapter 2.42, thereby removing the obsolete provisions relating to the Advisory Committee.

Applicable Statute, Code, Policy, Rule or Regulation

NRS Chapter 237 and 244; Article 2 of the Carson City Charter

Financial Information

Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted?

Explanation of Fiscal Impact:

Alternatives

1. Do not accept the business impact statement, modify the business impact statement and/or provide alternative direction.
2. Do not introduce the ordinance on first reading, modify the ordinance and/or provide alternative direction.

Attachments:

[BIS - Enterprise Fund Advisory Committee Repeal.pdf](#)

[Ordinance_Enterprise_Fund_Advisory_Committee_Repeal_First_Reading.pdf](#)

[Supporting material_enterprise fund advisory comm repeal.pdf](#)

[Supporting material_enterprise fund advisory comm original ordinance enactment.pdf](#)

Board Action Taken:

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

(Vote Recorded By)



BUSINESS IMPACT STATEMENT

This Business Impact Statement was prepared in accordance with the provisions of NRS (Nevada Revised Statutes) 237.030 to 237.150, inclusive, as a statutory prerequisite to the adoption of any rule***, as that term is defined in NRS 237.060, by the Carson City Board of Supervisors.

*** A "rule" may include an ordinance, or an action taken by the Board, that imposes, increases or changes the basis for the calculation of a fee which is paid in whole or in substantial part by businesses. A "rule" **does not** include actions that impose, increase or change the basis for the calculation of: (1) special assessments imposed pursuant to NRS chapter 271; (2) impact fees imposed pursuant to NRS chapter 278B; (3) fees for remediation imposed pursuant to NRS chapter 540A; (4) taxes ad valorem; (5) sales and use taxes; or (6) a fee that has been negotiated pursuant to a contract between a business and Carson City. A "rule" also **does not** include: an action taken by the Board that approves, amends or augments the annual budget of Carson City; an ordinance adopted by the Board pursuant to a provision of NRS chapter 271, 271A, 278, 278A, 278B or 350; an ordinance adopted or action taken by the Board that authorizes or relates to the issuance of bonds or other evidence of debt of Carson City; or any rule for which Carson City does not have the authority to consider less stringent alternatives, including, for example, a rule that Carson City is required to adopt pursuant to a federal or state statute or regulation or to a contract into which Carson City has entered.

ORDINANCE OR ACTION PROPOSED FOR ADOPTION

AN ORDINANCE RELATING TO ADMINISTRATION; REPEALING THE CARSON CITY BUILDING PERMIT ENTERPRISE FUND ADVISORY COMMITTEE; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

1. *The manner in which notice was provided to the applicable trade associations and officers of businesses likely to be affected by the proposed ordinance or action, and a summary of any data, arguments or comments received from those recipients:*

a. Notice

N/A. There are no trade associations or officers of businesses likely to be affected by the ordinance and therefore no person to whom a notice is required to be given.

b. Summary of comments

N/A

2. *The estimated economic effect of the proposed ordinance or rule on businesses, including both adverse and beneficial effects, and both direct and indirect effects:*

a. Adverse effects:

N/A

b. Beneficial effects:

N/A

c. Direct effects:

N/A

d. Indirect effects:

N/A

3. *The methods considered by the Carson City Board of Supervisors to reduce the impact of the proposed ordinance or action on businesses and whether any of those methods were used:*

N/A

4. *Estimate of the annual cost to Carson City for enforcement of the proposed ordinance or action:*

N/A

5. *The total annual amount of money expected to be collected as a result of the new fee or increase in fee proposed by the ordinance or action, and the manner in which the money will be used:*

N/A

6. *The proposed ordinance or action [] DOES [X] DOES NOT include any provisions which duplicate or are more stringent than Federal, State or local standards regulating the same activity.*

7. *The reasons for the conclusions regarding the impact of the proposed ordinance or action:*

N/A

8. *Based on the information considered, it has been determined that this proposed ordinance or rule:*

DOES DOES NOT impose a direct and significant economic burden upon a business.

DOES DOES NOT directly restrict the formation, operation or expansion of a business.

Pursuant to NRS 237.090(3), this Business Impact Statement was prepared and made available for public inspection by the City Manager at the time the agenda notice on which the proposed ordinance or rule described in this statement is included was posted.

Pursuant to NRS 237.090(2), I, Nancy Paulson, the City Manager of Carson City, hereby certify that to the best of my knowledge and belief the information contained herein was properly prepared and is accurate.

Nancy Paulson
Signature

10/10/2022
Date

Nancy Paulson
Printed Name

SUMMARY: An ordinance repealing the Carson City building permit enterprise fund advisory committee.

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE RELATING TO ADMINISTRATION; REPEALING THE CARSON CITY BUILDING PERMIT ENTERPRISE FUND ADVISORY COMMITTEE; AND PROVIDING OTHER MATTERS PROPERLY RELATED THERETO.

The Board of Supervisors of Carson City do ordain:

SECTION I:

That Title 2 (ADMINISTRATION AND PERSONNEL), Chapter 2.42 (CARSON CITY BUILDING PERMIT ENTERPRISE FUND ADVISORY COMMITTEE) is hereby repealed with reservation of the chapter as follows:

Chapter 2.42 – [~~CARSON CITY BUILDING PERMIT ENTERPRISE FUND ADVISORY COMMITTEE~~] Reserved.

(Editor’s note: Ord. No. 2022- , § I, adopted on 2022, repealed Chapter 2.42 – CARSON CITY BUILDING PERMIT ENTERPRISE FUND ADVISORY COMMITTEE)

SECTION II:

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

SECTION III:

This ordinance shall be in force and effect from and after the _____ day of the month of _____ of the year 2022.

PROPOSED on _____, 2022.

PROPOSED by Supervisor _____.

PASSED on _____, 2022.

VOTE: AYES: SUPERVISORS: _____

NAYS: SUPERVISORS: _____

ABSENT: SUPERVISORS: _____

LORI BAGWELL
Mayor

ATTEST:

AUBREY ROWLATT
Carson City Clerk-Recorder

TEXT OF REPEALED SECTIONS

Chapter 2.42 [~~CARSON CITY BUILDING PERMIT ENTERPRISE FUND ADVISORY COMMITTEE~~]

[~~2.42.010 Definitions.~~

~~As used in this section:~~

~~"Barricade permit" means the official document issued by the city engineer which authorizes the placement of barricade appurtenances or structures within a public right of way.~~

~~"Building permit" means the official document or certificate issued by the Carson City chief building official which authorizes the construction of a structure.~~

~~"Encroachment permit" means the official document issued by the city engineer which authorizes construction activity within a public right of way.~~

~~"Operating cost" means the amount paid by the city for supplies, services, salaries, wages and employee benefits to provide the services associated with issuing building permits.~~

2.42.020 Purpose.

~~Carson City has created an enterprise fund pursuant to NRS 354.612 exclusively for building permit fees, fees imposed for the issuance of barricade permits and fees imposed for encroachment permits. The purpose of the enterprise fund is to recover the costs of operating the~~

activity for which the fund was created, including overhead. There is hereby established pursuant to NRS 354.59893 et seq. an advisory committee to be known as the Carson City building permit enterprise fund advisory committee.

2.42.030 Organization.

1. This committee shall consist of five members who shall be appointed by the board.
2. The committee shall be composed of:
 - a. 1 member who shall be a representative of the residential construction industry;
 - b. 1 member who shall be a representative of the commercial development industry;
 - c. 1 member who shall be a representative of the construction industry;
 - d. The Carson City finance director; and
 - e. The Carson City chief building official.

2.42.040 Membership requirements.

The 3 representative members of the Carson City building permit fund advisory committee shall be qualified electors of Carson City. Applicants who are members of the Builders Association of Western Nevada and/or the Carson city chamber of commerce shall be given preference provided all other qualifications are equal.

2.42.050 Term of office.

1. All terms will be for 4 years except that the Carson City staff member positions shall be for as long as they hold said positions.
2. Members whose terms have expired shall continue to serve until their successors have been appointed.
3. Terms of office shall commence and end on January 1st.

2.42.060 Meetings and officers—Legislative procedure—Removal of member—No compensation.

1. The committee shall establish by laws setting the frequency and dates of meetings.
2. The committee shall meet in regular session and shall elect from their members a chairman and a vice chairman at the first regular meeting conducted each calendar year. Officers shall hold office for 1 calendar year or until their successors are named.
3. The city shall provide a secretary for each and every meeting of the committee.
4. The committee shall by recorded vote, adopt rules and regulations for governing procedure and shall adopt appropriate by laws by which to be governed.
5. A majority shall constitute a quorum.
6. The committee members shall receive no compensation.

2.42.070 Removal for cause.

Upon recommendation of the committee, the board may remove for cause any commissioner for:

1. Dereliction of duty;
2. Nonparticipation;
3. Poor attendance;
4. For any other reason shown as just cause.

2.42.080 Duties and responsibilities.

1. The committee shall act in advisory capacity to the board.
2. The committee may issue opinions and recommendations to the board concerning, without limitation:
 - a. The adequacy of the fees that the city charges for barricade permits, encroachment permits and building permits;
 - b. The financial objectives and annual budget of the program for the issuance of barricade permits, encroachment permits and building permits; and
 - c. Any other relevant issue related to the operation of the enterprise fund.

2.42.090 Severability.

If any of the provisions of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not impair the other provisions of this chapter. To this end the provisions of this chapter are declared to be severable.]

J. Daniel Yu

From: Melissa Flatley <mflatley@tax.state.nv.us>
Sent: Thursday, April 21, 2022 5:27 PM
To: J. Daniel Yu
Subject: RE: Question re: Carson City enterprise fund advisory committee (NRS Chapter 354)

This message originated outside of Carson City's email system. Use caution if this message contains attachments, links, or requests for information.

Dan,

That is an accurate review and representation of the Department's interpretation. Thanks for reaching out and I'm available for additional questions.

Melissa Flatley, Esq.

Chief Deputy Executive Director
Department of Taxation
P: 775-684-2176

From: J. Daniel Yu <JDYu@carson.org>
Sent: Wednesday, April 13, 2022 6:07 PM
To: Melissa Flatley <mflatley@tax.state.nv.us>
Subject: Question re: Carson City enterprise fund advisory committee (NRS Chapter 354)

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi Melissa,

Thank you again for the phone call yesterday. To recap:

1. Carson City currently has an enterprise fund which was created pursuant to NRS 354.612 "exclusively for building permit fees, fees imposed for the issuance of barricade permits and fees imposed for encroachment permits. The purpose of the enterprise fund is to recover the costs of operating the activity for which the fund was created, including overhead." Carson City Municipal Code ("CCMC") 2.42.020.
2. NRS 354.59893 requires each local government that creates an enterprise fund pursuant to NRS 354.59891 to establish an advisory committee to review the operations of, and make recommendations relating to, the enterprise fund.
3. NRS 354.59891 establishes various provisions: (1) restricting increases to a building permit basis except as otherwise authorized by statutory formula; (2) authorizing the Nevada Tax Commission to exempt a local government from the restriction upon application by the local government under certain circumstances, including the local government's creation of an enterprise fund pursuant to NRS 354.612.

4. **Based on information provided to my office, Carson City has never applied to the Nevada Tax Commission for an exemption from the building permit basis set forth in NRS 354.59891.**

It is my understanding that in light of the foregoing and pursuant to our discussion yesterday, it is the position of your office that Carson City is **not** required by statute to establish an advisory committee to review the operations of, and make recommendations relating to, its enterprise fund which was created under NRS 354.612 because Carson City has never applied for or otherwise obtained an exemption from the building permit basis.

As the Chief Deputy Executive Director for the Nevada Department of Taxation, can you confirm if my understanding is correct?

As always, your assistance is very much appreciated.

Thank you,

Dan

J. Daniel Yu
Assistant District Attorney & Chief of Staff
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jdYu@carson.org



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Item # 8

**Carson City
Agenda Report**

Date Submitted: February 25, 2008

Agenda Date Requested: March 6, 2008

Time Requested: 5 Minutes

To: Mayor and Supervisors

From: Development Services

Subject Title: 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.

Staff Summary: Approval if this ordinance will establish the Building Permit Enterprise Fund Advisory Committee which is the outgrowth of the One-Stop Committee that was established several years ago through the City Manager's Office. The Committee will be comprised of 5 members; one member who shall be a representative of the residential construction industry; one member who shall be a representative of the commercial development industry; one member who shall be a representative of the construction industry; the Carson City Finance Director; and the Carson City Chief Building Official.

Type of Action Requested: (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to adopt Bill No. 104, on second reading, Ordinance No. _____, 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.

Explanation for Recommended Board Action: See Staff Summary.

Applicable Statue, Code, Policy, Rule or Regulation: NRS 354.59893

Fiscal Impact: Minor impact due to providing staff support to the Committee

Explanation of Impact: See above

Funding Source: Building Division Enterprise Fund

Alternatives: Abolish the Building Enterprise Fund and do not form the committee.

Supporting Material: Draft Ordinance

Prepared By: Lawrence A. Werner, P.E., P.L.S., City Manager

Reviewed By:

Melanie Ruskotta
(District Attorney)
Mark Alromb
(Finance Director)

Date: 2-26-08

Date: 2-26-08

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

Ordinance No. _____

Bill No. 104

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.

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

Section I: Chapter 2.42 of the Carson City Municipal Code is hereby added to Title 2 as follows:

2.42.010 Definitions

2.42.020 Purpose

2.42.030 Organization.

2.42.040 Membership requirements.

2.42.050 Term of office.

2.42.060 Meetings and officers—Legislative procedure—Removal of commissioner—No compensation.

2.42.070 Removal for cause.

2.42.080 Duties and responsibilities.

2.42.090 Severability.

Section II: Chapter 2.42.010 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.010 Definitions.

As used in this section:

1. "Barricade permit" means the official document issued by the City Engineer which authorizes the placement of barricade appurtenances or structures within a public right-of-way.
2. "Building permit" means the official document or certificate issued by the Carson City Chief Building Official which authorizes the construction of a structure.
3. "Encroachment permit" means the official document issued by the City Engineer which authorizes construction activity within a public right-of-way.
4. "Operating cost" means the amount paid by the City for supplies, services, salaries, wages and employee benefits to provide the services associated with issuing building permits.

Section III: Chapter 2.42.020 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.020 Purpose

1. Carson City has created an enterprise fund pursuant to NRS 354.612 exclusively for building permit fees, fees imposed for the issuance of barricade permits and fees imposed for encroachment permits. The purpose of the enterprise fund is to recover the costs of operating the activity for which the fund was created, including overhead.
2. There is hereby established pursuant to NRS 354.59893 et seq. an advisory committee to be known as the Carson City Building Permit Enterprise Fund Advisory Committee.

Section IV: Chapter 2.42.030 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.030 Organization.

1. This committee shall consist of five members who shall be appointed by the board.

2. The committee shall be composed of:
 - a) One member who shall be a representative of the residential construction industry;
 - b) One member who shall be a representative of the commercial development industry;
 - c) One member who shall be a representative of the construction industry;
 - d) The Carson City Finance Director; and
 - e) The Carson City Chief Building Official.

Section V: Chapter 2.42.040 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.040 Membership requirements.

The three representative members of the Carson City Building Permit Fund Advisory Committee shall be qualified electors of Carson City. Applicants who are members of the Builders Association of Western Nevada and/or the Carson City Chamber of Commerce shall be given preference provided all other qualifications are equal.

Section VI: Chapter 2.42.050 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.050 Term of office.

1. All terms will be for four (4) years except that the Carson City staff member positions shall be for as long as they hold said positions.
2. Members whose terms have expired shall continue to serve until their successors have been appointed.
3. Terms of office shall commence and end on January 1st.

Section VII: Chapter 2.42.060 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.060 Meetings and officers—Legislative procedure—Removal of member—No compensation.

1. The committee shall establish by-laws setting the frequency and dates of meetings.
2. The committee shall meet in regular session and shall elect from their members a chairman and a vice- chairman at the first regular meeting

conducted each calendar year. Officers shall hold office for one calendar year or until their successors are named.

3. The city shall provide a secretary for each and every meeting of the committee.
4. The committee shall by recorded vote, adopt rules and regulations for governing procedure and shall adopt appropriate by-laws by which to be governed.
5. A majority shall constitute a quorum.
6. The committee members shall receive no compensation.

Section VIII: Chapter 2.42.070 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.070 Removal for cause.

Upon recommendation of the committee, the board may remove for cause any commissioner for

1. Dereliction of duty, or
2. Nonparticipation, or
3. Poor attendance, or
4. For any other reason shown as just cause.

Section IX: Chapter 2.42.080 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.080 Duties and responsibilities.

1. The committee shall act in advisory capacity to the board.
2. The committee may issue opinions and recommendations to the board concerning, without limitation:
 - a) The adequacy of the fees that the City charges for barricade permits, encroachment permits and building permits.
 - b) The financial objectives and annual budget of the program for the issuance of barricade permits, encroachment permits and building permits; and

c) Any other relevant issue related to the operation of the enterprise fund.

Section X: Chapter 2.42.090 of the Carson City Municipal Code is hereby added to Chapter 42 of Title 2 as follows:

2.42.090 Severability.

If any of the provisions of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not impair the other provisions of this chapter. To this end the provisions of this chapter are declared to be severable.

Section XI:

That no other provisions of Title 2 of the Carson City Municipal Code are affected by this ordinance.

PROPOSED on _____, 2008

PROPOSED by Supervisor _____

PASSED on _____, 2008

VOTES: AYES: Supervisors _____

NAYES: Supervisors _____

ABSENT: Supervisors _____

Marv Texeira, 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 2008.