

CARSON CITY BOARD OF SUPERVISORS

Minutes of the September 16, 2003, Meeting

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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Tuesday, September 16, 2003, 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
 Dave Dawley Assessor
 Alan Glover Clerk-Recorder
 Ken Furlong Sheriff
 Al Kramer Treasurer
 Andrew Burnham Development Services Director
 Walter Sullivan Community Development Director
 Sally Edwards Librarian
 Larry Werner City Engineer
 Ken Arnold Environmental Manager
 Traci Haakinson Deputy Library Director - Administration
 Cheryl Adams Purchasing/Contracts Manager
 Mary McAlister Personnel Analyst Tr.
 Tony Baker Risk Management Coordinator
 Vince Pirozzi EMS Battalion Chief
 Melanie Bruketta Deputy District Attorney
 Rob Fellows Senior Engineer
 Katherine McLaughlin Recording Secretary
(B.O.S. 9/16/03 Tape 1-0015)

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. Mayor Masayko welcomed Rev. Alan Dorway of the First Presbyterian Church. Rev. Dorway gave the Invocation. Mayor Masayko lead the Pledge of Allegiance.

CITIZEN COMMENTS (1-0041) - Public comments were solicited. Mayor Masayko recognized Rachel Knecht of the Nevada Hispanic Services by briefly disclosing a conversation he had with her during the Salsa y Salsa Event.

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Ms. Knecht read and presented a plaque to Mayor Masayko recognizing and commending the Board for its support. She also noted that today is Mexican Independence Day. Mayor Masayko accepted the plaque on behalf of the Board and community. Nevada Hispanic Services is a contributor to the City. He thanked her for her services. He expressed the Board's pleasure to be a partner in the program. Additional public comments were solicited but none were given.

1. APPROVAL OF MINUTES - June 19, 2003 (1-0074) - Supervisor Livermore moved to approve the Minutes of June 19, 2003, meeting as presented. Supervisor Aldean seconded the motion. Motion carried 5-0.

2. AGENDA MODIFICATIONS (1-0090) - None.

3. SPECIAL PRESENTATION - PRESENTATION OF CITY EMPLOYEE LONGEVITY

AWARDS (1-0092) - Personnel Analyst Tr. Mary McAlister - Mayor Masayko noted that the cumulative years worked by the employees totaled 445 years of service to the City. The awards were described. Mayor Masayko read the names and presented awards to the following: 10 year awards - Dawn Beck, Janet Busse, Dave Dawley, Timothy DeHaven, Rich Encinas, Valerie Hill, Jerry Ide, Kurt Meyer, Vince Pirozzi, Rodney Temple; 15 year awards - Ken Arnold, Donna Ashley, Kevin McCoy, Mike McCracken, Connie Muir, Robert Stutsman; 25 years - James Best, Sally Edwards, Michael Faker, Chris Giordanella, Judy Jackson, Kyle Menath, David Meyer, Ernest Rink, and Walter Sullivan; and a 30 year award to Dennis Radford. Librarian Sally Edwards remind the public to attend the Library Oktoberfest on October 5. Mayor Masayko congratulated the recipients. No formal action was required or taken.

4. BOARD OF SUPERVISORS - NON-ACTION ITEMS

A. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (1-0268) -

Supervisor Aldean reported on her attendance at meetings of the TRPA, the Corridor study group, the MPO and RTC. She gave a presentation to the Chamber of Commerce Leadership class regarding the City's economic development efforts. She had attended the Western Nevada Builders Association's barbeque at Mills Park. She announced her plans to participate in the selection process of a new TRPA Public Outreach Communications Director. Discussion indicated that Pam Drum had retired from her position at TRPA. Supervisor Williamson reported on her attendance at the Economic Review by the Economic Vitality Coalition and thanked the volunteers for their dedication and service to the community. She reported on meetings of the Redevelopment Authority Citizens Committee; Carson Water Subconservancy District; and with Don Lehr which included a tour of the Ormsby House. She thanked him for his investment in the Ormsby House and indicated that their plans are to open the building next year. She also announced her family vacation plans and indicated that she will be unable to attend the Great American Weight Loss ceremony. Mayor Masayko indicated that he, City Manager Linda Ritter, and members of her staff will attend it. Supervisor Staub reported on his attendance at the Boys and Girls Club's annual barbeque and silent auction and his involvement with a \$100,000 donation to the Club from one of his clients; the RTC and MPO meetings; the Hospital Board of Finance meeting and the 9-11 Memorial Ceremony at Mills Park. He also announced his plans to attend the Community Council on Youth, the Senior Citizens Committee meeting; and the Airport Authority's meeting which was moved to January 24. He commended staff on its media efforts to inform the public about the storm drainage work underway in the community. He then described his family's vacation.

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Supervisor Livermore complimented Supervisor Staub on his role in obtaining the \$100,000 donation. He expressed his belief that the Boys and Girls Club had conducted the barbeque and auction in the right location. It was felt that the event had raised a substantial amount of money. He thanked all who had participated and hoped that others will consider the Pony Express Pavilion when considering a site for such activities. He also thanked the participants for their generosity at the fundraiser. He then reported on his attendance at the Economic Vitality Coalition meeting. He expressed his intent to continue to meet with the Economic Vitality work group and urged the public to participate in its meeting on the 26th. He invited the public to participate in the Great American Weight Loss program and described the turnout for the initial weigh in. His participation in the 9-11 activities and a meeting with Parks and Recreation Director Steve Kastens, City Engineer Larry Werner, and Parks Director of Operations Scott Fahrenbruch at Governor's Field regarding the parking lot overlays and the new ADA requirements was described. He had attended the Builders Association of Western Nevada barbeque and picnic. He described family's activities. He displayed a copy of the new Carson City Historical Guide and commended the Convention and Visitors Bureau on it. Mayor Masayko complimented the Parks and Recreation Department and the staff on the Mills Park/Highway 50 parking project which is now over budget. He also complimented staff on its ability to locate funding to complete the project. The partners had included the Convention and Visitors Bureau and the Redevelopment Authority. He described his participation in the TRIAD meeting; the CC Cares Plus activities including his hope that some of the computers from the Courthouse could be used for its data base; his 9-11 activities; the Builders Association of Western Nevada barbeque; the Brewery Arts Center's beer tasting and auction; his welcoming of the Navy League for its weekend seminar; the Salsa y Salsa festival and the need to recognize the cultural issues and its ability to provide economic support to the community; and the welcoming of the three New York City firefighters. He announced his plans to leave for Elko to attend the NACO-Nevada League of Cities conference tomorrow. He hoped to return on Saturday. He also announced plans to attend the POW-MIA Recognition Day activities on Saturday and encouraged the public to attend it. He urged the Board to attend the NACO-Nevada League of Cities joint conference in Elko.

B. CITY MANAGER STAFF COMMENTS AND STATUS REPORTS (1-0715) - Ms. Ritter

announced her plans to attend the NACO-Nevada League of Cities conference. Development Services Director Andrew Burnham will be in charge while she is out-of-town. She briefly limned the new bimonthly City Manager's report which had been disbursed to the Board and staff. It will also be placed on the City's website. She announced that Phase 1B freeway construction had commenced. Mayor Masayko noted the media report that NDOT did not propose to release the contractor to commence work until next month. Ames Construction has been awarded the contract and progress is occurring.

5. CONSENT AGENDA (1-0739)

5-1. PURCHASING AND CONTRACTS

A. ACTION TO APPROVE A RESOLUTION DECLARING CARSON CITY'S INTENT TO LEASE A PORTION OF THE SILVER SADDLE RANCH LANDS UNDER THE OWNERSHIP OF THE UNITED STATES OF AMERICA BUREAU OF LAND MANAGEMENT THROUGH A COOPERATIVE MANAGEMENT AGREEMENT AND SPECIAL USE PERMIT GRANTED TO CARSON CITY, NEVADA, FOR GRAZING PURPOSES AND REQUESTS FOR BIDS THROUGH THE PROCESS DETAILED IN NEVADA REVISED STATUTES CHAPTER 244 (FILE 0304-012)

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B. ACTION TO APPROVE THE AWARD OF CONTRACT NO. 0304-020 FOR DOMESTIC WATER METERS TO BADGER METER, INC., AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO NRS CHAPTER 332 AND PURSUANT TO THE BOARD'S FINDINGS THAT IT IS IN THE PUBLIC'S BEST INTEREST TO ACCEPT THE BID EXCEPTIONS THROUGH SEPTEMBER 15, 2005, WITH THE OPTION TO RENEW FOR TWO (2) ADDITIONAL YEARS SUBJECT TO NEGOTIATION

C. ACTION TO APPROVE CONTRACT NO. 0304-039, A REQUEST FOR THE PURCHASE OF TIBURON'S IMAGING FOR PUBLIC SAFETY (TIPS) FROM TIBURON, INC., FOR A NOT TO EXCEED COST OF \$40,272 EXEMPT FROM COMPETITIVE BIDDING

D. ACTION TO APPROVE CONTRACT NO. 0304-042, A REQUEST TO HAVE THE BOARD OF SUPERVISORS DETERMINE THAT THE HEWLETT PACKARD DESIGN JET 650C PLOTTER SERIAL NUMBER ESB4403003, FIXED ASSET NUMBER 14216, IS NO LONGER REQUIRED FOR PUBLIC USE AND AUTHORIZE IT TO BE TRADED IN FOR A VALUE OF \$3,500 TOWARD THE PURCHASE OF A NEW PLOTTER DESIRABLE AND IN THE BEST INTEREST OF CARSON CITY

5-2. DEVELOPMENT SERVICES - CONTRACTS

A. ACTION TO ACCEPT DEVELOPMENT SERVICES RECOMMENDATION ON APPROVAL OF AMENDMENT NO. 5 FOR COMBS CANYON AND TIMBERLINE WATERSHEDS DRAINAGE DESIGN, CONTRACT NO. 9899-048 AND AUTHORIZE DEVELOPMENT SERVICES TO ISSUE PAYMENTS TO RESOURCE CONCEPTS, INC., 340 NORTH MINNESOTA STREET, CARSON CITY, NV 89703, FOR AN INCREASE TO THE CONTRACT AMOUNT NOT TO EXCEED \$17,100

B. ACTION TO ACCEPT THE WORK AS COMPLETE AND APPROVE THIS RELEASE OF FINAL PAYMENT ON DEER RUN ROAD SEWER EXTENSION, CONTRACT NO. 9495-161 AS SUBMITTED BY DEVELOPMENT SERVICES TO RON HOLCOMB AND SONS, INC., 13920 MT. MCCLELLAN STREET, RENO, NV 89506, FOR A FINAL PAYMENT AMOUNT OF \$2,829.19 AND ACCEPT THE CONTRACT SUMMARY AS PRESENTED

C. ACTION TO ACCEPT DEVELOPMENT SERVICES RECOMMENDATION AND AWARD THE MILLS PARK PARKING LOT PROJECT, CONTRACT NO. 2003-013 TO (BIDDER NO. 1) GRANITE CONSTRUCTION COMPANY, P.O. BOX 50085, WATSONVILLE, CA 95077-5085 AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO THE REQUIREMENTS OF NRS CHAPTER 332, 338, 339, AND 624 FOR A CONTRACT AMOUNT OF \$215,215 AND A CONTINGENCY AMOUNT OF \$10,760.75

D. ACTION TO ACCEPT THE WORK AS COMPLETE AND APPROVE THIS RELEASE OF FINAL PAYMENT ON FUJI PARK PRE-MANUFACTURED MODULAR RESTROOM BUILDING PROJECT, CONTRACT NO. 2002-020 AS SUBMITTED BY DEVELOPMENT SERVICES TO SIERRA BUILDERS OF NEVADA, 3000 OLD U.S. HIGHWAY 40, P.O. BOX 1369, VERDI, NV 89439, FOR A FINAL PAYMENT AMOUNT OF \$13,122.60 AND ACCEPT THE CONTRACT SUMMARY AS PRESENTED

E. ACTION TO APPROVE CHANGE ORDERS NO. 11 AND 12 FOR AN INCREASE TO THE CONTINGENCY OF \$19,903.68, ACCEPT THE WORK AS COMPLETE, APPROVE THIS RELEASE OF FINAL PAYMENT, AND ACCEPT THE CONTRACT SUMMARY AS

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PRESENTED ON MURPHY DRIVE AND VAN PATTEN AVENUE IMPROVEMENTS, CONTRACT NO. 2002-087, AS SUBMITTED BY DEVELOPMENT SERVICES TO CANYON CREEK CONSTRUCTION, P. O. BOX 21270, CARSON CITY, NV 89721-1270, FOR A FINAL PAYMENT AMOUNT OF \$51,040.83

5-3. DEVELOPMENT SERVICES - UTILITIES - ACTION TO APPROVE A ONE YEAR WATER LEASE AGREEMENT BETWEEN THE CARSON WATER SUBCONSERVANCY DISTRICT AND CARSON CITY

5-4. DEVELOPMENT SERVICES - ENGINEERING

A. ACTION TO APPROVE A RIGHT OF ENTRY AGREEMENT BETWEEN CARSON TAHOE HOSPITAL AND CARSON CITY WHEREBY CARSON CITY AGREES TO GRANT CARSON TAHOE HOSPITAL THE RIGHT TO ENTER UPON LAND OWNED BY CARSON CITY FOR THE PURPOSE OF CONSTRUCTING STORM DRAINAGE FACILITIES AND PERFORMING THE NECESSARY INCIDENTS THERETO

B. ACTION TO APPROVE AN AGREEMENT BETWEEN ROBERT THOMAS AND PAMELA WILEY AND CARSON CITY WHEREBY ROBERT THOMAS AND PAMELA WILEY AGREE TO 1. CONVEY ALL THAT CERTAIN REAL PROPERTY DESCRIBED AS ASSESSOR'S PARCEL NUMBER 007-111-15, AND 2. TO GRANT A PERMANENT EASEMENT AND RIGHT-OF-WAY UPON, OVER, AND ACROSS CERTAIN REAL PROPERTY DESCRIBED AS ASSESSOR'S PARCEL NUMBER 007-112-03 FOR THE PURPOSES OF CONSTRUCTION, OPERATION, AND MAINTENANCE OF REGIONAL STORM WATER CONVEYANCE AND SEDIMENTATION FACILITIES

C. ACTION TO APPROVE AN INTERLOCAL CONTRACT BETWEEN CARSON CITY AND THE CARSON WATER SUBCONSERVANCY DISTRICT REGARDING A GRANT FOR \$200,000 FOR THE RESHAPING OF THE BURROW PITS ON EAGLE VALLEY DRAINAGE TO CAPTURE RECHARGE STORM WATER RUNOFF FROM EAGLE CREEK

5-5. INFORMATION SERVICES - GIS - ACTION TO APPROVE RENAMING THE PORTION OF NORTH LOMPA LANE NORTH OF HIGHWAY 50 EAST AND REALIGNED TO NORTHRIDGE DRIVE TO POSITIVE PLACE - Supervisor Staub pulled Item 5-5 for discussion. Supervisor Livermore moved to approve the Consent Agenda and its 13 remaining items with the inclusion of 5-1A, a Resolution being numbered 2003-R-35, and noted the intent to lease a portion of the Silver Saddle Ranch land. Supervisors Williamson and Staub seconded the motion. Motion carried 5-0.

5-5. (1-0775) Discussion between Supervisor Staub and GIS Coordinator Scott Royal indicated that the Boys and Girls Club had asked that the street be named Positive Place. It will be located between Highway 50 and Northridge. The portion of North Lompa Lane north of the freeway will connect to Lassen Street. It will be named North Lompa Lane. Supervisor Staub indicated that he would object to the total elimination of the name Lompa Lane. He could support the suggested revision. Mayor Masayko disclosed his contact with businesses in the vicinity who were concerned about their accesses from Highway 50. The originally proposed frontage road is still questionable. North Lompa Lane will allow access from Highway 50 to some of the businesses by its connection to Lassen. Supervisor Staub moved to approve the renaming of the portion of North Lompa Lane north of Highway 50 East and realigned to Northridge Drive to Positive Place. Supervisor Williamson seconded the motion. Motion carried 5-0.

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RECESS: A recess was declared at 9:18 a.m. The entire Board was present when Mayor Masayko reconvened the meeting at 9:30 a.m., constituting a quorum.

REDEVELOPMENT AUTHORITY (1-0827) - Mayor Masayko 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.

6. REDEVELOPMENT AUTHORITY ITEMS (1-0885)

A. ACTION TO APPROVE RELEASE OF FUNDS AND ISSUE PAYMENT TO COSTCO WHOLESALE PURSUANT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT IN THE AMOUNT OF \$173,805 (1-0886) - Supervisor Williamson moved to approve release of funds and issue payment to Costco Wholesale pursuant to the Disposition and Development Agreement in the amount of \$173,805.00 and that the funding source is the Costco Holding Account No. 220-0000-411-3909. Supervisor Livermore seconded the motion. Motion carried 5-0.

Supervisor Livermore explained the change in managers at Costco. He had personally thanked the former Manager Bob Tout for opening and running it for two years.

B. ACTION TO ADOPT A RESOLUTION CONSENTING TO RELINQUISHMENT AND LAND TRANSFER AGREEMENT BY THE NEVADA DEPT. OF TRANSPORTATION TO CARSON CITY OF THE EXISTING LOMPA LANE APPROXIMATELY 500 FEET NORTH OF LONG STREET FOR THE PURPOSE OF CONSTRUCTING A CONNECTOR ROAD TO NORTHRIDGE DRIVE (1-0918) - Street Operations Manager John Flansberg - Supervisor Aldean moved to adopt Resolution No. 2003-R-36, A RESOLUTION CONSENTING TO RELINQUISHMENT AND LAND TRANSFER AGREEMENT BY THE NEVADA DEPARTMENT OF TRANSPORTATION TO CARSON CITY OF THE EXISTING LOMPA LANE APPROXIMATELY 500 FEET NORTH OF LONG STREET FOR THE PURPOSE OF CONSTRUCTING A CONNECTOR ROAD TO NORTHRIDGE DRIVE. Supervisor Livermore seconded the motion. Motion carried 5-0.

C. ACTION TO ACCEPT DEVELOPMENT SERVICES RECOMMENDATION AND WAIVE THE MINOR IRREGULARITIES IN THE BID PROPOSAL AND BID BOND AND AWARD THE CARSON CITY FREEWAY UTILITY RELOCATION PROJECT, PHASE 1B - HIGHWAY 50 EAST TO NORTHRIDGE DRIVE PROJECT, CONTRACT NO. 2003-016 TO (BIDDER NO. 5) LAS VEGAS PAVING CORP., 4420, SOUTH DECATUR BLVD., LAS VEGAS, NV 89103-5803 AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO THE REQUIREMENTS OF NRS CHAPTER 332, 338, 339, AND 624 FOR A CONTRACT AMOUNT OF \$2,241,019 AND A CONTINGENCY AMOUNT OF \$224,101.90 (1-0970) - City Engineer Larry Werner, Deputy District Attorney

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Melanie Bruketta, Las Vegas Paving Attorney Jim Cavilla, A&K Earthmovers' Attorney Frank Cassas, A&K Earthmovers' Vice President Scott Hyatt, Associated General Contractors (AGC) Representative John Madole, - Discussion between the Board and Mr. Werner indicated that all of the other bidders had signed on the Contract Award page of the document except Las Vegas Paving. Ms. Bruketta felt that A&K Earthmovers' objection to the recommended bid award is Las Vegas Paving's ability to walk away from the contract if it is offered. The bid bond provides the necessary assurance that this will not happen. It will reimburse the City for any losses incurred by Las Vegas Paving's failure to construct the project as envisioned by the contract award. There are "numerous" cases available to support the City's position. The bid bond form is different from that normally seen by staff. The District Attorney's office has reviewed it and feels that it is appropriate. Mayor Masayko then asked for the record if Las Vegas Paving had a representative present. Attorney Jim Cavilla responded that he represented Las Vegas Paving. He asked that the protestors state their case first and that he be allowed to respond.

Mr. Cassas felt that the issue is one of precedence that will establish procedural problems leading to additional protests and mischief in the future. It was felt that the bid must be signed or it is void. They had cited cases in their letter of protest supporting their position. The procedure requiring the bid document to be signed is contained in the document. Only Las Vegas Paving had failed to sign the document. The signature must be notarized. Allowing a deviation to the requirement will establish a precedence for the future. The courts will have to deal with the issue regarding whether the City can enforce the contract if the bidder fails to proceed with the project. The contractor could allege that the office manager had prepared the bid and sent it in without his signature. This will allow him to get out of the contract. He has been given a "free look at the project" under this process. The deviation is significant and not felt to be subject to waiver. Mr. Cassas acknowledged that there are no Nevada decisions on this point of law. He then read the two Attorney General opinions supporting strict adherence to the bid forms. He described their problems with allowing the bid bond to be submitted on a revised form. He urged the Board to reject Las Vegas Paving's bid based on these two issues.

Mr. Hyatt indicated that he had submitted quite a few bids to Carson City over the years. Four or five years ago an unsigned bid was returned to a contractor at the bid opening and his bid declared rejected. This is the same situation. We must play by the same rules or it is unfair to the other bidders.

Mr. Madole felt that it is not a minor bid irregularity. A&K Earthmovers is the responsive low bidder.

Mayor Masayko explained that the Attorney General, who is NDOT's attorney, and the City's District Attorney have provided the same legal opinion. They also have access to the indicated cases. Ms. Bruketta indicated that the District Attorney's office stands by its position that the Board should award the bid to Las Vegas Paving. Mayor Masayko pointed out that the purpose of the bid bond is to prevent the low bidder from leaving the contract on the table and refusing to take the project. It provides the City with a remedy if that occurs. Ms. Bruketta agreed. Discussion indicated that Mr. Forsberg had reviewed and approved the bid bond. The issue is that it was not on the City's form as requested. Las Vegas Paving's bid bond form was included in the packet. It is not the City's form. It is a valid bond. The other contractors had signed the addendum. Supervisor Livermore expressed the hope that the process is not establishing a precedence for the future. Mr. Werner indicated that there have been situations where there has been confusion over the City's documents similar to this case. This confusion could lead a reasonable person to misunderstand what is required. This situation had occurred with this bid. The original submittal

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was felt to be appropriate. It was signed on the spot indicated agreement to perform. The signature page which will contain the corporate seal was entitled "contract award". They may have felt that it was not part of the bid proposal. Other contractors had signed it. When Las Vegas Paving was asked if it would sign that page, they promptly did so. They have allowed similar corrections when the City has confused the bidders if it does not impact the material in the bid. The City has reserved the right to obtain a clarification of the documents. Regarding the bid bond, the form that was used was not the City's. The City's form has been used for years and was created by the City. There are other bid forms that can be used. The form that was submitted was signed by the corporation. The City's form is easier to check. A representative had signed the page identifying the elements of the bid proposal. They had asked the District Attorney if they could waive the requirement and the District Attorney had agreed. Clarification further indicated that part of the initial bid announcement/document had been replaced. Its signature page had been entitled "contract award". As Las Vegas Paving had not yet been awarded the contract, they did not sign it but had signed to indicate that they would conform to all of the things in the bid proposal summary form. The bid bond binds them to the contract.

Mr. Cassas elaborated on his statement illustrating the ease with which Las Vegas Paving could refuse to honor the contract while being able to know the bids tendered by the competitors. Mr. Madole indicated that A&K Earthmovers is a member of AGC whereas Las Vegas Paving is not a member.

Discussion between Mr. Werner and the Board indicated that Las Vegas Paving's second signature page was notarized. Its first signature was not notarized. Interstate Contractors had also failed to notarize his/her signature. Staff would have looked at its bid in the same light as it had Las Vegas Paving's bid. Mayor Masayko directed that the record reflect that Interstate Contractors was not the second low bidder.

Mr. Cavilla expressed Las Vegas Paving's belief that the bid should be awarded to it. Las Vegas Paving felt that an irregularity had not occurred. They had followed the instructions. The page entitled "ITB-2" in the Instructions to Bidders for the documents necessary for submittal clearly indicates the "bid bond, bid proposal form, and the bid preference with the certificate of eligibility if applicable". The bid proposal is the document that Las Vegas Paving had signed and submitted. Everyone else had signed the "Contract Award" which is entitled CA-1 at the bottom. All of the other pages in the bid proposal were numbered CT-1 through 18. Therefore, they felt their bid was the only one that was truly responsive and had strictly followed the instructions. He also felt, as did Ms. Bruketta, that the bid bond protects the City. The form used by Las Vegas Paving for the bid bond is common throughout the State as well as other States who use the Architectural Institute forms. The substitute language is identical to the language in the contract and bid bond form. Therefore, there are no irregularities with bid and the bid bond form. Mayor Masayko indicated for the record as a pragmatic individual that Las Vegas Paving is not disputing that they are the low bidder by almost \$200,000. They did not want a free look. They are willing and able to do the work. Mr. Cavilla indicated that Las Vegas Paving does not want out and will perform.

Public comments were solicited. Mr. Hyatt indicated for the record that the original bid form had contained a proposal summary page that required the contractor to sign it and have it notarized. This ties the contractor to the contract. Carson City sent out a second form which changed the title at the top. The language on the form was exactly the same. The second form was not submitted with their bid. It was supposed to have been included with the bid. It was to have been signed and notarized. Mayor Masayko pointed out that there is a need to have the

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Internal Auditor look at the paperwork. Discussion could not consider this issue at this time. Public testimony was then closed.

Supervisor Staub moved to accept Development Services recommendation and waive the minor irregularities in the bid proposal and bid bond and award the Carson City Freeway Utility Relocation Project, Phase 1B - Highway 50 East to Northridge Drive Project, Contract No. 2003-016 to Bidder No. 5, Las Vegas Paving Corporation, 4420 South Decatur Boulevard, Las Vegas, NV 89103-5803, as the lowest responsive and responsible bidder pursuant to the requirements of NRS Chapter 332, 338, 339, and 624 for a contract amount of \$2,241,019, and a contingency amount of \$224,101.90; fiscal impact - the above referenced accounts shall be decreased by \$2,465,120.90; and the funding source is Account No. 520-3505-435-7893 NDOT By-Pass Non-Reimbursable; 520-3505-435-7894 NDOT By-Pass Reimbursable; 515-0000-434-7998 NDOT By-Pass Replacement; and 515-0000-434-7999 NDOT By-Pass Extension as provided in FY 2002/2003. Supervisor Aldean seconded the motion. Mayor Masayko pointed out that A&K Earthmovers had other legal remedies it could follow. The Board is following its legal counsel's advice. He also noted the presence of a court reporter. If they choose to do so, they can follow with another step. The motion to award the contract to Las Vegas Paving as indicated was voted and carried 5-0.

7. PARKS AND RECREATION - Director Steve Kastens

A. PRESENTATION OF AN APPRECIATION PIN TO EVERETT HILL FOR HIS VOLUNTEER SERVICE AS A CARSON RIVER ADVISORY COMMITTEE MEMBER (1-1560) - Mayor Masayko presented the pin and name plate to Mr. Hill and thanked him for his service to the community. Mr. Hill expressed his regret at having to leave. He looked forward to volunteering for other Committees/Commissions in the future.

B. PRESENTATION OF AN APPRECIATION PIN TO TOM HALL FOR HIS VOLUNTEER SERVICE AS A CARSON RIVER ADVISORY COMMITTEE MEMBER (1-1602) - Mayor Masayko presented the pin and name plate to Mr. Hall and thanked him for his service to the community. Mr. Hall explained that he is leaving the City or would have remained for a longer period.

C. ACTION ON THE RECOMMENDATION FROM THE PARKS AND RECREATION COMMISSION, OPEN SPACE ADVISORY COMMITTEE, CARSON RIVER ADVISORY COMMITTEE, AND THE ADVISORY BOARD TO MANAGE WILDLIFE TO ESTABLISH A PRIORITY LIST FOR PROJECT CONSTRUCTION, PROPERTY ACQUISITION, AND RESOURCE RESTORATION FOR GRANT APPLICATION FOR STATE BALLOT QUESTION NO. 1 FUTURE PROJECTS (1-1620) - Mr. Kastens highlighted the purposes of Ballot Question 1. He described the process used to establish the priorities, the priorities, and projects. The projects are to be phased. It was felt that funding will be available for nine years. Projects requiring matching funds were indicated and the proposed funding source noted. Mr. Kastens commended Parks Planner Vern Krahn and Open Space Manager Juan Guzman on their efforts. They had obtained unanimous support from the Committees/Commissions. Mayor Masayko also complimented them on the detail of the information and their collaboration. The information had been very inclusive as it had helped him understand the locations and improvements that will be needed. The map will tell everyone what is proposed. Funding will be defined. It can be revised in the future as deemed necessary. He also complimented the

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Commissions/Committees on their efforts. Mr. Kastens explained the program used to develop the information. State Lands Administrator Pamela Wilcox has a similar program. The coordination effort was described to illustrate the desire and need to have a collaborative effort particularly when presented to the State Bond Committee. It was felt that Ms. Wilcox will use the City's approach for other presentations. Mr. Kastens also indicated that, although the priorities were listed, if a willing seller appears, the priorities could change. Mayor Masayko felt that this would be acceptable as long as it is not handled in the same fashion as the acquisition of Silver Saddle Ranch/Bernard property. Supervisor Livermore described Messrs. Krahn and Guzman's efforts to learn as much as possible to develop the best potential for funding. It is an ambitious plan. He congratulated Messrs. Krahn and Guzman. The exhibits had taken a lot of thought, foresight, and professionalism. He then described the presentation that had been made to the Parks and Recreation Commission. He suggested that a copy of the map be placed in a central location where the public could view/study it, such as in the Sierra Room. He congratulated all of the individuals who had worked on the program on their efforts. Mayor Masayko directed Ms. Ritter to have the map framed and hung in the Sierra Room. Supervisor Williamson also complimented the Committees/Commissions and staff on their efforts. She indicated that the bonds will be sold in phases. With the cooperation and effort that had been shown, Carson City should be able to obtain funding from all phases. Matching funds could come from the Question 18 monies. The Subconservancy may be able to match some of the funds. The matching funds may stretch the bonds even further. Supervisor Aldean also commended them on their efforts. She was encouraged to see that they had submitted the entire project listing. This will allow substitutions when more funding is available. Mr. Kastens felt that this may be possible, however, the State will control the submittal process. Supervisor Aldean pointed out the proposal to have willows along the stream beds and questioned whether this is wise in a drought prone state. She also disclosed her long-standing relationship with the Masonic Lodge and its Ash Canyon property, which is listed as one of the parcels for acquisition in the third year of the program. Mayor Masayko indicated that the suggested timeframe may not be adhered to, specifically, when a willing seller is not involved. It is a balanced approach that includes the Joost property and others in Ash Canyon. Supervisor Staub complimented them on their efforts and ability to obtain funding for the program. He then disclosed that he has represented the Jarrard family in the past and will again in the future. They own property on the Carson River. Public testimony was solicited but none was given. Supervisor Livermore moved to approve the recommendation from the Parks and Recreation Commission, Open Space Advisory Committee, Carson River Advisory Committee and the Advisory Board to Manage Wildlife to establish a priority list for project construction, property acquisition, and resource restoration for grant applications for State Ballot Question No. 1 future projects as presented. Supervisor Williamson seconded the motion. Motion carried 5-0.

8. COMMUNITY DEVELOPMENT - Senior Planner Lee Plemel

A. ACTION TO AMEND THE SILVER OAK PLANNED UNIT DEVELOPMENT BY REMOVING A 17.5-ACRE PARCEL FROM THE PLANNED UNIT DEVELOPMENT AND REDUCING THE TOTAL NUMBER OF PERMITTED RESIDENTIAL UNITS WITHIN THE REMAINING SILVER OAK PLANNED UNIT DEVELOPMENT BY 49 UNITS ON PROPERTY LOCATED ON EAGLE VALLEY RANCH ROAD, APN 8-062-18 (FILE P-93/94-1); B. ACTION TO APPROVE A MASTER PLAN AMENDMENT TO CHANGE THE LAND USE DESIGNATION OF A 17.5-ACRE PARCEL FROM OPEN SPACE-RECREATION-RURAL RESIDENTIAL TO COMMERCIAL ON PROPERTY LOCATED AT EAGLE VALLEY RANCH ROAD, APN 8-062-18,

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AND OTHER MATTERS PROPERLY RELATED THERETO (FILE NO. MPA-03/04-4); AND C. ACTION TO INTRODUCE ON FIRST READING AN ORDINANCE REMOVING A 17.5-ACRE PARCEL FROM THE SILVER OAK PLANNED UNIT DEVELOPMENT AND EFFECTING A CHANGE OF LAND USE FROM CONSERVATION RESERVE (CR) AND SINGLE FAMILY 12,000-PLANNED UNIT DEVELOPMENT (SF12-PUD) TO RETAIL COMMERCIAL (RC) ON PROPERTY LOCATED AT EAGLE VALLEY RANCH ROAD, APN 8-062-18, AND OTHER MATTERS PROPERLY RELATED THERETO (FILE NO. Z-03/04-2) (1-2198) - Applicant's Representative Mark Palmer - The property is in escrow. The land use amendment is a condition of the sale. The Statute mandating a super majority of the Commission vote in favor of the revision was explained. There were only four Planning Commissioners present at its meeting. Therefore, in accordance with the Statute, the request was denied. The Board does not have to have approval by a super majority. Mayor Masayko felt that the Board should act on the requests and not delay it as it is not controversial. The request removes a portion of the PUD from Silver Oaks and does not redistribute the density to other portions of the PUD. Supervisor Livermore disclosed that he receives a stipend from the Hospital for serving on the Hospital Board of Directors. He does not have a financial interest in the project and will not in the future. The project's circulation benefits were described. Additional space is needed for the cancer treatment center which necessitated the acquisition. Supervisor Staub disclosed that he is a member of the Hospital Finance Committee. He will not obtain any financial gain as result of the project. Mayor Masayko pointed out that the application seeks to change the zoning on Single Family 12,000 square foot lots to Retail Commercial that abuts the property. Mr. Plemel used a map to illustrate the zoning. Mayor Masayko explained his concerns regarding friction zoning. Mr. Plemel explained the development standards and the setbacks required for Single Family 12,000 and Retail Commercial which are used to mitigate the friction. The Single Family 12,000 lots have not been developed. The proposal reduces the conflict area to one residence to the east of the property, which is not part of Silver Oaks, and a small sliver of residential area on the south side. Supervisor Aldean pointed out the need to de-annex the property from the CC&Rs. Mr. Palmer agreed. Supervisor Aldean also indicated that the noticing requirements had been met. Supervisor Livermore explained that the Hospital, at this time, plans to use the area for medical purposes which could be doctors' offices. It will not be a small retail center. This is a condition of the sale. Mr. Plemel indicated that the City could not restrict the use and that he was not aware of this condition. Supervisor Livermore also indicated that the Hospital will be responsible for the road to the Eagle Valley Children's Home and the utilities which were originally Mr. Richards' responsibility. Mr. Plemel indicated the need to revise the development agreements to contain this change in responsibilities. Mayor Masayko indicated that the requirement is contained in the PUD. As the Hospital will own the property, it should be responsible for the infrastructure improvements. Mr. Plemel indicated for the record that the final roadway configuration for the residents will not be as originally indicated on the PUD map. Mayor Masayko felt that the other commitments in the PUD were not being waived and must be upheld.

Mr. Palmer described the site and roadway alignments which are under construction. Justification for working with Silver Oaks to mitigate the friction areas was provided. His comments included the need to have medical offices in the vicinity. The Hospital had assumed Silver Oaks responsibility for the sewer and water line extensions to the Children's Home. Acquisition of the area for Hospital purposes reduces the number of residences originally proposed in the PUD. The infrastructure improvements were described. The Hospital has met with the two residents living in the area. They allegedly are not opposed to the project but wish to remain in their homes. The Hospital may eventually acquire those properties. Mayor Masayko felt that the residents were aware of the changes which were

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coming to their area. Mr. Palmer agreed that there could be a small amount of friction area with the residential zone at the southeastern portion of the property. The Hospital is still working to develop a site for temporary housing for the physicians which may be used to mitigate the friction area. He then provided a briefing on the status of the grading permit. He felt that the Hospital will submit plans for a construction permit in January. The revisions to the freeway drain-age/detention basins were provided. Benefits of the program were noted. He also indicated that CASCI's special use permit was approved by the Planning Commission. Modifications to the CASCI facility and the status of the Cancer Center were noted. Justification for realigning the roadway was described. Eagle Valley Ranch Road is not being abandoned but the realignment provides better access to the Hospital's circulation loop. The Hospital is working with the Children's Home to provide an improved access to a small parcel. The plans, however, need to be finalized before a firm commitment is made regarding that access. The Hospital has committed to providing the realignment if the Children's Home supports it. A second option for access to the parcel will be provided across the Hospital's property if the Children's Home does not accept the suggested alignment. Public comments were solicited but none were given.

Supervisor Livermore moved to approve an amendment to amend the Silver Oak Planned Unit Development by removing a 17.5-acre parcel from the Planned Unit Development and reducing the total number of permitted residential units within the remaining Silver Oak Planned Unit Development by 49 units on property located on Eagle Valley Ranch Road, APN 008-062-18 based on the findings and subject to the conditions of approval contained in the staff report, File P-93/94-1. Supervisor Williamson seconded the motion. Motion carried 5-0.

Supervisor Livermore moved to approve a Master Plan Amendment to change the land use designation of a 17.5-acre parcel from Open Space-Recreation-Rural Residential to Commercial on property located at Eagle Valley Ranch Road, APN 008-062-18, based on the findings contained in the staff report, File No. MPA-03/04-4. Supervisor Williamson seconded the motion. Following discussion, Supervisor Livermore amended his motion to include returning the item to the Planning Commission for its concurrence. Supervisor Williamson concurred with the revision. Motion carried 5-0.

Supervisor Livermore moved to introduce Bill No. 121 on first reading, AN ORDINANCE REMOVING A 17.5 ACRE PARCEL FROM THE SILVER OAK PLANNED UNIT DEVELOPMENT AND EFFECTING A CHANGE OF LAND USE FROM CONSERVATION RESERVE AND SINGLE FAMILY 12,000-PLANNED UNIT DEVELOPMENT TO RETAIL COMMERCIAL ON PROPERTY LOCATED AT EAGLE VALLEY RANCH ROAD, APN 008-062-18, based on the findings contained in the staff report, File No. Z-03/04-2. Supervisor Williamson seconded the motion. Motion carried 5-0.

Mayor Masayko directed that Mr. Plemel return any other items required by the District Attorney's office to the Planning Commission to ensure that all of the proper procedures occur without requesting additional direction from the Board. The Board will consider these acts, if necessary, during the second reading of the ordinance.

9. CITY MANAGER

A. ACTION TO APPROVE A REQUEST FROM THE NEVADA RURAL HOUSING AUTHORITY (NRHA) TO REDUCE THE PAYMENTS TO CARSON CITY IN LIEU OF TAXES FOR

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THE SOUTHGATE MANOR SENIOR CITIZENS APARTMENT COMPLEX AS PROVIDED FOR IN NRS 361.990 TO \$7,500 ANNUALLY (1-2979) -

NRHA Attorney Ernie Adler, NRHA Executive Director Gary Longacre, Assessor David Dawley - Mr. Adler reviewed the tax history of the complex since 1976 that assessed a ten percent tax on the income generated by the complex. The in lieu of tax on similar properties was eliminated sometime in the 1980's by Statute, however, the tax on the complex was continued. A letter purportedly written by former NRHA Director Robert Sullivan in 1987 regarding the inequity of the tax and the lack of response to that letter was noted. A 2000 Attorney General's opinion indicated that the Complex is not required to pay an in lieu of tax, however, must negotiate with the local taxing authority, i.e., the Board of Supervisors on the amount of the tax. Discussion clarified that the Statute states the Authority shall pay and work something out. Mr. Adler introduced NHRA Executive Director Gary Longacre. Mr. Longacre has been involved in developing a process in other states. Mr. Adler suggested a fair assessment of \$7,500 instead of the in lieu of tax as none of the other NHRA complexes in the State pay the in lieu of tax. Discussion reiterated that NRS 315.540 requires the NRHA to make the tax payments and for discussions to occur between the City and Authority. The place for the discussions to occur is at the Board level. Mayor Masayko felt that the Statute was nebulous, hard to implement, difficult to understand, and should be legislatively reviewed in the future. If the complex is exempt, as are other 501c3's, the Board can address it. If the complex is required to make in lieu of payments, they should establish a reasonable amount. He was uncertain whether the Board could negotiate the offer. Discussion agreed that the Legislature should either base the tax on a percentage of the income or remove the in lieu of tax requirement from the Statute. The Board had elected not to grant Section 8 taxing abatements for other subsidized housing in the City. Mayor Masayko felt that the decision to peg the in lieu of tax to the rent was wrong. He also felt that the Board could either accept or reject NRHA's offer and could do little else according to the Attorney General's opinion. He had discussed the Attorney General's opinion with Deputy District Attorney Melanie Bruketta. He had also discussed a scenario with Assessor Dave Dawley regarding the level of City services required at Southgate. He felt that the level required was less than the full range of services required by other apartment complexes. The Board could base the tax on the level of City services utilized. This amount could be calculated. This amount is neither \$24,000 nor \$7,500 but may be in the neighborhood of \$9,000 to \$9,500. He supported elimination of the tax based on a percentage of the rental rate. Mr. Adler explained his review of similar facilities in Carson City, such as the Senator Apartments which has the same number of units but pays \$7,500. The different amenities and services offered at Southgate were noted to illustrate its uniqueness. These amenities add to the value to the complex. Mayor Masayko suggested that Mr. Dawley explain whether the facility's tax is based on personal property or just land and the structure. He also expressed his desire that the record indicate that they are willing to listen to the rationale and that he would advance one scenario for assessing the tax. Mr. Adler indicated that Mr. Longacre could offer a process. Mayor Masayko then indicated that if he did so, he would not offer his rationale.

Discussion between the Board and Mr. Longacre then explained that the tenant's rent is based on the individual's income level and is subsidized by HUD. Southgate is 100 percent occupied by seniors. The rental fee is based on Section 8 criteria. Oklahoma and Texas based the in lieu of tax on the ability to pay. Mr. Longacre offered to establish a figure and discuss it with the Board. Mayor Masayko agreed with this approach. Discussion indicated that the current tax is being passed on to the tenants. Supervisor Staub explained the calculation process currently used and that the proposed \$7,500 tax would be 17 percent of the current assessment. Mr. Adler indicated that the tax includes a portion for the State and the School debt. Mayor Masayko explained his belief that the facility should pay for its share of the City services. The General Fund is a \$43 million account of which property taxes fund \$11

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million. The Center should pay its share based on this formula. Mr. Longacre explained the process used in Texas to develop the tax based that was created by an independent analysis. Mayor Masayko felt that this approach could be supported as it would provide a justifiable process for the fee and allow adjustment in the future. The suggested \$7,500 rate would become a static number in the future without the formula. The formula will provide a justifiable mechanism for future adjustments. (2-0019) He described his suggested calculation process which would be based upon the City services provided. It included an annual adjustment. Mr. Longacre expressed a willingness to enter into this type of discussion. He also indicated his intent to develop a standardized process for taxes on all of NRHA's properties. Mayor Masayko agreed to participate in this process. Discussion indicated that the taxes for this year had not been billed due to an agreement to wait until after the discussion with the Board had occurred before billing it. Mayor Masayko expressed a willingness to accept the \$7,500 offer based on the development of a rationable ordinance for setting the rate for the future with a six-month deadline for development of the rationale. Mr. Longacre indicated that he would agenize the proposal for discussion at his next Board meeting, which is scheduled for next Thursday. Mayor Masayko indicated that if the proposal is not accepted by the NRHA Board, a report should be made to the Supervisors and a decision made on what to do in the future. He restated his offer as being that the \$7,500 tax is a beginning point with a rationable approach being developed for the future. This approach should be applicable throughout the State. Failure to follow through on the development of this process may create the impetus for the Supervisors to pursue a different process. At this time the Supervisors are not sure whether the offer of \$7,500 is fair. Mr. Longacre felt that his Board would accept the \$7,500 offer and direct him to work with the City to establish a policy within six months. Mayor Masayko felt that this would provide a fair and equitable process. He also felt that Mr. Dawley was uncomfortable about the process which had not sent NRHA a tax bill for the complex.

Supervisor Williamson voiced her objection to the proposed concept due to her believe that there are other funding sources which could be used to pay the tax other than increasing the tenant's rent. Justification for her position was provided. She pointed out her support for affordable housing and the need for the City to pay its bills. This includes funding for public transit, ambulance services, hospital services, etc., which are free to individuals who are unable to afford the cost. She felt that the NRHA should continue to pay the \$23,000 per year until a different approach is developed. She pointed out that there had not been a decrease in services to the complex. Mr. Adler indicated that there are other low income and senior housing units in the City. He was unsure what taxes they pay. He also pointed out that there is more than \$100,000,000 in State buildings which do not pay any taxes.

Supervisor Livermore explained that the Cherry Creek apartments pay taxes and is subsidized. He felt that a portion of their rent is used to pay City taxes. He objected to the creation of a difference in treatment for those tenants. Mr. Adler referenced NRS 361.060 indicates that all property owned by the NRHA is exempt from property taxes. Supervisor Livermore reiterated that the facility uses City services including the library, transit, fire and police. He also felt that the original tax of \$24,000 was reasonable. He did not see any reason for a lower rate or for not assessing a fee. A tax assessment including all fees and districts would total \$43,117. The suggested tax of \$24,000 is approximately half of that rate. No other entity is given this break including other HUD subsidized units.

Supervisor Staub indicated that he understood the concerns which had been voiced. He felt that the Board would have to accept whatever NRHA offers unless the Board can convince NRHA otherwise. The offer of \$7,500 is diminutive when compared to the \$43,000 and is substantially less than the \$24,000 that has been paid. He then

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questioned the language in NRS 315.540. Mayor Masayko questioned who is "it" as contained therein. Supervisor Staub asked if the rental rates for the complex had been compared with the market rates in unsubsidized units. The use of this comparison was felt justified as it will provide a comparison basis for the tax assessed to the other units. He also felt that the previous Board decision to assess a ten percent tax rate on the rentals had created consistency and inflation factors which are annually considered in the rates. The comparison should be used as a starting point in the discussions and as a basis for granting the complex a break in its assessment as defined in NRS 315.540. Discussion between Mr. Adler and Supervisor Staub provided an example of how the process would work, i.e., if the normal unit rent is \$600 and after a subsidy the tenant pays \$150, the tax would be based on the percentage difference in the rental. This may require developing a "levelized" rate to avoid monthly calculations. Mayor Masayko suggested that the rate be capped.

Discussion between Mayor Masayko and Assessor Dawley described the current ten percent tax assessment. Mayor Masayko explained the Board's concern regarding the lack of knowledge on how the ten percent assessment had been developed. It was felt that the rate developed under this process was unique to this one facility and had not included the demand for City services. The need to have consistency was indicated. Mr. Dawley explained his desire that the rate be a flat fee or be based on an assessed value or tax rate. He was willing to assess whatever formula directed by the Board so long as he can figure out the process. Clarification by Mr. Longacre indicated that the rents are determined based upon the tenant's income. It is limited to 25-30 percent of the individual's income. Some residents may pay \$100 a month while others are paying almost all of the rent.

Mr. Dawley explained the Senior Citizen Tax Rebate program which residents can receive. He felt that the residents of Southgate were already signed up for the program. He was not certain, however, that the rebate program reduced their tax. Mayor Masayko pointed out that this program reimburses the residents a portion of the tax that is collected.

Supervisor Aldean supported remaining at the present status quo until a replacement program is developed. Mr. Alder felt that continuing the current tax program impacts the residents whose budgets are tight. He also pointed out that no other senior citizen subsidized housing facility is required to pay the tax. Mayor Masayko denoted that the Attorney General's opinion indicates the Board cannot tell them what they must offer and that the Board could agree or not. It also indicates that it does not have to pay anything. He questioned whether the Board could continue to hold them forever to an agreement made a long time ago. Supervisor Aldean felt that the language infers that it is to be an agreement between two parties. The Mayor's remarks suggest that the Board does not have a "chair at the negotiating table". Mayor Masayko felt that the Attorney General's opinion indicates that it is a one way street as the Authority shall offer. Supervisor Aldean felt that this indicates they could offer \$10 a year. Ms. Bruketta indicated that the Statutes are ambiguous. She also opined that her reading indicates that the Authority must agree with the City's assessment of the amount.

Mr. Longacre felt that his Board would approve the offer of \$7,500 for this year and development of a policy. He pointed out NRHA's belief that it is overpaying for services currently provided by the City for the facility. He then explained his belief that affordable housing authorities should pay an in lieu of tax for the services it receives from the local government. He felt certain that his Board members supported his belief. He was also certain that he could work with the Board and develop a rationable program. Mayor Masayko pointed out the wild card which is involved in the mix--the senior tax rebate program. All issues should be on the table. If an agreement is developed, it will be

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a step in the right direction. His offer was \$7,500. Supervisor Staub felt that the Board had to accept his offer. He was willing to accept the \$7,500 on the condition that no senior tax rebates be given to the residents. Mayor Masayko, Messrs. Dawley and Adler indicated that the senior tax rebate program is by Statute and the City could not refuse to accept their applications.

Discussion indicated that the Southgate's tax last year was \$22,800. The tax was based on the rental revenue established by the State figures. Supervisor Aldean suggested that NHRA pay the same amount this year, \$22,800, predicated upon the understanding that after the policy is developed, a credit is to be issued for an overage that may occur as a result of the policy. Mr. Dawley indicated that the normal process is to issue a refund. He was willing to adhere to whatever policy is developed. Mr. Longacre then indicated that he had "unofficially been directed" to accept the \$7,500 offer and pay only that. No authority beyond that direction had been provided.

Discussion between Supervisor Livermore and Mr. Adler explored whether HUD or the tenant pay the tax. Mr. Longacre indicated that the rent varies according to the tenant's income. Mr. Adler felt that the tenant must pay the tax and not HUD. Mr. Longacre explained HUD's ability to periodically increase the rents based upon a fair market formula. Supervisor Livermore expressed his inability to be sympathetic to the proposal. The ten percent arrangement is applicable and should not be changed. He also felt that the \$7,500 offer was unacceptable. Ms. Bruketta opined that the Board could eschew the \$7,500 offer and that things will remain under the former policy as the City is in a better position to know what the tax should be than the property owner. Mayor Masayko indicated that he would not accept a second motion if Supervisor Staub's motion fails. Supervisor Staub then moved to approve the request made by Nevada Rural Housing Authority for tax years 2003-2004 to reduce the annual in lieu of tax payment to Carson City for Southgate Manor Senior Citizens Apartment Complex to \$7,500 with instructions to the Nevada Rural Housing Authority and Carson City to sit down and negotiate a fair and equitable policy for the payment of these taxes in the coming tax years. Mayor Masayko seconded the motion. He also indicated that the \$7,500 is what was offered and provides an opportunity for something more equitable in the future. The motion was voted and defeated on a 2-3 vote with Supervisor Staub and Mayor Masayko voting Aye. A second motion was not made.

RECESS: A recess was declared at 12:05 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 12:15 p.m., constituting a quorum.

B. CLOSED SESSION - ACTION TO RECESS INTO CLOSED SESSION PURSUANT TO NRS 288.220 TO MEET WITH MANAGEMENT REPRESENTATIVES REGARDING NEGOTIATIONS WITH THE CARSON CITY FIREFIGHTERS ASSOCIATION (2-0625) - Supervisor Livermore moved to recess into a closed session pursuant to NRS 288.220 to meet with management representatives regarding negotiations with the Carson City Firefighters Association. Supervisor Aldean seconded the motion. Motion carried 5-0. Mayor Masayko recessed the Open Session at 12:16 p.m. At 1 p.m. he reconvened the Open Session. (The entire Board was present, constituting a quorum.)

There being no other matters for consideration, Supervisor Aldean moved to adjourn. Supervisors Livermore and Williamson seconded the motion. Motion carried 5-0. Mayor Masayko adjourned the meeting at 1:01 p.m.

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ARE SO APPROVED ON February 5, 2004.

/s/
Ray Masayko, Mayor

ATTEST:

/s/
Alan Glover, Clerk-Recorder