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Day” and announced the luncheon that will be held in the auditorium at noon. Supervisor Williamson read the proclamation into the record and moved to approve the proclamation. Supervisor Livermore seconded the motion. Motion carried 5-0.

**B. ACTION TO APPROVE A RESOLUTION COMMENDING GAYLE FARLEY (1-0165)** - Mayor Masayko introduced Ms. Farley. He thanked her for attending and for her service to the community. Ms. Farley had moved her residence to Washoe County. Mayor Masayko read the resolution into the record. Supervisor Livermore moved to adopt Resolution No. 2002-R-56, A RESOLUTION COMMENDING GAYLE FARLEY. Supervisor Williamson seconded the motion. Board comments cited examples of her professionalism and dedication during a time of personal adversity. Several other community projects she had worked on were also limned. They thanked her for her dedication and efforts to make the community better. She was urged to participate in similar activities in the future as she plans to continue working in the community. Her involvement with the Legislature was also noted. It was felt that her involvement on City committees/commission would be missed. The motion to adopt Resolution 2002-R-56 was voted and carried 5-0. Ms. Farley thanked the Board for the recognition and expressed her appreciation of their comments. She committed to continuing to work with the City on items of mutual interest as she planned to continue working here. Mayor Masayko wished her success in her future endeavors.

**LIQUOR AND ENTERTAINMENT BOARD (1-0312)**

**4. TREASURER - ACTION TO APPROVE THE REVOCATION OF ALL DELINQUENT LIQUOR LICENSES NOT PAID FOR BY OCTOBER 16, 2002, FOR NON-PAYMENT OF THE QUARTERLY FEE** - All of the delinquencies have been brought current; therefore, no action was required.

**5. CONSENT AGENDA (1-0313)**

**5-1. TREASURER - ACTION TO APPROVE A RESOLUTION TO INCREASE TREASURER-DEBT RECOVERY DIVISION PETTY CASH FUND FROM \$300 TO \$700**

**5-2. DEVELOPMENT SERVICES - CONTRACTS**

**A. ACTION TO ACCEPT DEVELOPMENT SERVICES RECOMMENDATION ON SOUTHEAST CARSON SEWER EXTENSION PHASE VII - CONSULTING SERVICES AGREEMENT, CONTRACT NO. 2002-053 , AND AUTHORIZE DEVELOPMENT SERVICES TO ISSUE A CLAIM FORM TO HARDING ESE, 961 MATLEY LANE, SUITE 110, RENO, NV 89502, FOR AN AMENDMENT NO. 1 AMOUNT OF \$19,500**

**B. ACTION TO ACCEPT DEVELOPMENT SERVICES RECOMMENDATION ON THE CARSON CITY FREEWAY PHASE 2 - LOMPA ACQUISITION UTILITY IMPACT STUDY, CONTRACT NO. 2000-096 AND AUTHORIZE DEVELOPMENT SERVICES TO ISSUE CLAIM FORMS TO PBS&J, 5310 KIETZKE LANE, SUITE 101, RENO, NEVADA 89511, FOR AN AMENDMENT NO. 2 AMOUNT OF \$3,300 AND THE AUTHORIZATION FOR THE CONTRACTS DIVISION TO ISSUE ADDITIONAL AMENDMENTS OF \$1,700**

**C. ACTION TO ACCEPT DEVELOPMENT SERVICES RECOMMENDATION ON THE WELL 25 REDRILL - CONSULTING SERVICES AGREEMENT, CONTRACT NO. 2002-054 AND AUTHORIZE DEVELOPMENT SERVICES TO ISSUE CLAIM FORMS TO BROWN AND**

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**CALDWELL, 3488 GONI ROAD, SUITE 142, CARSON CITY, NEVADA 89701, FOR A CONTRACT AMOUNT OF \$40,000 AND AUTHORIZE THE CONTRACTS DIVISION TO ISSUE AMENDMENTS FOR A NOT TO EXCEED COST OF \$5,000**

**5-3. FIRE DEPARTMENT - ACTION TO AUTHORIZE THE FIRE DEPARTMENT TO PAY ROAD RESCUE, INC., AN ADDITIONAL \$2,330 FOR THE PURCHASE OF TWO TYPE I AMBULANCES (FILE 0102-120)** - Supervisor Plank moved for approval of each of the five items on this morning's Consent Agenda and that Item 5-1's resolution will be numbered 2002-R-57, A RESOLUTION TO INCREASE TREASURER-DEBT RECOVERY DIVISION PETTY CASH FUND FROM \$300 TO \$700. Supervisor Livermore seconded the motion. Motion carried 5-0.

**6. BOARD OF SUPERVISORS - NON-ACTION ITEMS**

**A. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (1-0332) -**

Supervisor Plank reported on the ALS Walk at Mills Park, the Farmers Market at Telegraph Square, the Lights On After School Program at Empire Elementary School, and a meeting with City Manager John Berkich regarding transportation issues. He also explained that the Senior Center Advisory Committee and the Parks and Recreation Commission meetings had been cancelled. He announced meetings with Charlie Long, Dave Morgan and TRPA. He invited Mayor Masayko and Mr. Berkich to participate in the TRPA meeting on a water quality issue. Supervisor Williamson reported on the WNDD and Home Consortium meetings. During a meeting with State Public Works Director Dan O'Brien, City Manager Berkich and Redevelopment Manager McCarthy, Mr. O'Brien agreed to consider participating in a parking structure on the east side of Carson Street. Meetings with the downtown private sector will be held to determine whether this is a feasible alternative. She had attended a discussion with Supervisor Livermore on establishing a health authority in Carson City. She also reported on the Subconservancy's meeting and her attendance at the Library Oktoberfest and the "C" Hill Flag repair project. She thanked the volunteers who had worked on these events and Supervisor Livermore for the hamburgers served to the "C" Hill Flag volunteers. She announced the Ghost Walk scheduled for Saturday and invited the volunteers to participate in the "Volunteer Appreciation Luncheon". Supervisor Staub explained his commitment for this evening and that he would not be able to attend the evening Board meeting. He reported on meetings with: Charlie Long on the Economic Vitality Coalition, the Airport Authority, and RTC. He also explained his participation in the "C" Hill Flag repair project. He felt that it would be necessary for this to become an annual event due to weed problems. Supervisor Livermore explained the turnout for the "C" Hill Flag repair project and the work his employees had taken on to provide the hamburgers for the volunteers. He also reported on the Library Oktoberfest, the new physicians' reception, and meetings of the WNDD, Chamber of Commerce Sign Review Committee, Chamber of Commerce Manufacturers Committee, Economic Development, Hospital Board of Trustees, the Mental Health Legislative Steering Committee including the discussion on establishing a health authority or district in Carson City, and the Subconservancy. He had also met with Mr. Berkich, Charlie Long, and Joe McCarthy regarding the Economic Vitality Committee. He urged residents to participate in the flu shot clinic. He also encouraged the Board to visit the Corporate Yard and watch an individual cutting stone. Mayor Masayko explained his participation in the "Think Pink" Breast Cancer Awareness Program and thanked the Tahoe-Carson Radiology employees, the Soroptomists and the City employees for their efforts to raise public awareness. He had also participated in the Oktoberfest, Computer Corps volunteer recognition, Chamber of Commerce Manufacturers Committee meeting, judged essays for the Flag contest for the School Board, NACO meeting in Winnemucca, JOIN Board of Directors meeting, the enshrinement of four deceased firefighters

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at the memorial in Mills Park and its President Lowell Smith's compliments regarding City staff's maintenance of the memorial, Convention and Visitors Bureau meeting, and the welcoming of Hospital auxiliaries from throughout the State. He announced that the 2003 Elko NACO meeting will include a joint meeting with the Nevada League of Cities and Municipalities. He reminded the Board of the NACO meeting at South Lake Tahoe on November 11 through 14 and urged them to attend. No formal action was required or taken.

**B. STAFF COMMENTS AND STATUS REPORTS (1-1069) - None.**

**7. CARSON CITY SCHOOL DISTRICT - PRESENTATION REGARDING THE 2002 "TAX RATE NEUTRAL" SCHOOL BOND PROPOSAL ON THE NOVEMBER 5<sup>TH</sup> GENERAL ELECTION BALLOT (1-1071)** - School Board of Trustees Chairperson Bob Crowell introduced Superintendent of Schools Mary Pierczynski and Operations Director Mike Mitchell. He thanked the Mayor for judging the essay contest. A copy of the American Citizens essay contest advertisement and a listing the winners and their essays was given to the Board. (A copy was not given to the Clerk.) The essays will be included in the local newspaper. It was felt that the essays were an indication of the District's goal to pass on the "torch of community values". Discussion explained that a bond had been paid off. The proposal is to issue a new bond and continue to assess the same tax rate. Mr. Mitchell's presentation outlined the purpose of the bond and the need for the replacement/new buildings. The multi-track year-round school program would provide only temporary relief due to the need for permanent structures. It was felt that the program will continue the 47-cent tax rate currently required for bonds for an additional year before the rate will decrease. This will cost a property owner of a \$150,000 home approximately \$237 over the 20-year life of the bond or \$11.30 a year. The proposal includes a two-story building at the Bordewich which will match the two story building on King Street. It will tie this campus into one cohesive building and improve its environment. The Bray building will remain. It is presently used for Grades 1 and 2. They will be moved into the new addition when it is finished. The Bray building will then become the student support services center for the District. These services are currently housed at Seeliger. This gives Seeliger space for three classes. Three special education programs will also be moved from the Gleason site to the Bray building. The concept will provide for consolidation and more efficient usage of the structures and time.

Supervisor Staub explained that he had attended school at Bordewich and his support for the addition. The portables made the school look like a temporary structure. The historical value of the site should be maintained. He was glad to see the proposed changes.

Supervisor Livermore explained that his wife and his mother-in-law had both attended school at Bordewich. The Hospital's encounter with the mold problem was limned. He felt that the mold could be found in other areas of the community without anyone knowing it. Mr. Mitchell explained the testing that had been conducted in search of mold at the other schools. The remaining buildings were "healthy". He agreed that it is something that the District should stay on top of.

Dr. Pierczynski explained the current student growth rate and the projected growth rate. They had not expected last year's 3.8 percent increase in students. They had projected a one percent growth. This year it was 0.88 percent. She thanked the teachers and administrators for their efforts to keep the programs going and under control. Dr. Pierczynski explained her contact with the Sheriff's candidates and her feeling that the drug resistance programs

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would be continued. The two Sheriff's Deputies and a "floater" at the schools are a positive program and should be continued if at all possible. At the present time there is a good working relationship between the Sheriff's Office and the School District. Discussion indicated that the School District was making a good effort to get the word out and educate the public on the needs. Dr. Pierczynski presented T-shirts to the Board members advertising the bond.

Karl Neathammer complimented the School District on its hard work to get the word out to the electorate about the need. He indicated that he is a member of the District's Bond Advisory Committee. It had not been an easy decision to make. The alternatives had been studied carefully without any success. He urged everyone to support the bond issue and the school's leadership.

Chamber of Commerce Chief Executive Officer Larry Osborne indicated that the Chamber also supported the bond question. There had been a presentation to the Chamber members and they had unanimously supported the proposal after all of the questions had been answered. Additional public comments were solicited but none were given. Mayor Masayko urged the School District to continue trying to get the word out and wished them success. He displayed the T-shirt. No formal action was taken or required.

**8. HUMAN RESOURCES - Director Ann Beck**

**A. ACTION TO APPOINT ONE APPLICANT TO THE SHADE TREE COUNCIL TO FULFILL A VACANCY DUE TO THE RESIGNATION OF DONALD HANOVER (1-1610)** - Supervisor Livermore commended the Council on its selection and described his personal knowledge of Mr. Trenoweth's background. Supervisors Plank and Staub supported his appointment. Public comments were solicited but none were given. Supervisor Livermore moved to appoint Mr. Roy Trenoweth to the Shade Tree Council. Supervisor Staub seconded the motion. Mayor Masayko indicated that the term will expire in January 2003 and that he will have to reapply. Motion carried 5-0.

**B. ACTION TO APPOINT ONE APPLICANT TO THE CARSON RIVER ADVISORY COMMITTEE TO FILL AN OWNER OF 20+ ACRES VACANCY THAT WAS CREATED BY THE RESIGNATION OF BARBARA WRIGHT (1-1678)** - Everett Hill - Discussion indicated the term will expire in July 2003. Mr. Hill resides in the watershed area. Reasons for redefining the area where the applicant must live were explained. Supervisor Williamson thanked him for applying. Mr. Hill explained his reasons for applying. He acknowledged that he knew about the longer term but wished to try the shorter term. Discussion pointed out that, if he is appointed to the longer term and decided it was necessary to resign early, he could do so. Supervisor Livermore supported his appointment and commended him on his offer. Public comments were solicited but none were given. Supervisor Williamson moved that the Board of Supervisors appoint Mr. Everett Hill to the Carson River Advisory Committee for the term which is now categorized as 20 plus acres which expires in July 2003 with the finding that there are no qualified applicants for the property owners of 20 plus acres but that Mr. Hill is a property owner in the area and, therefore, we find that he qualifies. Supervisor Livermore seconded the motion. Motion carried 5-0.

Mayor Masayko indicated the next meeting would be the first Wednesday in November. Supervisor Williamson

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explained that applications are being be solicited for the recreational opening on the Committee. The qualifications for this position were limned. Applicants were urged to contact the Personnel Department. Kevin Walsh had held this position. His term expired in July 2002. Supervisor Livermore limned the importance of this position, CRAC's role in the Pinenut Study and its potential role in the State park bond issues if this bond is approved by the electorate in November. Mayor Masayko repeated the request for applicants for this position.

RECESS: A recess was declared at 10:10 a.m. The entire Board was present when Mayor Masayko reconvened the meeting at 10:20 a.m., constituting a quorum.

9. FINANCE - Director David Heath

**A. ACTION ON A MOTION FINDING THAT THE PROPOSED RESOLUTION RAISING BUSINESS LICENSE FEES PURSUANT TO TITLE 4 OF THE CARSON CITY MUNICIPAL CODE (CCMC) LICENSES AND BUSINESS REGULATIONS, CHAPTER 4.04 BUSINESS LICENSES, SECTION 4.04.015 ANNUAL FEE INCREASE DOES NOT IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN ON A BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A BUSINESS, THAT A BUSINESS IMPACT STATEMENT HAS BEEN PREPARED, ACCEPTED AND IS ON FILE WITH THE BOARD OF SUPERVISORS AND THAT THE REQUIREMENTS OF THE ACT HAVE BEEN MET (1-1875) -** Mayor Masayko indicated for the record that the impact statement had been prepared and circulated. Two business groups had opposed the fee increase. It had been found that there will be an impact to businesses. The proposed increase is 3.2 percent. This was not felt to be a significant increase. Supervisor Plank used examples from the following item to explain the actual impact of the proposed fee increase. They supported his contention that the increase was insignificant and did not create an adverse impact on businesses. Supervisor Plank moved to find that the proposed resolution raising business license fees pursuant to Title 4 of the Carson City Municipal Code Licenses and Business Regulations, Chapter 4.04 Business Licenses, Section 4.04.015 Annual Fee Increase does not impose a direct and significant economic burden on a business or directly restrict the formation, operation or expansion of a business, that a business impact statement has been prepared, accepted and is on file with the Board of Supervisors and that the requirements of the act have been met. Supervisor Williamson seconded the motion. Supervisor Livermore pointed out that the fee increase itself may be insignificant, however, when combined with other suggested fee increases the cumulative impact is significant. The projected State shortfall is now at \$370,000,000. Although the suggested fee increase may be minor, the philosophical issue is whether it will convince new businesses not to come to the area. Mayor Masayko felt that his issue should be discussed under Item B. He requested additional comments related to the findings. None were given. The motion was voted and carried 5-0.

**B. ACTION TO APPROVE A RESOLUTION INCREASING BUSINESS LICENSE FEES FOR THE CONSOLIDATED MUNICIPALITY OF CARSON CITY FOR CALENDAR YEAR 2003 (1-2050) -** Chamber of Commerce Chief Executive Officer Larry Osborne - Discussion indicated that the Code allowed the Board to establish a fee increase between zero and the CPI rate, which was 3.2 percent. Mayor Masayko stated for the record that it is his opinion that the City would not be able to recapture the increase in the future if it is not implemented today. The process is not like the ad valorem tax rate increases which allow the recapture of the increase at a future time so long as the cap is not exceeded. Public comments were solicited.

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Mr. Osborne explained that the Chamber opposed the fee. The Chamber's involvement with the City on the Planning fees was noted. The Chamber was willing to accept those fee increases. The Chamber understood the City's revenue needs and agreed that the proposed fees will not create a significant or direct impact. The fees alone may not force the closure of a business. It is a small increase but the cumulative effect when assessed against a small business or manufacturer can be significant. The Chamber felt that the City did not need the fee increase as the budget indicates there will be a four percent increase overall. This provides the City with additional funds. The City is in good fiscal shape. The fees will generate only \$24,000. The fee increase had not been included in the City's balanced budget. He suggested that the fee increase be planned into the budget in the future. The Chamber committed to working with the City to increase its economic vitality and keep its businesses while attracting more. A need for the increase has not been shown. He urged the City to live without the fee increase and to work with the Chamber on an increase next year.

Supervisor Staub suggested that the City look at its fees annually and include CPI factors the same as he does in his business leases. He also indicated that at certain times he has waived the fee due to the small amount of increase that would be generated. Mr. Osborne agreed that the fees should be considered annually and that sometimes it makes good business sense not to increase the fees. The City could not waive the fees for some businesses due to the need to be uniform and equitable in its treatment of all businesses. Supervisor Staub pointed to the utility needs to illustrate reasons for annual reviews and the development of expansion and replacement programs based on projected needs. Mr. Osborne explained that the Chamber was participating in these discussions and supported its annual review. The utility problem was felt to have been created when new hookups failed to maintain the projected growth rate. The City had failed to address this situation. The problem had not been created by inflation. He also explained that businesses cannot pass on the fees every time an increase is made due to global conditions/competition. He supported annual reviews.

Supervisor Livermore explained that the budget is considered in March and April. Business license fee increases are considered in October as the license is due in January. He was not sure that the \$28,000 generated by the fee increase was warranted. He had supported the franchise fee increase due to the public safety needs. The debate on the fee increase should be considered during the budget process as it will be easier to justify the need. The City's financial strategic plan should include addressing the City's resources for the services provided.

Supervisor Williamson pointed out that last year's fees had not been increased as a result of a similar presentation. Mr. Osborne felt that this was due to the unknown impacts of the 9-11 incident. Supervisor Williamson indicated that this action had deferred an increase of approximately \$24,000. The minimal property tax increase implemented last year was noted. The City's budget will be balanced if the projected 3.5 percent increase in sales tax occurs. There are some reserve funds available if the sales tax increase is not generated. The unexpected \$115,000 bill for long-term care, the decision to not implement the five-cent ad valorem rate for the Silver Springs youth center, and the decision to maintain the present funding level for transit were cited as examples of growing community needs. The City's budget had been balanced, however, it could become unbalanced very quickly if the assumptions do not materialize. Forty-three percent of the City's budget is based on sales taxes. The volatility of the sales taxes was noted. She questioned whether now was the appropriate time to fight over the increase. She also pointed out the City's inability to control the economy. Mr. Osborne indicated that the businesses are facing the same quandary as illustrated by the dock strike, transportation costs, increased insurance costs, proposed State fee increases, etc.

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Additional public comments were solicited but none were given. Discussion between Mr. Heath and Supervisor Staub indicated that 15 months ago the annual CPI was 3.2 percent. Supervisor Staub moved to deny Resolution No. 2002-R-58, A RESOLUTION INCREASING BUSINESS LICENSE FEES FOR THE CONSOLIDATED MUNICIPALITY OF CARSON CITY FOR CALENDAR YEAR 2003. Supervisor Livermore seconded the motion. Mayor Masayko explained that the motion would deny a business license fee increase. He felt that the motion would prevail as he proposed to vote for it due to the symbolic message of good will and of holding costs and revenues down during the uncertain times businesses are facing. He also indicated that it is likely that Carson City and the State are facing tough financial times ahead. The issue should be included on the agenda for consideration as part of the budget discussions. He also pointed out that the City is looking at the utility issues, storm drainage--which will cost between \$1.60 and \$3.00 per residential unit, planning fees, etc. Potential legislative impacts include the sales tax, a gross receipts tax, gaming taxes, property taxes, etc. Everyone is in the same boat. He felt that his reputation was one of being fiscally conservative. When the budget is discussed next March, the Board's options will be limited. The message being sent today is symbolic. Tough decisions face the Board next year. He was also convinced that there was a disconnect between the fee increase and the budget. They should be done at the same time. The business license fees were restructured three years ago. It may be time to reconsider this structure in order to be equitable and reasonable to the different classes. The next fiscal year will not be as bright as this year's projections. It may be necessary to tap sources not considered before now in order to continue providing the same level of services. Future costs and services also need to be analyzed. Supervisor Plank expressed his feeling that it would not "kill" the City to reject the recommended increase. He also agreed that the fee increases should be considered as part of the annual budget. It is important that sticker shock not be created by delaying the fee increase. Mayor Masayko felt that sticker shock would not occur as the City is unable to recapture the increase if rejected today. Business recovery takes time. The uncertainty of the City's economic future was noted. Today is the wrong time to implement a fee increase. Supervisor Staub also felt that it was prudent for the Board to consider fee increases either annually as part of the budget process or periodically. Doing it as part of the budget process will provide a comprehensive understanding of the needs and options. The fees should be considered periodically and had been submitted in accordance with the ordinance. Mayor Masayko directed staff to review the Code and revise it to allow consideration during the budget process. Supervisor Livermore questioned whether the implementation date for the fee increase could be revised. The business calendar operates on a January to December basis. The City's "trigger" date could be established as any date desired. Mayor Masayko felt that the decision making process should be included in the budget sessions. The motion to deny Resolution 2002-R-58 was voted and carried 5-0. Mr. Osborne thanked the Board for its decision and committed to working with the City on future increases. Mayor Masayko noted that there may be a difference in opinions, however, the Board had waived the fee increase for three years. Mr. Osborne retorted that the Chamber had not always opposed fee increases.

**10. PARKS AND RECREATION - ACTION TO ENDORSE SUPPORT FOR STATEWIDE BALLOT QUESTION NO. 1, A STATEWIDE PARKS, TRAILS, AND OPEN SPACE BALLOT INITIATIVE TO BE VOTED ON IN THE GENERAL ELECTION ON NOVEMBER 5, 2002 (1-0102) - Pulled.**

**11. BUILDING AND SAFETY - Chief Building Official Phil Herrington**

**A. ACTION TO APPROVE A RESOLUTION STAGGERING THE TERMS OF THE**

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**BOARD MEMBERS WHO SERVE ON THE CARSON CITY BOARD OF APPEALS FOR THE UNIFORM BUILDING CODE, UNIFORM FIRE CODE, AND OTHER RELATED CODES ADOPTED BY CARSON CITY (1-2788)** - The proposal staggers and extends the current members' terms. The members, Builders Association of Western Nevada, and the Chamber of Commerce had concurred with the revision. Mayor Masayko questioned the termination dates for the three-year members as well as those for individuals serving in unexpired terms. He asked Mr. Herrington review this language. He requested this clarity to avoid a problem in the future when it is necessary to fill a vacancy which occurs in the middle of a term. The Board's policy is for the appointee to fill the remaining portion of the unexpired term and not change the expiration date. Mr. Herrington indicated there would not be a change in this policy. He also explained that a resolution had not been used to establish the committee. Discussion explained that the One Stop Shop Committee is not the same committee as the Board of Appeals. The Board of Appeals is required by the Building Code. Supervisor Williamson moved to approve Resolution No. 2002-R-59, A RESOLUTION STAGGERING THE TERMS OF THE BOARD MEMBERS WHO SERVE ON THE CARSON CITY BOARD OF APPEALS FOR THE UNIFORM BUILDING CODE, UNIFORM FIRE CODE AND OTHER RELATED CODES ADOPTED BY CARSON CITY with the additional language that after (Section) 5, there will be a new paragraph (stating): That in the event of a resignation, an appointment will be made to complete the unexpired term. Supervisor Plank seconded the motion. Motion carried 5-0.

**B. ACTION TO INTRODUCE ON FIRST READING AN ORDINANCE AMENDING TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE CARSON CITY MUNICIPAL CODE CHAPTER 15.05 (BUILDING CODE), SECTION 15.05.022 (AMENDMENTS TO CHAPTER 4 OF THE UNIFORM BUILDING CODE) AND SECTION 15.0-5.026 (AMENDMENTS TO CHAPTER 9 OF THE UNIFORM BUILDING CODE) TO INCLUDE AMENDMENTS IN THE APPROPRIATE CHAPTERS OF THE UNIFORM BUILDING CODE, REQUIRING FIRE SPRINKLERS, AS MANDATED BY NEVADA ADMINISTRATIVE CODE 477 AND OTHER MATTERS PROPERLY RELATING THERETO (1-2975)** - Supervisor Williamson moved to introduce on first reading Bill No. 139, AN ORDINANCE AMENDING TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE CARSON CITY MUNICIPAL CODE CHAPTER 15.05 (BUILDING CODE), SECTION 15.05.022 (AMENDMENTS TO CHAPTER 4 OF THE UNIFORM BUILDING CODE) AND SECTION 15.0-5.026 (AMENDMENTS TO CHAPTER 9 OF THE UNIFORM BUILDING CODE) TO INCLUDE AMENDMENTS IN THE APPROPRIATE CHAPTERS OF THE UNIFORM BUILDING CODE, REQUIRING FIRE SPRINKLERS, AS MANDATED BY NEVADA ADMINISTRATIVE CODE 477 AND OTHER MATTERS PROPERLY RELATING THERETO. Supervisor Plank seconded the motion. Motion carried 5-0.

**12. COMMUNITY DEVELOPMENT** - Director Walter Sullivan

**A. ACTION TO APPROVE A REQUEST FROM JOHN SERPA TO ABANDON A PUBLIC RIGHT-OF-WAY, AN APPROXIMATE 12 FOOT WIDE BY 110 FOOT LONG PORTION OF MORGAN MILL ROAD AND AN APPROXIMATE 7 FOOT WIDE BY 55 FOOT LONG PORTION OF DRAKO WAY (2,458+/- SQUARE FEET) ON PROPERTY ZONED GENERAL INDUSTRIAL (GI), ALONG THE KNUCKLE PORTION OF APN 008-531-38, IN CARSON CITY, NEVADA (FILE NO. AB-02/03-1) (1-3047)** - Applicant's Representative Ken Dorr of Capital Engineering concurred with staff's

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recommendation. Supervisor Plank moved to approve a request from John Serpa to abandon a public right-of-way, an approximate 12 foot wide by 110 foot long portion of Morgan Mill Road and an approximate 7 foot wide by 55 foot long portion of Drako Way, 2,458 plus or minus square feet, on property zoned General Industrial, along the knuckle portion of Assessor's Parcel Number 008-531-38, in Carson City, Nevada, File No. AB-02/03-1; no fiscal impact. Supervisor Williamson seconded the motion. Motion carried 5-0.

**B. ACTION TO APPROVE A REQUEST FROM MICHAEL HOHL, ON BEHALF OF JODA LIMITED PARTNERSHIP, TO ABANDON A FIVE FOOT WIDE PORTION (SOUTH SIDE) OF THE RIGHT-OF-WAY FOR ROLAND STREET, CONSISTING OF FIVE FEET OVER A LENGTH OF APPROXIMATELY 600 FEET, FOR A TOTAL OF APPROXIMATELY 2,998 SQUARE FEET; ON COCHISE STREET, THE ABANDONMENT OF A PORTION OF THE RIGHT-OF-WAY LOCATED ALONG THE WESTERN SIDE, APPROXIMATELY FIVE FEET IN WIDTH AND A LENGTH OF 470 SQUARE FEET, FOR A TOTAL OF APPROXIMATELY 2,359 SQUARE FEET; AND ON PIONEER STREET, THE ABANDONMENT OF THE ENTIRE RIGHT-OF-WAY, 60 FEET IN WIDTH AND A LENGTH OF 600 FEET, FOR A TOTAL OF APPROXIMATELY 35,965 SQUARE FEET; ALL RIGHTS-OF-WAY ARE SURROUNDED BY OR ADJACENT TO APN'S 009-285-01, 009-285-02, 009-286-01 AND 009-286-02, IN CARSON CITY, NEVADA (FILE NO. AB-01/02-7) (1-3127) -** Mr. Sullivan's introduction included an explanation of Conditions 6 and 7 and asked that they be removed. The proposal will 55 feet of right-of-way which can handle all of the street improvements and requirements. Mayor Masayko felt that the request would establish 50 feet of right-of-way as being adequate for the entire community as the City could not abandon five feet on the west side and deny the developer on the east side the same request. Mr. Sullivan indicated that the City "could get by with 50 feet" for curb, gutter, parking and bicycle lanes. Mayor Masayko explained the problems he had encountered understanding the maps provided in the packet and the use of the Assessor's maps for clarification. He hoped, for the record, that the Planning Commission had an overall map of the area. The 20-acre parcel on the west has not been developed. Access to it could be obtained from Roland and Bennett. Justification for Condition 7 was noted. The bicycle lane was to be on Cochise only. The lot sizes were described. At this time there are no curbs or gutters in the area. The developer requested continuation of this policy. The City policy is to require the developer to install the curbs and gutters as part of the street improvements when the building permit is taken out. Supervisor Livermore expressed his concern that the bicycle lane requirement could be over-regulation as the street will terminate with the development. The street cannot be connected to Highway 50. He supported requiring the street improvements when surrounding development occurs. Mayor Masayko felt that the Board should discuss this issue at another time. Mr. Sullivan indicated that City Engineer Larry Werner had indicated that the 50-foot right-of-way would be adequate for all improvements including the bicycle lane. Mayor Masayko indicated that if this is not correct, then the record should be made clear to the property owner on the east side. This would prevent him from having unreasonable expectations regarding the potential that the five feet of right-of-way could be abandoned based on the need for the right-of-way to be 55 feet in width. Michael Hohl was present. Public testimony was solicited but none was given. Supervisor Williamson moved to approve a request from Michael Hohl, on behalf of JODA Limited Partnership, to abandon a five-foot wide portion on the south side of the right-of-way for Roland Street, consisting of five feet over a length of approximately 600 feet, for a total of approximately 2,998 square feet; on Cochise Street, the abandonment of a portion of the right-of-way located along the western side, approximately five feet in width and a length of 470 square feet, for a total of approximately 2,359 square feet; and on Pioneer Street, the abandonment of the entire right-of-way, 60 feet in width and a length of 600

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feet, for a total of approximately 35,965 square feet; all rights-of-way are surrounded by or adjacent to APN's 009-285-01, 009-285-02, 009-286-01 and 009-286-02, in Carson City, Nevada, File No. AB-01/02-7 with Conditions 6 and 7, which had been brought to the Planning Commission, removed. Supervisor Plank seconded the motion. Mayor Masayko indicated that the items in Conditions 6 and 7 should also be removed from Condition No. 3. Mr. Sullivan indicated that he understood. The motion was voted and carried 5-0.

**C. ACTION TO INTRODUCE ON FIRST READING AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18, ZONING, SECTION 18.03.010, BY ADDING A DEFINITION FOR YOUTH RECREATION FACILITIES; AMENDING SECTION 18.04.075 TO ALLOW YOUTH RECREATION FACILITIES AS A CONDITIONAL USE WITHIN THE SINGLE FAMILY 6,000 (SF6) ZONING DISTRICT; AND AMENDING THE CARSON CITY DESIGN STANDARDS, DIVISION 1, LAND USE AND SITE DESIGN, BY ADDING SECTION 1.16, YOUTH RECREATION FACILITY PERFORMANCE STANDARDS, AND OTHER MATTERS PROPERLY RELATED THERETO (FILE NO. A-02/03-1) (1-3465)** - Senior Planner Lee Plemel, Carol Dotson, Boys and Girls Executive Director Kathy Blankenship - Ms. Dotson reviewed the process used to develop the ordinance and highlighted the ordinance. The process will allow review of the merits of an application on a case-by-case basis. Mr. Sullivan complimented Ms. Dotson, Ms. Blankenship, and Mr. Plemel on their work on the ordinance. Mayor Masayko acknowledged that it is a controversial issue. The special use permit meeting and the standards may address the neighbors' concerns. It may be a difficult process to get the special use permit. The burden of proof will be on the applicant. Mr. Sullivan acknowledged that there had been lots of comments at the policy level which had been addressed/mitigated. When the ordinance was returned to the Commission, there had been only one individual who spoke against a portion of the ordinance while supporting the remainder. Mayor Masayko indicated that individuals with concerns should be present during the special use permit hearing. He reiterated his belief that there is issues that still need to be addressed. He also indicated that he supported the Boys and Girls Club. Ms. Blankenship acknowledged that there had been lots of concerns originally. The process allows the City, the residents and the applicant to work together to mitigate the concerns for the betterment of the community. She thanked the City for the opportunity to try. Mayor Masayko reiterated that she still had the real issues facing her. Additional public comments were solicited but none were given. Supervisor Plank moved to introduce on first reading Bill No. 140, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18, ZONING, SECTION 18.03.010, BY ADDING A DEFINITION FOR YOUTH RECREATION FACILITIES; AMENDING SECTION 18.04.075 TO ALLOW YOUTH RECREATION FACILITIES AS A CONDITIONAL USE WITHIN THE SINGLE FAMILY 6,000 (SF6) ZONING DISTRICT; AND AMENDING THE CARSON CITY DESIGN STANDARDS, DIVISION 1, LAND USE AND SITE DESIGN, BY ADDING SECTION 1.16, YOUTH RECREATION FACILITY PERFORMANCE STANDARDS, AND OTHER MATTERS PROPERLY RELATED THERETO, FILE NO. A-02/03-1; no fiscal impact. Supervisor Livermore seconded the motion. Motion carried 5-0.

AGENDA MODIFICATION (2-0145) - Mayor Masayko indicated that Item 13. B. would be considered after the other items.

**13. DEVELOPMENT SERVICES** - City Engineer Larry Werner

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**A. ACTION TO ACCEPT AN EASEMENT BETWEEN THE STATE OF NEVADA, ACTING THROUGH THE DIVISION OF STATE LANES, FOR AND ON BEHALF OF THE DEPARTMENT OF CORRECTIONS AND CARSON CITY WHEREBY THE STATE AGREES TO GRANT THE CITY A NON-EXCLUSIVE EASEMENT AND RIGHT-OF-WAY, DESCRIBED AS ASSESSOR'S PARCEL NUMBER 10-032-07, FOR THE PURPOSE OF CONSTRUCTING, PLACING, INSPECTING AND MAINTAINING A SIDEWALK ALONG THE SOUTHWESTERLY CORNER OF NORTH EDMONDS DRIVE AND EAST FIFTH STREET (2-0142)** - Supervisor Livermore moved to accept an easement between the State of Nevada, acting through the Division of State Lands, for and on behalf of the Department of Corrections, and Carson City whereby the State agrees to grant the City a non-exclusive easement and right-of-way, described as Assessor's Parcel Number 10-032-07, for the purpose of constructing, placing, inspecting and maintaining a sidewalk along the southwesterly corner of North Edmonds Drive and East Fifth Street. Supervisor Plank seconded the motion. Motion carried 5-0.

**14- DEVELOPMENT SERVICES - STREETS AND RTC - ACTION ON PRIORITIZATION OF TRANSPORTATION ENHANCEMENT PROJECTS FROM CARSON CITY TO BE SUBMITTED TO THE NEVADA DEPARTMENT OF TRANSPORTATION (2-0190)** - Street Operations Manager John Flansberg - Mayor Masayko disclosed that he represents the Board at the Statewide Technical Transportation Advisory Commission. The Commission consider and prioritizes the projects. Once this priority is established, it is seldom changed. Therefore, he would not participate in the prioritization due to this dual role. Discussion noted the criteria established by NDOT which must be adhered to before a project can be considered for funding. Funding can be sought for the next two years which will include the TEA-21 funds. The Freeway/College Parkway Interchange Landscaping remained the third priority even when the funding allocation process was considered. Applications must be submitted by October 31. Appropriations will be made in June. Funding will be provided next October for the 2003 projects and the following October for the 2004 projects. Mayor Masayko supported the Hot Springs Road improvements. Supervisor Plank explained the Commission's reasons for making it a high priority and its support of project number two. It was felt that the Freeway/College Parkway project could be a little premature at this time. Public comments were solicited but none were given. Supervisor Plank moved to approve the prioritization of the Transportation Enhancement Projects from Carson City as approved by the Regional Transportation Commission to be submitted to the Nevada Department of Transportation; fiscal impact is a five percent match. Supervisor Williamson seconded the motion. Clarification indicated that the prioritization is as shown on the staff report. Motion carried 4-0-1 with Mayor Masayko abstaining.

**15. DISTRICT ATTORNEY - Chief Deputy District Attorney Mark Forsberg - ACTION TO ADOPT ON SECOND READING BILL NO. 138, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE (CCMC) CHAPTER 5.06 (SIERRA PACIFIC POWER COMPANY) DELETING SECTIONS 5.06.020 TEXT OF FRANCHISE, 5.06.030 ENACTMENT OF ORMSBY DISTRICT FRANCHISE AND 5.06.040 TEXT OF ORMSBY DISTRICT FRANCHISE, AND AMENDING SECTION 5.06.010 ENACTMENT OF URBAN DISTRICT FRANCHISE, ADDING SECTION 5.06.020 TEXT OF FRANCHISE AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO (2-0315)** - Mayor Masayko disclosed his former employment with Sierra Pacific and indicated that he did not have any financial interest in the ordinance/franchise. Therefore, he could participate as he only receives his retirement pension from Sierra Pacific. He also indicated for the record that he had not received any comments either pro or con on the item since the first reading. Public testimony was solicited but none was given. Supervisor Plank

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moved to adopt on second reading Bill No. 138, Ordinance No. 2002-35, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE (CCMC) CHAPTER 5.06 (SIERRA PACIFIC POWER COMPANY) DELETING SECTIONS 5.06.020 TEXT OF FRANCHISE, 5.06.030 ENACTMENT OF ORMSBY DISTRICT FRANCHISE AND 5.06.040 TEXT OF ORMSBY DISTRICT FRANCHISE, AND AMENDING SECTION 5.06.010 ENACTMENT OF URBAN DISTRICT FRANCHISE, ADDING SECTION 5.06.020 TEXT OF FRANCHISE AND PROVIDING FOR OTHER MATTERS PROPERLY RELATED THERETO, fiscal impact is a gain of 0.5 percent of gross revenues from the sale of electrical energy by Sierra Pacific in Carson City. Supervisor Livermore seconded the motion. Motion carried 5-0.

**13. B. DISCUSSION AND ACTION ON PETER FISCHER'S REQUEST REGARDING THE SILVER OAK GOLF COURSE- GROUNDWATER DISCHARGE PERMIT NEV94015 AND ACTION TO FORWARD MR. FISCHER'S COMMENTS TO THE NEVADA DIVISION OF ENVIRONMENTAL PROTECTION (NDEP) FOR CONSIDERATION (2-0367) -** City Engineer Larry Werner, Peter Fischer, Silver Oaks Legal Counsel John Collier and Representative Julio Sandoval, Mary Fischer - Mr. Werner's introduction included an indication of the effort undertaken to show that the permit requirements and conditions have been complied with. He felt that the issues should go to NDEP who controls the permit and its issuance. He was unsure as to what the City's role is in the process. Supervisor Williamson explained that the Subconservancy had discussed Mr. Fischer's concerns. She expressed her concern about not taking an active role in the process as it is the City's watershed that could become contaminated. The Subconservancy is interested in doing recharge in that area. Mr. Werner explained that they had met with NDEP. The permit protects the groundwater. Subconservancy Executive Director Ed James purportedly understands what is being done. Groundwater recharge is important. The permit requirements may impact the entire State's monitoring procedures when effluent is used. The program is more significant than has normally been performed by the State. This may be the new standard for the State. Mayor Masayko pointed out that NDEP holds the hearings, makes the findings, and issues the requirements that condition the permits. The City is the stakeholder and cannot regulate the process. Mr. Fischer asked that the meeting be continued until 6 p.m. The City is involved due to the contract with Silver Oaks. The City provides the effluent. Silver Oaks is the user. If the permit conditions are not complied with, the City can withhold the effluent as an enforcement procedure. Mayor Masayko pointed out the need for there to be solid findings before taking this step. Otherwise, the City would be violating the contract. Mr. Fischer felt that there had been nitrate contamination spikes in the permit history since 1999 for Well No. 1. Graphs illustrating the contamination spikes were given to the Board and Clerk. (A copy is in the file.) Mr. Werner's action plan was developed in March. It was implemented in June. It caps and cleans up the water. Mr. Fischer alleged that they are now at the third tier in the process which will determine the contamination source. The plan was allegedly sent to NDEP in March 2002. Task 1 requires the development of boring data. Copies of this data has not yet been provided. Task 2 purportedly dealt with the potential of over irrigation. The data for this study has not yet been released. He felt that this data is needed before the permit is renewed for another five-year period. Mr. Fischer felt that there are items missing that should be addressed and suggested that a recess be taken so that they could attend the Volunteer Appreciation Luncheon. Mayor Masayko explained that the data Mr. Fischer had supplied should be sent to the NDEP and be considered during its information gathering and public hearing process. Mr. Fischer indicated that he would forward the information to NDEP but he was only one voice. Mayor Masayko reiterated the concern as to the City's role in the process. He solicited additional public comments and indicated that the issue may need to be reagenized.

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Mr. Collier and Mr. Sandoval indicated that they would not be able to attend a meeting at 6 p.m. Mayor Masayko pointed out that the information is due to NDEP by October 20. He also explained that he had a 2 p.m. appointment. Following Supervisor Livermore's suggestion, Mayor Masayko indicated the Board would take a lunch recess and continue the matter at 1 p.m.

RECESS: Mayor Masayko recessed the meeting at 12 noon. During the recess a quorum of the Board attended the "Carson City Volunteers Appreciation Day" reception in the Community Center Gym, 851 East William Street, Carson City, Nevada, from 12 noon to 1:10 p.m. No formal action was taken during the social event. A quorum of the Board was present when Mayor Masayko reconvened the meeting at 1:10 p.m. although Supervisor Staub was absent.

(2-0585) Mayor Masayko indicated his intent to listen to the discussion until 2 p.m. when he had another meeting. Mr. Fischer indicated that the lunch recess had been beneficial as there had been a good discussion with City staff and Silver Oaks Representatives. Mr. Werner indicated that the main concern is the protection of the groundwater and that the permit be thoroughly thought through. He suggested that the City ask NDEP to hold off issuing the renewal for 30 to 60 days to allow staff/Silver Oaks to work through Mr. Fischer's issues. This will allow Silver Oaks' draft management and monitoring plans to be provided to everyone so that any issues can be considered. If they are acceptable, the permit renewal process can proceed. Mayor Masayko reiterated that the City is not the permit issuing agency.

Mr. Sandoval felt that there had been a misunderstanding/lack of communication. Silver Oaks has been working on the permit for two years. More than \$160,000 has already been spent on the action plan. He was concerned that the effluent would be turned off which would be detrimental to the development and the golf course. The Silver Oaks and Silver State Consultants' offices are open and easy to find. He urged anyone with questions to contact them. The current permit requires the technical data to be submitted after the public hearings are completed. They have 90 days to amend them after the hearing is closed. The monitoring plan is submitted after the permit is renewed. NDEP has 90 days thereafter to amend the permit conditions. He was certain that once Silver Oaks completes this process and the conditions are developed NDEP will require all of the other golf courses in Carson City using effluent to have the same conditions/requirements. Mayor Masayko pointed out that the City parks should also be required to comply with these conditions. Mr. Sandoval explained that most golf courses have four monitoring wells. Silver Oaks' draft permit requires 14. The permit will be the most stringent one ever issued to a golf course in Carson City and the State of Nevada. They have taken 146 soil samples and have monitored the water in the wells on a weekly basis for four years in an attempt to understand what is occurring. The original thought was regional septic from Timberline. It is also possible that it is the design or over application of effluent. This is the reason they are now using potable water. He stressed that the problem had not happened overnight and will take time to mitigate. The nitrate level has dropped. The other monitoring wells along the eastern edge of the golf course are at 1.4 parts per million. The City's dewatering project in the eastern part of the City has shown areas with more than 10 parts per million. He suggested that Carson City attempt to determine what is occurring regionally rather than just on one permit. Silver Oaks had hired a consultant recommended by Carson City and NDEP to develop the action plan. They have been following that plan. He also questioned the reasons the City had put the well at the location it had as it was not supposed to have been there. No one cares more about the environment and the quality of the product than Silver Oaks. He felt that Silver Oaks was willing to do anything suggested. He asked for the City's assistance due to

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scheduling concerns in obtaining the drilling rig for the wells. Discussion between Mayor Masayko and Mr. Sandoval indicated that it would be acceptable to extend the hearing process by 60 days if the effluent will be there when requested next spring. The ability to obtain the drilling rig could pose a problem as the wells must be in place before irrigation occurs. Mayor Masayko pointed out that if NDEP prevents them from using the effluent, it will create a similar problem for the City. He also felt that the City would not refuse to provide the effluent while the process is being worked through without direction from NDEP to do so. Mr. Sandoval explained that the current permit expired in May. Its conditions allow Silver Oaks to continue operating under that permit until NDEP renews or cancels the permit. He felt that a 30-day delay would not harm them. A delay beyond that would require approval to drill during the delay period. He was unsure whether this could be done as the permit states that the permit is to be issued and then the monitoring occurs. The Subconservancy could agenize the item and should call them before doing so. He reiterated his request that anyone wanting to understand the process or ask questions to contact Silver Oaks. He also questioned the timing for the NDEP meetings. He felt that they were held every other month. Mr. Fischer could make a presentation to NDEP at the October 20 meeting. If the issues are not worked through before that meeting, the process should be allowed to run its course. Mayor Masayko read the public notice on the hearing into the record. He felt that the NDEP Administrator sets the course for a final decision. He also urged Mr. Fischer and the Subconservancy to state their concerns. Mr. Sandoval stated for the record that anyone with any concerns regarding the six years of water and soil samples, which have been taken, were welcome to come to his office. The results of these samples are also on file with NDEP. He was also willing to make any presentations necessary to answer the questions including one on the lawn mowing process. Mayor Masayko felt that there was an adequate amount of information available for a public hearing and that staff should be directed to ask NDEP for one. This would place the hearing before the body in charge of granting the permits including issuing restrictions or conditions on it. He also noted that if the City takes it upon itself to determine that the effluent is the source of the problem, it would be creating a larger problem for the City. Discussion acknowledged that if the Administrator determines the need for a public hearing, the process would delay Mr. Sandoval's schedule. Mayor Masayko directed staff to contact the Administrator due to the public interest and concerns and request a public hearing. The Administrator will make the final decision.

Ms. Fischer reviewed their history with NDEP and the use of the groundwater table for their mobile home park. They have a municipal quasi-groundwater system with a wellhead protection plan which has been State certified. They do not have any regulatory clout. She urged the Board to help them protect the groundwater table. Concerns were generated when they were required to submit a report indicating any changes to the source of the pollution. Their main concern related to the scientific portions of the study which was to have been conducted and their belief that the renewal should be based on the evidence that proves the effluent application is not detrimental to the groundwater table. She felt that the groundwater table was much purer than the river. They were also concerned about the issuance of a permit based on a plan which is to be developed and implemented after the permit is issued. Discussion during the lunch hour indicated that the plans are already drafted and the technical information is available. Their previous attempts to obtain a copy of the plan had been made to the wrong persons. She felt that it is possible to submit their concerns to NDEP and that a public hearing could be conducted thereafter if the Administrator wishes to do so. The public hearing is not mandatory and is left to the Administrator's discretion. She felt that one individual would not have enough support to warrant a public hearing. Therefore, they had requested Board assistance. She felt that 30 to 60 days should be adequate for them and the City to review Silver Oaks' material and add conditions to the renewal permit. It may be that a public hearing will not be needed. She supported Mr. Werner's suggestion

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that the Board direct staff to write a letter to NDEP requesting either a public hearing or an extension of the comment period. Mayor Masayko was unsure whether the Administrator had the latitude to conduct the public hearing or delay the process for 30 days. He urged the Fischers to submit their comments before the 20<sup>th</sup> and not to wait and see what happens as a result of the Board's decision. The Board can ask but it has not control over NDEP'S action.

Supervisor Williamson felt that the discussion had been interesting and informative. She suggested that a motion be made directing staff to request a 30-day extension of the comment period to allow for mutual gathering of information. She hoped that the issues will be resolved at the end of that period and that it would show that the process is working and not contaminating the aquifer. Board comments reiterated that the Administrator had the discretion to grant the request. Mayor Masayko reiterated his belief that the Fischers had only three days in which to submit this request for action by the NDEP. The direction to staff should be that the request is being made on the behalf of interested citizens. The Board was not saying that staff had been inactive in the process. The letter should be clear that the Board is not casting aspersions on staff's or anyone else's involvement in the process.

Discussion between Supervisor Livermore and Mr. Fischer indicated they had received a draft notice from NDEP regarding the process. They had been informing others about the process which had included notification to the Board. They had not known that monitors had been installed under the action plan. That data has not yet been released to the public. Silver State has the information and is willing to release it. Their comments will be submitted within the 30-day timeframe provided in the notice. NDEP staff had been very "fair", thorough and professional in addressing their requests. Additional comments were solicited but none were given.

**Supervisor Williamson moved that the Board of Supervisors direct staff to request from the Department of Conservation and Natural Resources Division of Environmental Protection an extension of 30 days on the comment period for the groundwater discharge permit NEV94015 on behalf of interested citizens to allow them to review and comment on data that has just become available. Supervisor Plank seconded the motion.** Mr. Werner indicated his involvement with NDEP 20 years ago indicated that if one or two people requested an extension, it may not be granted. If a community is concerned, it may be granted. The Federal register requires a minimum 30 day comment period. The extension should not be a burden or problem. Ms. Fischer felt that one or two people did not indicate a community concern. Therefore, the extension is not granted. She also felt that Mr. Werner was now aware of their concerns and had agreed that City staff should have reviewed the action plan, testing data, and implementation plan. She also felt that, if the letter is worded indicating that only one or two people are concerned about the process, it would have little effect. Mr. Werner explained the NDEP process requires the appeals to be submitted first and then the action plan. Silver Oaks wants the plan submitted with the permit so that the conditions for issuance of the permit can be developed. The concern is a permit could be granted and then 90 days later the conditions are added. Staff and Silver Oaks need to convince NDEP to change the process. He did not feel that the process would be adversarial. Clarification of his comments indicated that staff would submit the letter as requested and then, as a separate issue, attempt to explain to NDEP why their process needs to be revised. Mayor Masayko agreed that staff should write the letter and submit its comments as indicated. Mr. Werner, also, had been unaware of the fact that there had been a plan developed. As a majority of the plan has been implemented and data can be provided, this information and conditions could be added to the permit. Discussion between the Board and Mr. Werner indicated that comments could be submitted until the 20<sup>th</sup>. NDEP

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evaluates the comments. Staff will be submitting two letters. After the 20<sup>th</sup>, if an extension is not granted, NDEP could issue the permit. The 30-day extension will allow discussions and negotiations to occur on the action plan which could address the concerns. If the period is extended, then staff will comment on the findings and information that has been developed. Supervisor Williamson pointed out that the Fischers have technical concerns. Mr. Sandoval has the data developed as a result of testing which can be charted and hopefully resolve some of their concerns. This will take more time than is available to meet the 20<sup>th</sup> deadline. The Fischers can then write a second letter delineating any concerns or supporting the permit. Time is needed to evaluate the information that has just been discovered. Mayor Masayko felt that Mr. Fischer's first request may be beyond their focus as they did not have Mr. Sandoval's information. The City is attempting to focus in on the concerns and what they want NDEP to do after that information has been reviewed. The 30-day extension may provide time to review the information. Mayor Masayko repeated the motion as being to direct staff to write a letter on behalf of concerned citizens indicating that the Board of Supervisors was asking NDEP to extend the comment period for 30 additional days on the permit's status. Mr. Werner also understood the Board's direction that he submit a second letter saying that Carson City and Carson City's staff also requests the comment period be extended due to the need to talk about some issues and concerns. **The motion was voted and carried 3-1-1 with Supervisor Livermore voting Naye and Supervisor Staub absent.** Mayor Masayko indicated that he understood Supervisor Livermore's concern and directed that staff write the letters posthaste.

RECESS: At 1:50 p.m. a recess was declared. At 6 p.m. when Mayor Masayko reconvened the meeting a quorum of the Board was present although Supervisor Staub was absent. Staff members present included City Manager John Berkich, Chief Deputy District Attorney Mark Forsberg, Administrative Assistant Liz Teixeira, and Recording Secretary Katherine McLaughlin.

**17. CITY MANAGER - John Berkich -PUBLIC HEARING TO CONSIDER ISSUES REGARDING THE RENEWAL OF THE CABLE TELEVISION FRANCHISE TO CHARTER COMMUNICATIONS, INC. (2-1460) -** Charter Communications Director of Governmental Relations Marsha Berkbigler, Administrative Assistant Liz Teixeira, General Manager Dick Neal, Lupe (last name was not given), Craig Swope, Charter Technical Supervisor Jerry Zindler, Dave Morgan - Mr. Berkich introduced the team working on the agreement and described the City's cable television history. He felt that they had established an excellent working relationship with the firm. The cost of formal negotiations was limned. For this reason, informal in-house negotiations were undertaken. The informal negotiation process included retention of outside consultants as needed. Charter Communications had indicated a desire to have the City be its state of the art facility. The technology is changing rapidly and has tremendous capabilities in the marketplace. He also indicated that with CATF General Manager Craig Swope's assistance they have been working with other representatives of entities in Carson City who are interested in these technological services. Efforts are proceeding to develop the kinds of technologies and infrastructure required for the future of the community. The meeting had been noticed which included a special newspaper advertisement. A copy of the ad was purportedly given to the Board before the meeting. (A copy was not given to the Clerk.) It contained a listing of the items which could be discussed during the meeting. Most of the complaints which his office has received related to rate and programming issues which are under the jurisdiction of the FCC rather than the City. Issues which could be discussed included extension of service, reliability of service, and the kind of service provided to the customers. Ms. Berkbigler indicated they were available to answer any questions and hoped to move forward with an agreement which is good for both the Company and the City. Public comments were then solicited.

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Ms. Teixeira explained that she had received complaints regarding the company's response to telephone calls. The customers had indicated that their telephone calls are often on hold for more than 15 minutes before an individual responds to the call. She had discussed this issue with the Representatives and felt that they were attempting to resolve this problem. Ms. Berkbigler explained that they had taken over the operation from another cable company. They upgraded that system. They are now working on Reno's system. This process requires "taking the system down". Although efforts are made to notify the customer of the plans to take the system down, he/she may not have seen the notice. This creates a large volume of calls to the call center. The original high speed answering service went bankrupt which caused them to have to build a parallel system and pull the calls from the Denver call center. They had hired 13 individuals to staff the new center but had not been prepared for the number of calls that were generated. They added two new trunk lines, however, between the telephone lines and the answering system was a computer system which "ate the calls". It was a very stressful period for everyone. They had since corrected the problem and relocated the high speed data call center to Los Angeles/Erwindale. The problem has now been corrected and they are responding to 85 to 89 percent of the calls. Their record had been to respond to 95 to 97 percent of the calls within 30 seconds. With the upgrade to the Reno call center, it was felt that the record should return to 83 to 87 percent. Adjustments in office staff have also created some of the problems.

Supervisor Livermore explained another customer complaint dealing with the customer's inability to understand the technology and instructions when calling the call center. There had been a local cable person who could respond to these questions. Now there is no one. Supervisor Livermore explained his disappointment in the City's failure to have a citizens committee to handle such problems. The Board meeting was too high a profile for the local residents to want to attend. Mr. Berkich explained that this process is still possible, however, he felt that the Board should be involved in the policy decision regarding this concept. Supervisor Livermore explained a "smart utility poles" technology used in Bellevue, Washington. The impact of the lines in the redevelopment district was described to illustrate his belief that they should be underground. Mr. Berkich indicated that this technology is used for telecommunications and not the cable services. This service remains open to the community but under a different venue. A technical group is working with the City on these issues. Their comments will be included during the negotiation process with Charter.

Mayor Masayko explained the changing technology which now allows other options for service besides cable television, e.g., QuadraVision, Dish, etc., which use the internet and air waves. Cable television is no longer a monopoly and is changing to be more businesslike to give the customers choices. Community Access Television programming is only available on cable television through Charter. He wanted to see a different playing field for it which would fulfill the commitment to the community by providing a higher level of service to the customers that is competitive. It should be another media provider rather than a utility. Mr. Berkich cited the agreement section indicating that the franchise is not exclusive. Mayor Masayko agreed and indicated that the public should have alternatives which they can access. QuadraVision and similar operators do not have a franchise and may never have one. He appreciated the last 15 years of cable service. His experience with CATF indicates that there have been significant contributions made to the community. The competitive market indicates that there are more service options now available. He had an opportunity to personally attempt to call the call center and felt that the delay was too much. Mr. Berkich explained how the funding for CATF had been obtained. Both he and Mayor Masayko agreed that it had provided an important service for the community. Mayor Masayko also felt that the future will provide

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more competition and that the service options will continue to expand. It may also be possible in the future for the DSL line to receive PEG broadcasts. Although he was unsure what the next generation of service would be like, he was certain that Charter will not be a large contributor for CATF or PEG infrastructure and services in the future due to the competitive nature of cable services. He was appreciative of the service which the community now had including the fact that Carson City had been a leader in developing its programming. He also pointed out the funding commitment made by the Board of Supervisors which was its commitment to keeping the public informed.

Supervisor Plank explained the telephone service he had received when he called Charter within the last two weeks. Discussion explained the reasons the citizens committee had been abandoned. Supervisor Plank also indicated that it is important to note that not all of the Carson City residents have cable. He does not have QuadraVision as it will not work in his area. His concern about the lack of cable television in the Timberline and Lakeview areas was based on their inability to receive CATF stations. He hoped that these areas could be added with a different medium so that they will have access to the City's message.

Mr. Neal explained his involvement with cable television in Carson City in 1993. The cost to run the cable to Timberline is prohibitive. At today's prices it would be even more expensive. Mayor Masayko felt that there were two ways to pay for the service. One is to add the capital costs to the monthly bills or two to charge the customer. Either way he was certain they would not pay for it. Mr. Neal agreed and indicated that the new hospital will have the service. Mayor Masayko suggested that they check with the City's Water and Sewer Utilities to see if a cable could be added through joint use when trenching is done in those areas. Supervisor Plank indicated that Southwest Gas is trenching in that area now. Mr. Neal agreed to consider the possibility. He felt that the Southwest Gas line was bored and not trenched. Boring requires a smaller line and joint use will not work when it is used. Supervisor Williamson indicated that TCI had asked Southwest Gas to participate in the cost of a trench for Lakeview. Southwest Gas refused to participate/pay for a part of the trench.

Mr. Berkich indicated that the franchise fee amount has increased. The franchise fee is at five percent and has been there for life of the franchise.

Ms. Berkbigler indicated that the competition does impact its customer numbers. She felt certain that this will continue as one of the providers now has local channels. She hoped that when the system is totally rebuilt in late 2004 or early 2005, these customers may return. Examples of the reasons some customers leave were provided. Franchise fees are on all services except high speed data. "Video on demand" will be added soon which is similar to "pay for view". Franchise fees will be on it. The FCC had called high speed data an information service which exempted it from the franchise fees. This is in the court system now for a ruling. If it is overturned, the franchise fee will be added.

Supervisor Livermore noted the television options and the reduced costs for these services. He receives both Dish and Charter services at his residence. He questioned Charter's services of the future. Ms. Berkbigler indicated that she did not have the technical background to answer, however, there are plans for "video on demand", interactive television, "telefone" which she described.

Mr. Neal explained the upgrade which will provide businesses with high speed data service. This will allow them to

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provide cable to the small strip malls and office complexes. Justification for providing this service was provided. Supervisor Livermore agreed that to survive it will be necessary to provide such services. Digital services are also needed

(2-2366) Lupe explained that she was attending as a student from Mr. Sullivan's Government Class. Mr. Neal and Supervisor Williamson explained the reasons Charter did not lay its cable in the trenches or bore holes Southwest Gas had used to provide service to the Lakeview area. Mr. Neal indicated a willingness to estimate the cost to provide the service to that area and give it to the Board. He also indicated that if the necessary customer base is there, it would be possible to service the area. This may mean that some of the customers will have to give up their satellite dishes. Mayor Masayko referenced his utility background and explained the safety issues involved when placing different utilities in the same trench. He acknowledged that it may be possible to add cable when utility upgrades are done provided there is the necessary economy in the number of customers to be served. It may be feasible to do the cable in a piecemeal fashion. Mr. Neal explained that this process is used in new subdivisions outside the service area. This allows the conduit to be run to the homes so that the resident's landscaping is not destroyed when cable reaches the area. The company provides the conduit to the developer. He agreed to analyze the ability to join other utilities when upgrades are made. He also indicated that if 80 percent of a subdivision is willing to use the service and partner with the company, it will be provided. The cost and justification for providing the service was illustrated. The individuals who have expressed an interest in the service must be dedicated or someone else must pay to provide the service. He reiterated his intent to analyze the costs and benefits. Supervisor Williamson explained that Lakeview does have a homeowners association. To her knowledge no one had ever approached it or the residents about providing service. She felt that the company picked its locations by giving preference to those sites that are easier to develop and ignoring the other areas. She also felt that the stock answer had always been that it was too expensive to run the line for the service even though no one had done any surveys or measurements to know the actual cost. She questioned whether the City should allow this selective policy for his utility but not others. Mayor Masayko explained the regulations established through the PUC on the extension of services and how the area is required to repay the utility for this investment. Ms. Berkgigler pointed to the section of the franchise agreements mandating this process and indicated that the company follows these restrictions to the letter. They are not allowed to pick and chose where the service goes. The Federal government will not allow her firm to provide services to the high income brackets and not to the lower ones. These requirements are in all of the franchises agreements.

(2-2701) Mr. Swope explained that he had experienced the same problem in his efforts to obtain service to the Pinion Hills area from Southwest Gas. This area is presently served through the use of propane tanks. The cost of this equipment was felt to be an offset to the gasline. The same comparison could be made to the cable service and the cost of satellite dishes and QuadraVision. He also felt that Carson Access had been well served by Charter as indicated by the Douglas County residents' comments regarding their inability to have the same PEG access in their community. Examples of CATF services were limned. He also felt that the CATF service provides a competitive advantage to Charter as the service is not aired by the other medias. The community expects CATF to air any event in the community and when it does not happen, they hear about it. The benefits of having a citizens committee was noted.

Supervisor Livermore then questioned the service which requires digital boxes and whether split screen airings could be accomplished with them. Mr. Zindler explained that it would be possible to receive split screen programs by

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splitting the signal, however, one program would be digital and one would be analog. He would not be able to receive two digital programs on the same television at the same time. The process would require him to have a connection in front of the digital box which would be run direct to the television. Ms. Berkbigler explained that this is possible if one program is on the digital channels. She also indicated that it is possible to obtain a modem for access to the internet. He would not have to rent it from her company. She was willing to have her employees install the purchased modem. Ms. Berkbigler and Mr. Neal explained the reasons analog television was changed to digital and the theft problems encountered before the transition. The HD television service was briefly described. Comments indicated that this is the service of the future. Ms. Berkbigler felt that the transition would take at least ten years to occur. She also felt that the public would fight this changeover even though the FCC mandated it. Mr. Neal explained the purpose of HD television is to allow broadcasters to transmit and be received with antennas and not require cable. The broadcasters are fighting this requirement. Mayor Masayko explained his choice to do without the digital services.

(2-3035) Mr. Morgan questioned the reasons Timberline and Lakeview cannot obtain cable service. He felt that the areas deserved to have news coverage by the Reno stations and CATE. Without cable services they were being denied service. He urged the Board to force their inclusion and expansion of the service. Mayor Masayko explained that there had been a lengthy discussion on this issue and summarized the reasons it would not occur for him. Mr. Morgan felt that Charter should partner with other utilities or find more creative methods to provide the service to those areas. The technology should be able to provide this service. Mayor Masayko pointed out that another entrepreneur who wished to pursue this ability was welcome to do so as Charter does not have an exclusive franchise.

Mayor Masayko urged the public to submit written comments or to call City Hall. He was willing to agenzize the items for additional discussion if needed. He also indicated that he was not convinced that the amount of funding purportedly allocated in Reno and Washoe County to their service would provide a better level of service than Carson City's. He also explained the need to include items within the agreement which the public wanted.

Mr. Swope explained that the Alliance for Community Media is the access world's trade group. This group felt that citizen committees established when franchises are renewed created a sense of frustration as the majority of the responses are on programming and rates. As these items are "off the table", a resentment is created and the attitude becomes one of "what's the point". There are valid infrastructure, delivery, service and technical standard issues which need to be addressed. Citizens want certain types of programming and an affordable bill at the end of the month. An example of these frustrations was noted.

Supervisor Livermore felt that the technologies and opportunities were exciting for commercial, businesses, and manufacturers. The value of cable services were, as Mr. Swope had indicated, the other services which are offered. He encouraged Charter to be proactive and to work with developers such as the Hospital.

Mayor Masayko felt that the Board was offering the community an opportunity to ask questions. He reiterated the request that they contact the City Hall and his willingness to schedule another meeting if needed. The City needed to know if there is an issue covered by the franchise which should be addressed.

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Ms. Teixeira indicated a willingness to work with anyone who experiences a problem. She noted her involvement with former cable providers. She felt that Charter had been very responsive to Carson City's concerns and problems. She had received many telephone calls indicating that their complaints had been addressed.

Mr. Berkich welcomed any form of communication desired on any items except rates and programming. He offered to provide a copy of the franchise if requested. Both the City and Charter want to have the state of the art service and to be a leader in this technology. No formal action was required or taken.

There being no other matters for consideration, Supervisor Williamson moved to adjourn. Supervisor Plank noted Supervisor Staub's absence from the evening session. Supervisor Livermore seconded the motion. Motion carried 4-0. Mayor Masayko adjourned the meeting at 7:20 p.m.

The Minutes of the October 17, 2002, Carson City Board of Supervisors meeting

ARE SO APPROVED ON February 20, 2003.

/s/

Ray Masayko, Mayor

ATTEST:

/s/

Alan Glover, Clerk-Recorder