

CARSON CITY BOARD OF SUPERVISORS
Minutes of the September 16, 2004, Meeting
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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, September 16, 2004, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 8:30 a.m.

PRESENT:	Ray Masayko	Mayor
	Pete Livermore	Supervisor, Ward 3
	Robin Williamson	Supervisor, Ward 1
	Shelly Aldean	Supervisor, Ward 2
	Richard S. Staub	Supervisor, Ward 4
STAFF PRESENT:	Linda Ritter	City Manager
	Alan Glover	Clerk-Recorder
	Larry Werner	City Engineer
	Mark Forsberg	Chief Deputy District Attorney
	Scott Fahrenbruch	Parks Operations Director
	Katherine McLaughlin	Recording Secretary
	(B.O.S. 9/16/04 Tape 1-0011)	

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

CALL TO ORDER; ROLL CALL; INVOCATION; AND PLEDGE OF ALLEGIANCE - Mayor Masayko convened the meeting at 8:30 a.m. Roll call was taken. The entire Board was present, constituting a quorum. Rev. Dave Goodall of the Capital Christian Center gave the Invocation. Mayor Masayko led the Pledge of Allegiance.

CITIZEN COMMENTS (1-0040) - Carson Water Subconservancy Executive Director Ed James invited the Board, City staff, and the general public to attend the Subconservancy's conference on October 15 at the Old Legislative Chambers. The conference starts at 8:30 a.m. Its focus was highlighted. The registration fees were explained. A copy of its brochure was distributed to the Board and Clerk. (A copy is in the file.) No formal action was required or taken.

1. APPROVAL OF MINUTES - 4/27 and 5/17/04 Budget Sessions; 5/6/04 Regular Session; and the 7/14/04 Emergency Session (1-0068) - Discussion indicated that the Minutes for the 5/17/04 Budget Session had not been received by the Board. Supervisor Livermore moved for approval of the Minutes of the Carson City Board of Supervisors of April 27, 2004, Budget Session; May 6, 2004, Regular Meeting; and the July 14, 2004, Emergency Meeting Minutes as presented. Supervisor Williamson seconded the motion. Motion carried 5-0.

2. AGENDA MODIFICATIONS (1-0095) - Mayor Masayko explained that Items 7A and B were pulled for technical corrections.

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3. ACTION ON A REQUEST FROM HOWARD TOOLEY ON BEHALF OF COLDWELL BEST SELLERS, TO CHANGE RENTAL FEES FROM COMMERCIAL RATES TO NON-PROFIT RATES FOR A FUNDRAISER WITH ALL PROCEEDS GOING TO CHARITY (1-0109) - Mr. Tooley explained the request for a reduction in fees for the fundraiser. He admitted that they do not have an IRS 501(c)(3) certificate, however, all of the funds raised by the event are given to charities. A description the event was provided. Mayor Masayko pointed out that the event is different from the normal nonprofit fee waiver requests. He thanked him for the event. Public comments were solicited but none were given. Supervisor Williamson moved to approve the request from Howard Tooley on behalf of Coldwell Best Sellers to change the rental fees from commercial rates to nonprofit rates for a fundraiser with all proceeds going to charities. Supervisor Aldean seconded the motion. Motion carried 5-0.

4. BOARD OF SUPERVISOR -NON-ACTION ITEMS:

A. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (1-0165) - Supervisor Aldean reported on her family activities and her attendance at the following: the tour of the biomass wood chipping operation; CAMPO and RTC meetings; as a speaker to the Chamber of Commerce Leadership Class; the Tin Cup Social Fundraiser for the Nevada State Musuem; the filming of a public service announcement called "Every Second Counts"; the Chamber of Commerce Political Action Committee forum; the welcoming of the Japanese contingency; and Sue Buske's television franchise presentation. Supervisor Williamson reported on her attendance at the following: the Redevelopment Authority Citizens Committee meeting; the "Every Second Counts" program; the Western Nevada Housing Consortium and WNDD meetings; Sue Buske's television franchise presentation; the Subconservancy meeting; and the Boys and Girls Club Fundraiser. Supervisor Williamson announced that new Christmas Ornaments will be available over Nevada Day Weekend and the Saturday "C" Hill Flag work day. She also described the status of the Flag.

Supervisor Aldean complimented Carson City School District Superintendent Piercznski for establishing a video program regarding fire safety. Supervisor Staub reported on his attendance at: RTC and CAMPOs meetings; the UNR's football game; the Boys and Girls Club fundraiser; and his tour and "study" with Supervisor Livermore of parking lots and their lighting. His media report included coverage of the election and "developers serving on the Board of Supervisors". Discussion ensued regarding that media report. Supervisor Livermore reported on his attendance at the following: tour of the biomass operation; the Parks and Recreation Commission meeting; the Boys and Girls Club fundraiser; the tour of parking lots to analyze the lighting including those in Douglas County; the Subconservancy meeting; and the status of the local Great American Weight Loss program. He urged the public to participate in the weight loss program. Supervisor Livermore announced the Collin Ray Concert fundraiser to be held on September 25. Mayor Masayko thanked Supervisor Livermore for filling in for him during his absence that was created by family matters. He reported on the following: his family activities; the kickoff for the Carson Cares Plus identification bracelet program including where and how to obtain a bracelet; the Carson City renewable energy tour; the Brewery Arts fundraiser; the 9-11 commemorative ceremony at the Capitol building; the Museum fundraiser at the Governor's Mansion; the Convention and Visitors Bureau meeting; the Rotary luncheon; the Board's meeting to canvass the Primary Election; and the welcoming of a Japanese contingency. He announced the Convention and Visitors Bureau's plans to sponsor tours of the historic district; the Great American Weight Loss kickoff, the Salas Y Salas Festival, and the St. Theresa Avila Festival at Fuji Park. He urged the public to attend these activities.

B. STAFF COMMENTS AND STATUS REPORT (1-0882) - City Manager Ritter announced the establishment of a new website on the fire. She urged the public to look at it. There is a link between the

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City's website and it. Mayor Masayko indicated that the CC Cares bracelets are on the City's site. Ms. Ritter reported that the helicopter reseeding of the Waterfall Fire area is to commence today.

5. CONSENT AGENDA (1-0901)

5-1. TREASURER - ACTION TO APPROVE THE PARTIAL REMOVAL OF TAXES TO THE 2004-2005 REAL PROPERTY TAX ROLL ON PARCEL #7-131-27 DUE TO PROPERTY VALUATION CHANGES AS A RESULT OF THE WATERFALL FIRE

5-2. ASSESSOR - ACTION TO APPROVE THE REMOVAL OF TAXES AND PENALTIES FROM THE 2004/05 REAL PROPERTY TAX ROLL FROM APN: 004-091-18 (201 S ROOP ST), OWNED BY NEVADA PUBLIC AGENCY INSURANCE POOL (NPAIP), PER NRS 277.100 AND NRS 361.060

5-3. DEVELOPMENT SERVICES - ENGINEERING - ACTION TO APPROVE QUIT CLAIM OF WATER RIGHTS APPLICATION 68759 FROM CARSON CITY TO THE STATE OF NEVADA, DEPARTMENT OF GENERAL SERVICES, DIVISION OF BUILDINGS AND GROUNDS

- Supervisor Livermore moved to approve the Consent Agenda consisting three items - one from the Treasurer; one from the Assessor; and one from Development Services - Engineering. Supervisor Aldean seconded the motion. Motion carried 5-0.

6. CARSON WATER SUBCONSERVANCY DISTRICT - Executive Director Ed James - **PRESENTATION ON REGIONAL WATER ISSUES AND IMPACTS ON THE CARSON RIVER (1-0920)** - Mr. Jones' computerized slide presentation stressed the point that anything done along the river impacts the remaining portion of the river. His primary focus was on the domestic water supply although there are also issues related to agricultural and wildlife uses/supplies. Efforts undertaken to do a groundwater supply analysis in Alpine County were indicated. The need for a groundwater management plan was pointed out. Sewer concerns were also noted. Tribal needs were indicated. Current usage of the water was limned. The loss of wells in the fringe areas were noted. Domestic wells will eventually impact other domestic wells. Arsenic and wastewater concerns in Douglas County were noted. Conversion of surface water rights to municipal uses were questioned. Maps illustrating the suggestion that the five water companies in Douglas County be integrated were explained. Mr. James pointed out Carson City's need for additional infrastructure in order to meet the current peak demand. On paper it appears that Carson City owns adequate water resources if the infrastructure needs are met. He felt that the proposed three day watering program and the City's conservation measures will help reduce the demand. Carson City's arsenic issues were also noted. Clarification indicated that his statistics on the amount of water rights owned by Carson City had included the City's water rights in Carson Valley. Mr. James also explained that the City could take more water from the Carson Valley than it is currently pumping. He then described the Subconservancy's involvement with the City in obtaining additional water from the Marlette-Hobart system. The need for a second treatment plan or a second line to Quill or Lakeview was explained. Additional infiltration/recharge can be used to raise or maintain the ground water table. Discussion pointed out another alternative which would increase the pump size and horsepower to draw additional water from the ground water table. This is an expensive process. Comments also noted the need to add another pipe line or larger pump to increase the flow from Marlette-Hobart. Drought conditions may limit the amount of water that will be pumped from the Marlette-Hobart system due to the importance of Marlette's recreational opportunities. Mr. James noted the challenges encountered when dealing with TRPA on the Marlette/Hobart system. He hoped to have the project completed by 2007. Supervisor Aldean volunteered to assist with TRPA, if needed. Mr. James then explained the regional water problems and potential solutions. The solutions included the possibility of the City being successful in its attempt to expand the Marlette/Hobart system. This would in turn free up additional water at Mud Lake which could be used by Lyon County. He also noted the issues related to increased wastewater

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including storage and usage. Wastewater, if treated to a higher level, could be used to enhance the Carson River. He limned the Lyon County issues including its expanding growth rate, its need for additional water and water rights, its need to develop a conjunctive water use program, its wastewater concerns, its need for additional infrastructure, its arsenic issues, a proposal to develop a regional program that would allow storage of River water in the Mark Twain/Boyer Lane area, and the regional issues involved with this proposal. He then explained the water issues in Churchill County including its arsenic treatment plant, its cost and water fees; its water rights issues; and the ban on its use of ground water. He felt that if Churchill County loses its agricultural water rights, it "will be in trouble".

Supervisor Livermore summarized the discussions held during yesterday's Subconservancy meeting regarding the future of the area, the role a regional water system could play in the growth of the area, and the economic issues created by build-out. Mr. James explained the proposal for the Subconservancy to increase the size of lines which will be used regionally to wheel water between communities. Benefits of regional water use were limned. Indian Hills was cited as an example of how this program could work.

Supervisor Williamson complimented Mr. James on his effort to work with TRPA. She also pointed out that Storey County needs help but has not yet recognized this need. The Marlette/Hobart system is being upgraded to provide this relief if and when Storey County acknowledges the need. Her comments stressed the need for regional cooperation and its ability to strengthen weak areas. Discussion explained the condition of the Storey County water line from Marlette/Hobart and right-of-way issues with it. Virginia City is guaranteed water from the Marlette/Hobart line, however, if the line fails, Storey County/Virginia City will be out of water. Mayor Masayko felt that the Marlette/Hobart issue should be discussed again in two weeks and that staff should commence work upgrading the line posthaste. The system provides arsenic free water and is under used. Discussion also indicated that Lyon County cannot remove water from the River and pump it to another area. These issues can be addressed and the water managed although it may be expensive. Public comments were solicited but none were given. The City's water report is to be provided in two weeks. No formal action was required or taken.

7. FINANCE - Senior Accounting Manager Nick Providenti - ACTION TO APPROVE THE PURCHASE OF TWELVE SHERIFF'S PATROL VEHICLES (1-1767) - City Manager Linda Ritter - Justification for trading in the vehicles and acquiring new ones was based on the desire to save the trade in value and reduce the maintenance costs. Mayor Masayko limned his belief that the salvage value concept "did not hold water". He also believed that doubling of maintenance costs after the third year may not occur. A trial should be conducted to prove the point. Additional backup material was requested. He believed that today's cars are more reliable and require less maintenance than they were ten years ago. He acknowledged that there could be special circumstances or special cases which would be exceptions. Ms. Ritter explained that the warranty period is figured into the calculations. The City assumes the maintenance cost after the warranty expires. Warranties are good for three years. Mayor Masayko repeated his challenge that cars are more reliable than they were ten years ago. He felt that the three year maintenance requirements do not pencil out. Ms. Ritter explained that only the public safety vehicles had been figured into the proposal. Supervisor Aldean supported an annual review of the program to ensure that it is the way to go. Ms. Ritter explained that Salt Lake City turns its cars over annually. She reiterated that the Sheriff's vehicles make the program pencil out. Discussion explained that the request is to purchase 12 vehicles for the Sheriff's Office. Supervisor Staub requested historical data based on use and maintenance rather than estimates. He also requested information from other jurisdictions indicating the prices, maintenance, and salvage value of the vehicles. He suggested that the current vehicles be used by other Departments rather than being disposed and that extended warranties be considered. The cost of an extended warranty is less than acquiring new vehicles.

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Mayor Masayko supported his suggestion. He also requested a follow-up report on the program. Mr. Providenti agreed to provide a report during the budget process. Discussion indicated that the Maximus fleet management report had been implemented although there were some problem areas within it. Ms. Ritter indicated that staff is working on them and that discussions with the School District are occurring. Supervisor Staub reiterated his request for consideration of extending the warranties including the ability to transfer the warranty. Supervisor Aldean moved to approve the purchase of 12 Sheriff's patrol vehicles as provided in the fiscal 2004-2005 Carson City Final Budget; fiscal impact is \$300,000; and funding source is the Capital Acquisition Fund. Supervisor Livermore seconded the motion. Mayor Masayko directed that the record show that, if this decision is made today, another decision is required to be made during the budget session. Motion carried 5-0.

8. DEVELOPMENT SERVICES - COMMUNITY DEVELOPMENT - Principal Planner Lee Plemel

A. ACTION TO APPROVE A ZONING MAP AMENDMENT APPLICATION FROM CARSON CITY (PROPERTY OWNER: CARSON CITY), TO CHANGE THE ZONING FROM PUBLIC COMMUNITY (PC) TO DOWNTOWN COMMERCIAL (DC), ON PROPERTY LOCATED AT 110 WEST ANN STREET, APN 008-188-03 FILE NO. ZMA 04-137; AND B. ACTION TO APPROVE A ZONING MAP AMENDMENT APPLICATION FROM CARSON CITY (PROPERTY OWNER: CARSON CITY) TO CHANGE THE ZONING FROM PUBLIC REGIONAL (PR) TO SINGLE FAMILY 6,000 (SF6), ON PROPERTY LOCATED ON PALO VERDE DRIVE, APN 004-141-05 FILE NO. ZMA-04-138 (1-2072) (1-0095) - Pulled.

C. ACTION TO APPROVE A REQUEST FROM JACK AND ALLISON MCLAUGHLIN, PROPERTY OWNERS, FOR AN OPEN SPACE USE ASSESSMENT APPLICATION RESULTING IN A CARSON CITY HISTORICAL TAX DEFERMENT ON PROPERTY LOCATED AT 406 MOUNTAIN STREET, APN 003-241-06 (HRC-04-134) (1-2076) - Mr. Plemel indicated that he was unsure how many applications for this program had been approved previously and whether the site had been designated by the State as required. Discussion indicated that it is not necessary for the structure/property to be listed in the federal register. Mayor Masayko pointed out that the tax deferral totals \$150. Discussion indicated that the McLaughlins were not present. Supervisor Livermore moved to approve a request from Jack and Allison McLaughlin, property owners, for an Open Space Use Assessment application resulting in a Carson City Historical Tax Deferral on property located at 406 Mountain Street, APN 003-241-06 (HRC-04-134); fiscal impact is noted in the Assessor's application. Supervisor Aldean seconded the motion. Motion carried 5-0.

D. ACTION TO ACCEPT PLANNING COMMISSION RECOMMENDATIONS REGARDING IMPLEMENTATION STRATEGIES FOR THE CARSON CITY MASTER PLAN AS PART OF AN ANNUAL MASTER PLAN REVIEW PER NRS 278.190; AND AN UPDATE AND DISCUSSION ON CURRENT MASTER PLAN AND PARKS, RECREATION AND TRAILS PLAN ACTIVITIES (FILE NO. MPA-04-135) (1-2190) - Mr. Plemel's introduction included introducing Parks Operations Director Scott Fahrenbruch, Parks Planner Vern Krahn, Clarion Representatives Ben Herman and Darcy White and announced the master plan workshops and the website on the master plan. Supervisor Livermore explained that the Parks and Recreation Commission had an update on the Comprehensive Master Plan. Discussion indicated that one of the two 30-minute master plan educational videos had been produced. It should commence "running" soon. Supervisor Livermore urged staff to publicize the videos so that the public could view them, if desired. Mr. Plemel described the special planning area process and reasons for

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its use. This process could include multiple property owners. The process will allow development of areas prior to completion, during or after completion of the master plan update. Examples of the benefits of the program were also noted. Mayor Masayko encouraged staff to recognize the property owner's right to develop his property prior to the 2005 completion date of the master plan update. He also pointed out that the master plan may address some of the issues related to development. Discussion indicated that the Master Plan may also designate areas as SPA which will eliminate the owner's need to start at ground zero as the Master Plan may amend some of the Master Plan Land Use issues. Public comments were solicited but none were given. Supervisor Williamson moved to accept the Planning Commission's recommendation regarding implementation strategies for the Carson City Master Plan, a part of an annual Master Plan review per NS 278.190; and an update and discussion on current Master Plan and Parks, Recreation, and Trails Plan activities; File No. MPA-04-135. Supervisor Aldean seconded the motion. Motion carried 5-0.

RECESS: A recess was declared at 10:50 a.m. The entire Board was present when Mayor Masayko reconvened the meeting at 11 a.m., constituting a quorum.

REDEVELOPMENT AUTHORITY (1-2565) - Mayor Masayko then recessed the Board of Supervisors session and passed the gavel to Chairperson Williamson who convened the Redevelopment Authority. For Minutes of the Redevelopment Authority, see its folder.

BOARD OF SUPERVISORS - Following adjournment of the Redevelopment Authority, Chairperson Williamson returned the gavel to Mayor Masayko who reconvened the Board of Supervisors session. The entire Board was present, constituting a quorum.

OTHER MATTERS (2-0570) - Discussion indicated the intent to take a lunch recess before going into Closed Session.

9. REDEVELOPMENT/ECONOMIC DEVELOPMENT MANAGER - Joe McCarthy - ACTION TO INTRODUCE ON FIRST READING, AN ORDINANCE TO ADOPT THE REDEVELOPMENT PLAN FOR PROJECT AREA NO. 2 THAT PROVIDES FOR THE USE OF REDEVELOPMENT, AS A PILOT PROJECT, IN AN AREA PRIMARILY ALONG SOUTH CARSON STREET, WITH THE PRINCIPAL PURPOSE OF RETAINING/EXPANDING THE AUTO SALES SECTOR (2-0598) - Bill Snyder - Mayor Masayko indicated for the record that the proposed district no longer includes Supervisor Livermore's property. No public testimony was given at the Planning Commission hearing on the ordinance. The Planning Commission item was noticed as required by the Statutes. The Commission had supported the plan and the ordinance based on its recognition of the needs. Public comments were solicited.

Mr. Snyder explained his concern about the number of large vacant stores along South Carson Street. He recommended the Redevelopment project as he did not wish to see more businesses move to Douglas County. He urged the Board to do something to improve the area. Mayor Masayko supported his comments and noted for the record that the Southgate Shopping Center and the former Walmart building are not included in the proposed Redevelopment District. Mr. Snyder indicated that he understood. Mr. McCarthy used a map to illustrate the area included in the project. He also indicated that Mr. Snyder's property was included in the proposed project. Mayor Masayko explained that the real purpose of the district is to allow the Board/Authority to have the tools necessary to assist with redevelopment of the area and provide an auto row, if desired. For this reason, the current auto dealers' locations and properties surrounding them were included in the district. Mayor Masayko also indicated the Board's wish that it did not have to be so competitive and bid for business as is being required by the "rules of the game".

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Additional comments were solicited but none were given. Mayor Masayko briefly explained his discomfort regarding the need to find blight in order to undertake the process. He was also concerned about having the ability to use eminent domain and condemnation of property. He noted that the Board does not at this time expect to use these tools. He indicated that he would not support their use in the proposed district. He also stated that he did not want this ax held over anyone's head.

Supervisor Aldean moved to introduce on first reading Bill No. 115, AN ORDINANCE TO ADOPT THE REDEVELOPMENT PLAN FOR PROJECT AREA NO. 2 THAT PROVIDES FOR THE USE OF REDEVELOPMENT, AS A PILOT PROJECT, IN AN AREA PRIMARILY ALONG SOUTH CARSON STREET, WITH THE PRINCIPAL PURPOSE OF RETAINING/EXPANDING THE AUTO SALES SECTOR. Supervisor Livermore seconded the motion. Motion carried 5-0. Mayor Masayko indicated that the second reading of the ordinance will be considered in two weeks.

RECESS: A recess was declared at 12:05 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 1:32 p.m., constituting a quorum.

10. CITY MANAGER - Linda Ritter

B. ACTION TO RECESS INTO CLOSED SESSION PURSUANT TO N.R.S. 288.220 TO MEET WITH MANAGEMENT REPRESENTATIVES REGARDING LABOR NEGOTIATIONS (2-0802) - Supervisor Livermore moved to recess into Closed Session pursuant to NRS 288.220 to meet with management representatives regarding negotiations. Supervisor Aldean seconded the motion. Mayor Masayko felt that the discussion would take approximately one hour and that the Board would return to Open Session at approximately 2:30 p.m. The motion was voted and carried 5-0.

C. CLOSED SESSION (2-0825) - Mayor Masayko recessed the Open Session at 1:34 p.m. The entire Board was present when Mayor Masayko reconvened the Open Session at 3 p.m., constituting a quorum.

A. OPEN SESSION - ACTION TO APPROVE AN AGREEMENT BETWEEN CAPITAL CITY ENTERTAINMENT, INC., AND CARSON CITY REGARDING ABANDONMENT OF STREETS (2-0865) - Chief Deputy District Attorney Mark Forsberg - Supervisor Staub disclosed that he had a conflict of interest and recused himself. He left the room. (A quorum of the Board was still present.) Supervisor Livermore disclosed that he had personal communications with Capital City Entertainment regarding the merits of the settlement. Mayor Masayko disclosed that he had not spoken to Mr. Russell or any of his representatives. He had received a telephone call from a Hank Thomas whom he referred to the Recording Secretary for the information he wanted. Supervisors Aldean and Williamson disclosed that they had two meetings with Clark Russell regarding the agreement. Copies of the agreement had been given to the Board. (A copy was not given to the Clerk.) Ms. Ritter summarized the agreement. Mayor Masayko indicated that he had received an attorney-client privileged communication from Mr. Forsberg which he wished to make public. Mr. Forsberg indicated that the communication should be discussed rather than made a part of the public record. The memo explained the liability that the City may be facing if the item goes to court. He also explained that Community Development Director Walter Sullivan had researched the City's history of abandonments. There are a large number of abandonments. The majority are for nominal amounts. Ones which had public value did not require the applicant to pay for the abandonment. Others are in the original townsite and will face the same problem as that encountered with the two that are in court and the one that is the subject of the agreement. Clarification indicated that the Carson Nugget's abandonments were

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not included in the listing as Community Development's research started with 1979. The Nugget's abandonments were before that date. Mayor Masayko directed that the record show that the Carson Nugget had entered into whatever suits are being filed for the determination. Mr. Forsberg explained that earlier this week the Department had received a notice of entry and order in the City Center case that the District Court had awarded principal and interest for the City Center case. The District Court had again rejected the statute of limitations argument on the same grounds that it had been rejected in the previous case. There is no statute of limitations defense in that case as it stands today without further litigation. This places the City in the same posture with City Center as it is with Capital City Entertainment. Mayor Masayko felt that the Carson Nugget would in all probably follow suit. Mr. Forsberg indicated that, in his view, the results of the Carson Nugget case would be the same as the others. He did not believe that the District Court would make a different ruling from that given on the others. The Nugget case has been stayed by stipulation pending the outcome of the others. Discussion ensued concerning whether the Board should worry about potential lawsuits on other abandonments within the townsite which have not yet been filed. Mr. Forsberg indicated that, without knowing all of the details of the abandonments and how they proceeded, he believed that some of the applicants will seek reimbursements. He was unsure how the Board could distinguish who will and who will not file suit. The City's argument would be the same as has been presented in the other cases, i.e., the statute of limitation which had been rejected by the Court. Mr. Forsberg explained the Court's assertion that the Board had unfairly charged its citizens for the abandoned streets and, for that reason, rejected the statute of limitations argument. Mr. Forsberg recommended that the City seek an answer to this question from the Supreme Court to determine if the statute of limitations can bar these claims. Discussion explained that the statute of limitations had been raised in the City Center case. It could be raised in the other cases, however, the Court looks at the statute of limitations in an equitable manner and has stopped the issue on whether the specified time limits for an appeal have not been met. The Supreme Court ruled that the City could not charge for abandonments in the townsite. It had been done many times over a long period of time. Without knowing the details of each case, it would be hard for him to proceed with a different defense. Discussion indicated a need to limit the City's liability as much as possible. The amount of liability that is known at this time is limited to four cases. Mayor Masayko explained that the difference between Millard's abandonment in 1997 and the others was staff's information indicating that the street was dedicated, therefore, the City could not charge for it, which is in compliance with NRS 278. This was not the same information as had been presented on the other abandonment requests. Justification for using the statute of limitations argument was iterated. The Board had not intentionally done anything wrong. He questioned the need to "unring the bell".

Supervisor Livermore explained his perception of the settlement conference which the Supreme Court Settlement Judge had scheduled for October 5 at 10 a.m. He felt that the Board should reject any settlement and force the issue to continue in the Courts. Mayor Masayko agreed. He felt that if they agree to the settlement, it would open Pandora's box. They will not be able to close the box in the future. Settlement conferences are scheduled for all Supreme Court cases in an effort to handle its workload. Supervisor Livermore suggested that two Board members attend the conference. Mayor Masayko pointed out that the Board could discuss in a Closed Session direction for the representatives going to the settlement conference. If the suggested agreement is approved today, no additional discussions/negotiations will occur. If the suggested agreement is rejected, the representatives attending the conference should not attempt to settle. He also felt that acceptance of the agreement would eliminate any defense in the other lawsuits. He was at a total loss to determine how the Judge had arrived at his conclusion. He preferred going to trial rather than settling. The statute of limitations issue had not been tried in the Courts. A trial is the right thing for the Board to do for the public.

Supervisor Williamson explained that she understood Mayor Masayko's position. He was present when the abandonment was requested. She was not present. She was outraged at being placed in this situation. The

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Courts are not buying the Board's argument. She, therefore, intended to support the agreement based on her belief that every case should be considered separately. She may not agree to provide the same terms for the others. If the Board has a strong case for appealing, it should do so. Although it is difficult to have agree to settle, it is prudent for the Board to do so. The Board is agreeing to pay \$200,000 in cash and make some public improvements which will be beneficial to the public. Mayor Masayko noted his difference of opinion and belief that they should go to trial.

Supervisor Aldean expressed her opinion that going to court is always a crap shot—you may win but you might not. She was not a Board member when the decision was made to charge for the right-of-way that was abandoned. She felt that the Board had been given bum advice at that time. She pointed out that the principal amount was \$125,000 which, if invested for 15 years, provided interest of \$116,292. That totals \$241,292. This is less than the cash offer contained in the settlement. The public aspects are important as the improvements will be owned and used by the City. She agreed that it is a hard pill to swallow but the Board has no other recourse as the statute of limitations argument has been barred. She also questioned the need for the City to litigate this issue due to the broad implications it has on other areas. She suggested that NACO become involved in the issue as other communities/counties will be impacted by the Court's ruling. Carson City should not be the lone warrior on this point.

Mayor Masayko reiterated his position that to settle is a bad decision for the community. The Board is accountable to the public. Public comments were solicited but none were given. Supervisor Livermore moved to approve an agreement between Carson City Entertainment, Inc., and Carson City regarding abandonment of streets; fiscal impact is the \$200,000 settlement fee and \$100,000 worth of public improvements associated with the Carson City Boys and Girls Club. Supervisor Williamson seconded the motion and requested a correction to the motion. Supervisor Livermore amended his motion for the agreement to be between Carson City and Capital City Entertainment, Inc. Supervisor Williamson concurred with the amendment. The motion was voted by roll call with the following result: Supervisor Aldean - Yes; Supervisor Williamson - Yes; Supervisor Livermore - Yes; and Mayor Masayko - No. Motion carried 3-1-0-1. Supervisor Staub had recused himself and was not present.

There being no other matters for consideration, Supervisor Livermore moved to adjourn. Supervisor Williamson seconded the motion. Motion carried 4-0. Mayor Masayko adjourned the meeting at 3:35 p.m.

The Minutes of the September 16, 2004, Carson City Board of Supervisors meeting

ARE SO APPROVED ON March 17, 2005.

/s/
Marv Teixeira, Mayor

ATTEST:

/s/
Alan Glover, Clerk-Recorder