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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, January 3, 2002, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 8:30 a.m.

PRESENT: Ray Masayko Mayor

Jon Plank Supervisor, Ward 2
Robin Williamson Supervisor, Ward 1
Pete Livermore Supervisor, Ward 3
Richard S. Staub Supervisor, Ward 4

STAFF PRESENT: John Berkich City Manager

Alan Glover Clerk-Recorder

Rod Banister Sheriff Al Kramer Treasurer

Judie Fisher Personnel Manager

Mark Forsberg Chief Deputy District Attorney
Cheryl Adams Deputy Purchasing Director

Ray Saylo Lieutenant

Katherine McLaughlin Recording Secretary

(B.O.S. 1/21/02 Tape 1-0001)

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

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

### CITIZEN COMMENTS (1-0025) - None.

- 1. APPROVAL OF MINUTES (1-0025) None.
- 2. AGENDA MODIFICATIONS (1-0029) None.
- 3. SPECIAL PRESENTATIONS (1-0032) Personnel Manager Judie Fisher

### A. RETIREMENT RESOLUTION COMMENDING R. M. HOWARD, SENIOR

**ENGINEERING TECH -** Mr. Howard was not present. Supervisor Livermore moved to adopt a Special Retirement Resolution commending R. M. Howard, Senior Engineering Tech, to be called Resolution No. 2002-R-1. Supervisor Plank seconded the motion. Motion carried 5-0.

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B. RETIREMENT RESOLUTION COMMENDING PAT CAVE, MANAGEMENT

**ASSISTANT I (1-0060) -** Clerk-Recorder Alan Glover explained Ms. Cave's absence. Ms. Fisher noted that Ms. Cave had been employed by the City for 11 years. Supervisor Livermore moved to adopt a Special Retirement Resolution commending Pat Cave, Management Assistant I, to be called Resolution No. 2002-R-2. Supervisor Plank seconded the motion. Motion carried 5-0.

- **C. RETIREMENT RESOLUTION COMMENDING IAN CURLEY, JUVENILE PRO-BATION OFFICER (1-0081) -** Mayor Masayko read the resolution into the record. Supervisor Plank moved to adopt Retirement Resolution No. 2002-R-3, A RETIREMENT RESOLUTION COMMENDING IAN CURLEY. Supervisor Livermore seconded the motion. He described Mr. Curley's involvement with the Mental Health Coalition and thanked him for his service. The motion to adopt Resolution 2002-R-3 was voted and carried 5-0. Mayor Masayko read the commendation plaque and presented it to Mr. Curley. He also noted Mr. Curley's service to the Nevada Hispanic Services. Mr. Curley thanked the Board for the recognition. He indicated that he had enjoyed working for the City. He commended the Juvenile Probation Department on its service to the community.
- D. PRESENTATION OF THE 2001 FOOD DRIVE AWARDS (1-0164) Ms. Fisher and Mayor Masayko commended the City employees on their food drive efforts. Approximately 4,000 pounds of food and \$300 had been collected. The Fire Department was given a plaque commemorating its donation of 1,440 pounds plus \$100. Honorable Mention was given to the Parks Department, Development Services Utilities, Health Department, Human Resource Department, Marriage Division, Purchasing Division, City Hall, and Mayor Masayko. Mayor Masayko also commended Ms. Fisher on her service to the program. Ms. Fisher briefly described Mayor Masayko's work on the program. No action was required or taken.

**LIQUOR AND ENTERTAINMENT BOARD** (1-0235) - Mayor Masayko recessed the Board of Supervisors session and immediately convened the Liquor and Entertainment Board. The entire Board was present, including Sheriff's Representative Ray Saylo, constituting a quorum.

### **4. TREASURER -** Al Kramer

A. ACTION ON A CHANGE OF LIQUOR LICENSE MANAGER TO DONNA E. KELLEY, SECRETARY OF MARKET MANAGEMENT, INC., DOING BUSINESS AS SHORT STOP MARKET LOCATED AT 1321 NORTH CARSON STREET (1-0242) - Chairperson Masayko commended the Sheriff's Department on its full investigation and Ms. Kelley for recognizing the need to have an on site liquor manager at the store. He stressed the importance of having Liquor Licensees recognize the privilege Carson City considers when it issues a Liquor License. Alcoholic beverages are not to be sold to minors. The employees must be trained in and know the laws. Ms. Kelley concurred. Member Saylo noted the favorable Sheriff's Investigative Report. Discussion pointed out that when the previous Liquor License was considered for the establishment, a letter of opposition was received by the Board. Member Saylo explained that he had contacted the other partner and she had submitted a letter indicating her support of Ms. Kelley's appointment. Member Plank moved to approve a change of Liquor License Manager to Donna E. Kelley, Secretary of Market Management, Incorporated, doing business as Short Stop Market, located at 1321 North Carson Street, under Carson City Municipal Code 4.13.120; the fiscal impact is a \$75 Investigation Fee. Members Livermore and Williamson seconded the motion. Motion carried 6-0.

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B. ACTION ON A CHANGE OF LOCATION TO 288 EAST WINNIE LANE FOR AN EXISTING FULL BAR LIQUOR LICENSE HELD BY WARREN'S REWARD, INC., DOING BUSINESS AS WORLD PUB (1-0315) - Chairperson Masayko explained the Code requirement mandating that Nancy Warren attend the meeting. Ms. Warren indicated that she had been in business for 15 years. Discussion noted her clean reputation and commended her on it. Ms Warren indicated she intends to continue carding her patrons and will not serve minors or intoxicated individuals. Member Saylo recommended her licensing and noted the favorable Sheriff's investigation. Discussion noted the previous name and the current location. Ms. Warren hoped to open by the middle of January. Member Williamson wished her success. Discussion explained the new location. Member Williamson moved to approve the change of location to 288 East Winnie Lane for an existing full bar Liquor License held by Warren's Reward, Incorporated, doing business as World Pub, under Carson City Municipal Code 4.13.120; fiscal impact is \$25 change of location fee. Member Plank seconded the motion. Motion carried 6-0.

There being no other matters for consideration as the Liquor and Entertainment Board, Chairperson Masayko adjourned the Liquor and Entertainment Board and immediately reconvened the session as the Board of Supervisors. The entire Board was present constituting a quorum.

### **5. CONSENT AGENDA (1-0399)**

- 5-1. FINANCE ACTION ON RATIFICATION OF THE EXPENDITURE APPROVAL LISTINGS FOR THE MONTH OF NOVEMBER 2001
  - 5-2. DEVELOPMENT SERVICES CONTRACTS
- A. ACTION TO ACCEPT THE WORK AS COMPLETE AND APPROVE THIS RELEASE OF FINAL PAYMENT ON THE LINEAR PARK BIKE PATH PHASE 3 AND GOVERNOR'S FIELD RECLAIMED WATER IRRIGATION PROJECT, CONTRACT NO. 2000-152, AS SUBMITTED BY DEVELOPMENT SERVICES TO PARAGON ASSOCIATES INC., P.O. BOX 20130, CARSON CITY, NEVADA 89721, FOR A FINAL PAYMENT AMOUNT OF \$27,403.59 AND ACCEPT THE CONTRACT SUMMARY AS PRESENTED
- B. ACTION TO ACCEPT THE WORK AS COMPLETE AND APPROVE THIS RELEASE OF FINAL PAYMENT ON THE MILLS PARK EAST END RENOVATION PROJECT, CONTRACT NO. 2000-176 AS SUBMITTED BY DEVELOPMENT SERVICES TO INTERSTATE UTILITY CONSTRUCTORS (DIVISION OF WEST VALLEY CONSTRUCTION COMPANY, INC.). 2551 BOEING WAY, CARSON CITY, NEVADA 89706, FOR A FINAL PAYMENT AMOUNT OF \$37,128 AND ACCEPT THE CONTRACT SUMMARY AS PRESENTED
- C. ACTION TO ACCEPT THE WORK AS COMPLETE AND APPROVE THIS RELEASE OF FINAL PAYMENT ON THE ASH CANYON FLOW METER (RE-BID) PROJECT, CONTRACT NO. 2000-159, AS SUBMITTED BY DEVELOPMENT SERVICES TO LANDMARK CONSTRUCTION COMPANY, P.O. BOX 10027, RENO, NEVADA 89510, FOR A FINAL PAYMENT AMOUNT OF \$2,505 AND ACCEPT THE CONTRACT SUMMARY AS PRESENTED
- 5-3. PERSONNEL ACTION TO APPOINT TWO APPLICANTS TO THE SHADE TREE COUNCIL
- 5-4. COMMUNITY DEVELOPMENT H-01/02-10 DISCUSSION AND ACTION REGARDING A REQUEST FROM JOYCE CYNAR, PROPERTY OWNER AND APPLICANT, FOR HISTORICAL TAX DEFERMENT ON PROPERTY LOCATED AT 710 WEST ROBINSON STREET, APN 003-274-02
  - 5-5. DEVELOPMENT SERVICES ENGINEERING

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- A. ACTION TO APPROVE A PUBLIC UTILITY AND DRAINAGE EASEMENT ALONG THE EASTERLY 20 FEET OF PROPERTY OWNED BY CARSON CITY, LOCATED AT 1101 BEVERLY DRIVE, APN 002-121-09, FOR DRAINAGE PURPOSES AND INSTALLATION AND MAINTENANCE OF PUBLIC UTILITIES AND APPURTENANCES
- B. ACTION ON GRANTEE'S AGREEMENT BETWEEN CARSON CITY AND NEVADA DEPARTMENT OF TRANSPORTATION TO PROVIDE A VEHICLE FOR CARSON CITY'S TRANSPORTATION PROGRAM Supervisor Williamson thanked Carole Brewer and Shirley Faiella for volunteering to serve on the Shade Tree Council. Neither individual was present. The Council is currently soliciting applications for another vacancy. Administrative Assistant Laura Beckerdite added Account Number 350-5000-452, which is the Recreation Construction Tax Fund, and funding of \$14,020 to Item 5-2B. Mayor Masayko indicated that the change is not material and is part of the record. Supervisor Plank moved to approve each of the eight items on the Consent Agenda as presented. Supervisor Livermore seconded the motion. The motion was voted and carried 5-0.

### 6. BOARD OF SUPERVISORS

ACTION ON A MOTION FINDING THAT THE PROPOSED ORDINANCE AMENDING 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 WHICH CHANGES HOW BUSINESS LICENSE FEES MAY BE INCREASED 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 (1-0447) - Mayor Masayko explained that he had suggested the revision as it will provide more flexibility in establishing the business license fees. He also indicated for the record that he had a telephone conversation with Chamber of Commerce Chief Executive Officer Larry Osborne yesterday on the ordinance. The Chamber supports the ordinance and the possibility of discussions between the Chamber and the bureaucracy about the costs of identifying and regulating businesses and fee increases. Justification for fee increases should be provided. The ordinance will provide some flexibility in the rate of the increase. It was felt that the ordinance is a minor change. Supervisor Williamson questioned whether the Board needed to establish a policy regarding impact statements and when they are needed. She also questioned whether the Board needed to direct staff to do research on how other communities prepare the impact statement. Mayor Masayko indicated that they also contact the Builders Association when it is involved. He felt that the process is evolving. Another entity that he serves on introduces the impact statement at the beginning of the meeting and it covers all items that they may consider and act on. Carson City is more rigorous in its interpretation of the law. He felt that the current policy is adequate. Supervisor Williamson suggested that a specified comment period be considered. Mayor Masayko felt that the Legislature may consider that during the next session. He did not feel that it is necessary to have a specified period unless there is a major impact. He also did not wish to have an overly burdensome condition placed on staff. Supervisor Plank explained an incident at TRPA which did not have an impact statement. Its legal council indicated that, as a resolution had been adopted before the legislation was enacted, TRPA did not have to do an impact statement. Mayor Masayko pointed out that a setting board can change any policies it wishes. He expanded his comments on the board that has its blanket impact statement read at the beginning of each meeting. Chief Deputy District Attorney Mark Forsberg felt that the City was doing more than an adequate job of providing impact statements as

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needed. The staff slipped up on one occasion. The agenda signing staff meeting should be used to make sure this does not occur again. A check box could be added to the Board Action Request Form to remind staff of its need. Reasons for the requirement were limned. Mayor Masayko and Supervisor Williamson supported the check off box. Supervisor Livermore pointed out that the interpretation of the term "significant impact" will vary according to the individual. Reasons he felt that an impact statement was needed before changing the business license fees were explained. He also felt that a policy should be considered. Mayor Masayko felt that there are adequate checks and balances now. The check off box would be a good reminder. He also believed that, if the Board determines a need for an impact statement, it could be required even if the District Attorney's office indicates otherwise. Supervisor Staub explained his belief that an impact on the Gaming Alliance should warrant an impact statement. It provides an opportunity for the businesses to be heard and makes it the City's responsibility to inquiry of businesses. Justification for this process was provided. Mayor Masayko felt that doing it for every meeting would make it routine and a cursory statement that fails to serve its purpose. The focus should be on each action item. He reiterated his explanation of his discussion with Mr. Osborne and the purpose of the ordinance. Public comments were solicited on the impact statement. None were given. Supervisor Williamson moved to find that the proposed ordinance amending Title 4 of the Carson City Municipal Code, CCMC, Licenses and Business Regulations, Chapter 4.04 Business Licenses, Section 4.04.015 Annual Fee Increases which changes how business license fees may be increased 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 the requirements of the act have been met. Supervisor Plank seconded the motion. Motion carried 5-0.

ORDINANCE - FIRST READING - ACTION TO APPROVE AN ORDINANCE В. AMENDING CARSON CITY MUNICIPAL CODE (CCMC) TITLE 4 LICENSES AND BUSINESS REGULATIONS, CHAPTER 4.04 BUSINESS LICENSES, SECTION 4.04.015 ANNUAL FEE INCREASE BY CHANGING HOW BUSINESS LICENSE FEES MAY BE INCREASED AND OTHER MATTERS PROPERLY RELATED THERETO (1-0744) - Treasurer Al Kramer - Mayor Masayko commended Deputy District Attorney Melanie Bruketta for her work on the ordinance. Reasons Chamber of Commerce Executive Director Osborne was not present were provided. Mayor Masayko's discussion with Mr. Osborne indicated that the Chamber did not have a problem with the proposed ordinance and that the Chamber supports the ordinance. Supervisor Staub suggested that the ordinance be amended to establish a not to proceed percentage as a ceiling. He pointed out that it is possible for the CPI to raises 10 percent. Mayor Masayko pointed out that State law establishes two formulas, one of which must be used to increase the fees. The ordinance will allow the Board to adopt a fee that is either a formula A, B or somewhere in the middle. Supervisor Livermore suggested that the ordinance include a requirement that the need for the revenue be shown. Mayor Masayko felt that this could be required by the Board at the time the fee increase is submitted. Discussion noted that Douglas County has the same number of businesses as Carson City has but does not have a business license fee. Mr. Kramer explained the formula established by NRS 354.589. The formula decreases the fees when the population decreases or a negative inflation factor occurs. The ordinance will allow the Board to increase the fee from zero to the maximum allowed in the formula. He also described the revenue created by the Business License fee and his staff and other Departments who share the Business Licensing responsibilities and enforcement. Supervisor Williamson moved to introduce Bill No. 101 on first reading, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE, CCMC, TITLE 4 LICENSES AND BUSINESS REGULATIONS, CHAPTER 4.04 BUSINESS LICENSES, SEC-TION 4.04.015 ANNUAL FEE INCREASE BY CHANGING HOW

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BUSINESS LICENSE FEES MAY BE INCREASED AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Plank seconded the motion. Mr. Kramer reiterated that Douglas County does not have a business license ordinance. Carson City is the only County in the State that has a Business License ordinance that bases its fee on a flat rate and not on gross revenue. Washoe and Clark Counties' fees were explained to illustrate the difference and the revenue they derive. Mr. Kramer felt that using a business' gross revenue figures is very intrusive. The referenced Statute also applies to their fee increases. The Reno Business License costs three times as much as Carson City's Business License. Discussion between Mr. Kramer and Supervisor Livermore pointed out that Esmeralda, Mineral and White Pine Counties also have Business Licenses. Supervisor Livermore felt that the City's Business License fees should be compared to them as well as Washoe County's. Reasons for his request was provided. Mr. Kramer indicated that Carson City's population is almost the same as Sparks, however, Carson City's Business License is less than Sparks. Comments pointed out that government does not make businesses wealthy. Mayor Masayko indicated that Business Licenses are a quasi-tax. It must be paid either here or along the line some place else. The motion to introduce Bill 101 was voted and carried 5-0.

C. ACTION TO ADOPT GOALS FOR FISCAL YEAR 2002-2003 (1-0904) - City Manager John Berkich - The four lists of goals were explained. They included uncompleted goals from previous years as well as new goals. Items that were italicized did not require funding. Items that were underlined may not require General Fund support. The items on the third sheet require prioritizing as they will compete for General Funds. Discussion indicated the Tiburon program will be discussed later today. This program may require additional funding in coming years. Supervisor Plank felt that the Mills Park Highway 50 parking area will be addressed by using Redevelopment Authority bond funds and should be separated from the Community Center parking areas. Mayor Masayko felt that it should be left on the General Fund list until a decision on the Redevelopment funds is made. Mr. Berkich removed the franchise fees from the list of General Fund goals. Mayor Masayko read the listing. Information Services training is an ongoing practice. It had been prioritized during the goal setting session as Information Services did not have the resources to provide the training. Mr. Berkich indicated that is an ongoing practice. Improvements have been made although the problem has not been totally resolved. He agreed to set it aside and report on it during the budget process. Discussion pointed out the need for a strategic plan to address the drug problem. Mayor Masayko questioned whether it should be considered a specific goal. Supervisor Plank suggested that District Attorney Noel Waters be contacted regarding his thoughts on how the problem should be defined and addressed. The problem impacts a variety of City Departments and will require time to develop a response. Mr. Berkich suggested that it be set aside and a strategic plan developed with a report to the Board next fall. This would allow it to be prioritized next year. The Board concurred. Discussion indicated that additional improvements are needed at the Community Center and that it should remain on the list. It should include both inside and outside improvements; i.e., screening around the HVAC equipment; parking improvements, etc. Mayor Masayko suggested an action plan be developed for it. Supervisor Plank felt that the list established by the Parks and Recreation Commission should be used as the starting point. It is not the final list. Mr. Berkich indicated that a comprehensive listing will be developed and presented to the Board during the budget process. The V&T Railroad focus; increase in library staffing; increase in internal auditor resources; and increase staffing at Juvenile Detention/Probation were left on the current goals listing. Mayor Masayko felt that if the goals, such as increase staffing at Juvenile Detention/Probation, are not addressed during the budget session, the objective should be considered closed for that year. Supervisor Staub questioned whether staffing is a goal the Board should address annually outside the budget period. Mr. Berkich explained staff's belief that if it on the goals listing, it becomes a priority during the budget considerations. Supervisor Staub

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suggested that staffing be prioritized separately from the goals next year. Mayor Masayko and Mr. Berkich concurred. Mr. Berkich also indicated that the pay for performance program will assist in determining the justification for such staffing requests. Supervisor Williamson suggested that the goals be changed to indicate that the hours the library is open to the public is a Board goal. It should not be a goal of increasing the library staffing. It should be meeting the Juvenile Justice needs rather increasing staffing. This should include methods and programs that allow the service levels to increase and may not require increasing staffing. Tiburon Phase 2 should provide better interfacing between the Sheriff's Office/Justice system and the public. Mr. Berkich indicated that each statement will eventually be crafted so as to indicate goal statements and will be distributed to the Board. Supervisor Livermore felt that when additional buildings are added, i.e., the new Public Safety Complex and the new year-round aquatic facility, additional staffing is needed. Staffing levels for the Sheriff's Office and the Library are impacted by the community's growth. Discussion removed the Sheriff's Administrative Center as it is part of the Public Safety Master Plan. Mayor Masayko indicated that there were approximately eight items left on the list. They are: the Community Center, V&T restoration, Library service, Internal Auditor, Juvenile Detention, Tiburon/Information Services, the Public Safety Master Plan, and staffing with its strategic plan. Discussion pointed out that the Community Center was part of the 2002-2003 goals. Part B of it was to be included in the 2003-2004 goals. Mayor Masayko directed Mr. Berkich to "clean up the listing and bring it back at the next meeting". The Board will then prioritize them. He also indicated that any item that had not been prioritized and funded during the budget process should be eliminated from the listings. Mr. Berkich then explained his intent to establish a listing for the projects which will not use General Fund revenue. Redevelopment, RTC, and the Senior Center could prioritize their listings. The items without funding requirements will be prioritized at the next meeting, if needed. Discussion indicated that the economic development strategic program is already being developed. The program includes an awareness process which Mr. Berkich did not feel needed to be included in the Board's goals/focus process. Mayor Masayko indicated that this program is also removed from the budget process. No formal action was taken on the goals.

- D. ACTION ON APPOINTMENTS OF MEMBERS OF THE BOARD OF SUPERVISORS TO VARIOUS BOARDS, COMMITTEES AND COMMISSIONS (1-1489) Discussion indicated that Todd Westergard had asked to be reappointed to the Truckee Carson Irrigation District. Mayor Masayko will remain on the Airport Authority. Supervisor Williamson volunteered to serve on the Carson Water Subconservancy District. Mayor Masayko ruled that a motion was not required to make these changes. All of the other appointments were to remain as listed. No formal action was taken.
- E. NONACTION ITEMS INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS AND STAFF COMMENTS AND STATUS REPORTS (1-1550) Deferred.

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

7. CITY MANAGER - John Berkich - ACTION ON AMENDMENT NO. 3 FOR CONTRACT NO. 9899-249 CONFLICT COUNSEL LEGAL SERVICES - CONFLICT CASES WHICH INCREASES THE YEARLY COMPENSATION BY A NOT TO EXCEED AMOUNT OF \$46,800 THROUGH AUGUST 4, 2002 (1-1555) - Tom Susich, Kay Ellen Armstrong, Ben Walker - A lengthy discussion ensued concerning the service, reasons for needing these services, potential options, the fee increase, and justification for it. Board comments stressed its need to be prudent with taxpayer funds and recognized the need for

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conflict counsel. It was felt that the service should be the last resource rather than the first. The need for the attorneys to provide time sheets delineating the amount of hours worked per case was stressed. Comments indicated that, when possible, funding is sought from the individual. It was also pointed out that the caseload may indicate a need to add a fifth person to the contract. Statutory changes or if a large caseload is encountered the Conflict Counselors will return with a request to amend the contract. Mr. Berkich indicated that he did not have any records showing the success of Mr. Kramer's Debt Collection Division. Reasons for having the Division collect any reimbursement for the services were noted. Mayor Masayko pointed out that indigents and homeless individuals will not be able to pay. Board comments also noted that the contract is out of sync with City's fiscal year. Discussion suggested that the contract run through August 2002, and be adjusted to the City's fiscal year thereafter. This process will allow the budget discussion to occur on its extension in a more timely fashion. The Attorneys agreed. This will also allow the Board to include any legislative changes in the discussions. Board comments stressed that the Board was not questioning their integrity but rather seeking justification for the expenditures. Supervisor Staub explained his calculations of their fees based on the hours that had been provided which indicated to him that the contract rate was less than the average attorney fees. He stressed the need to have better time sheets and caseload reports to confirm the calculations. Public comments were solicited but none were given. Supervisor Plank moved to approve Amendment No. 3 for Contract No. 9899-249 Conflict Counsel Legal Services - Conflict Cases which increases the yearly compensation by a not to exceed amount of \$46,000 through August 4, 2002, at the end of this contract and an extended contract to the end of June 30, 2003. Following a request for an amendment, Supervisor Plank amended his motion to be for a not to exceed amount of \$46,800. Supervisor Livermore seconded the motion. Mayor Masayko indicated that the motion included extending the contract to June 30, 2003, if appropriate documentation justifying its extension is provided. The motion to approve the contract as indicated was voted and carried 5-0.

### **8. SHERIFF** - Rod Banister

ACTION ON APPROVAL OF SPECIAL CONDITIONS SUPPLEMENTATION OF Α. INCOME OF TWO (2) DEPUTIES CALLED TO ACTIVE DUTY (1-2390) - Mayor Masayko disclosed his discussion with the Sheriff's Office on this topic. He explained his direction that was given to the Sheriff, if there are funds within his budget to do so, to extend the Deputies' pay until the Board acts on the request. He felt that each case should be considered on its own merits. He supported the concept, if the City has the ability to pay. He emphasized that the Board was not modifying the employee contracts. His justification for granting the request was limned. Discussion indicated that the Deputies will be covered by City insurance and only the supplemental amount will be used to assess the amount owed to PERS. Sheriff Banister was unsure whether military insurance covers the families when the individual is called to active duty. The funding for the request is included in this year's salary savings. His current staffing shortage was explained. He felt that the two officers would be on active duty status for at least a year. Supervisor Livermore expressed his belief that approving the request was the right thing to do. Public comments were requested but none were given. Supervisor Livermore moved, under these special conditions and circumstances, approval of the supplementation of income of the two Deputies called to active duty and that the names of the Deputies are Gary Underhill and Wayne Wheeler and that the time period of expectation is not to exceed one year. Supervisor Plank seconded the motion. Motion carried 5-0.

B. ACTION ON CONTRACT NO. 0102-085 - A REQUEST TO PURCHASE TIBURON'S DIRECT RMS AND CMS PRODUCTS FOR POLICE RECORDS MANAGEMENT AND CORREC-

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TIONS MANAGEMENT SYSTEMS FROM TIBURON, INC., FOR A NOT TO EXCEED COST OF \$717,593 EXEMPT FROM COMPETITIVE BIDDING (1-2616) - Chief Deputy Sheriff Jerry Mathers -Discussion indicated that the systems will integrate the Sheriff's Office to the Justice system and Administrative Office's of the Court system. The contract includes \$15,000 for an evaluation of the civil program. Justification for the evaluation was provided. If Tiburon can provide a modular for it, a quote and contract will be provided in the future. It may be possible to obtain some funding from the Administrative Office of the Courts for the multi-county information system - data warehouse connection. They will also need some funding for overtime to transfer the exfelon and workcard information into the new program. Mayor Masayko felt that the civil element may cost the City another \$700,000. Chief Deputy Sheriff Mathers explained the state of the civil program, the possibility that the City may "test" the program, and reasons the final cost could not be established at this time. The City will not be locked into using Tiburon's program. Another vendor may have the necessary conversion program. Mayor Masayko directed that the Board be kept apprised of the status before funding is needed. The status of the current Tiburon programs were limned. Problems with the civil and property management programs, the failure of the jail program to talk to the records management program which requires staff to enter the same data two to three times, and the possibility of having mobile display terminals were explained. Solving the other problems does not require obtaining the mobile display terminals, however, they are "nice" to have. Discussion also explained that the cost of the conversation and the amount of overtime is not known at this time. Only \$72,000 of the funding request has been previously allocated for this acquisition. Clarification indicated that Chief Deputy Mather believed that, once it is possible to share information with the District Attorney's office and the Court system, bail forfeitures may be recovered. Supervisor Staub stressed that this is a "big" revenue source that has not been tapped previously. Mayor Masayko also explained that the funding had originally been dedicated to a new Sheriff's administrative facility and is now being used for the Tiburon system. Mr. Berkich indicated that there is still approximately \$500,000 in the account for a new Sheriff's administrative building. These funds could be used for its preliminary plan. Supervisor Williamson disclosed that she had received a letter from the Sheriff's Protective Association President Ron Johns and Sheriff Banister recognizing that a new administrative facility may be delayed by the use of these funds. They felt that the request is a "good" priority. She recognized the expense and is concerned about the use of those funds. She was willing to defer to their recommendation. Supervisor Plank explained his absence at the briefing on the request. Mayor Masayko explained that District Attorney Noel Waters and Information Services Director William Naylor were present and had indicated their support of the request. Supervisor Staub moved to approve action on Contract No. 0102-085, a request to purchase Tiburon's Direct RMS and CMS Products for police records management and correction management systems from Tiburon, Inc., for a not to exceed cost of \$717,593 exempt from competitive bidding; fiscal impact is \$717,593 from the above referenced accounts: CIP Funds -\$250,000; CQI Funds - \$100,000; Nevada Bell Rural Improvement Program - \$85,279.77; Commissary Account - \$13,120; A&E Funds - Fund 330 - \$319,713; and Additional Funds Requested - Fund 330 -\$72,118.23 with a contingency of \$107,638. Discussion indicated that figures did not total \$840,231. Supervisor Staub amended his motion to include \$15,000 allocated to evaluation of the civil module for a total of \$840,231. Supervisor Plank seconded the motion. Motion carried 5-0.

### 9. **COMMUNITY DEVELOPMENT -** Director Walter Sullivan

A. MR-01/02-2 - DISCUSSION AND ACTION REGRADING APPROVAL OF A MERGER AND RESUBDIVISION REQUEST FROM GLEN A MARTEL, REPRESENTING LANDMARK HOMES AND DEVELOPMENT, INC., FOR NORTHRIDGE PHASE 3, CONSISTING

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OF LOTS 9, 10, AND 11, BLOCK L, ZONED SINGLE FAMILY 6,000 (SF 6000), APNS 002-631-08, 09, AND 10, BASED ON ORIGINAL FINDINGS AND SUBJECT TO THE 28 ORIGINAL CONDITIONS OF APPROVAL AS CONTAINED IN THE STAFF REPORT (1-3243) - Principal Planner Skip Canfield, Glen Martel - Discussion between Mayor Masayko, Mr. Canfield, and Mr. Martel indicated for the record that the change removed excess property from one lot and added it to the other two lots. Mr. Martel also indicated for the record that one water meter is being added and he stipulated for the record that it will be managed as part of the building permit process. A home cannot be placed on that lot until the meter is "accomplished". Discussion indicated that Mayor Masayko expected this change. Supervisor Plank moved that the Board of Supervisors approve MR-01/02-2, a merger and resubdivision request from Glen A. Martel, representing Landmark Homes and Development, Inc., for Northridge Phase 3, consisting of lots 9, 10, and 11, Block L, zoned Single Family 6,000, Assessor's Parcel Numbers 002-631-8, 9, and 10, based on the original findings and subject to the 28 original conditions of approval as contained in the staff report; there is no fiscal impact. Following a request for an amendment, Supervisor Plank amended his motion to include one stipulation made by Mr. Martel that the utilities will have to be moved on one lot. Supervisor Williamson seconded the motion. Motion carried 5-0.

### B. ORDINANCES - FIRST READING

- A-00/01-4(A) DISCUSSION AND ACTION REGARDING ADOPTION ON FIRST READING OF AN ORDINANCE AMENDING TITLE 18, ZONING, SECTION 18.04.140, TOURIST COMMERCIAL (TC) BY AMENDING SECTION 3, CONDITIONAL USES, BY ADDING CAMPGROUNDS/RV PARKS (FROM 30 DAYS TO 180 DAYS WITH 180 DAYS AS THE MAXIMUM STAY) AS A CONDITIONAL USE, AND AMENDING SECTION 1, PRIMARY PERMITTED USES, BY ADDING CAMPGROUND/RV PARK (30 DAY MAXIMUM STAY) AS A PRIMARY PERMITTED USE AND OTHER MATTERS PROPERLY RELATED THERETO (1-3368) - Mr. Berkich distributed copies of the Planning Commission Minutes to the Board and Clerk. (A copy is in the file.) Discussion noted the "glitches" staff had discovered in the Code that are being corrected with the ordinance. Mayor Masayko indicated for the record that Mr. Langson was at the Planning Commission meeting. Mr. Sullivan explained that this is the issue which Mr. Langson spoke on at the last meeting. A special use permit is required for RV parks which allow stays up to 180 days. Stays over that period will be discussed in the future. Mayor Masayko asked staff to include the Convention and Visitors Bureau in the notification process. Supervisor Plank moved to approve A-00/01-4(A) and introduce on first reading Bill No. 102, AN ORDINANCE AMENDING TITLE 18, ZONING, SECTION 18.04.140, TOURIST COMMERCIAL, TC, BY AMENDING SECTION 3, CONDITIONAL USES, BY ADDING CAMP-GROUNDS/RV PARKS (FROM 30 DAYS TO 180 DAYS WITH 180 DAYS AS THE MAXIMUM STAY) AS A CONDITIONAL USE, AND AMENDING SECTION 1, PRIMARY PERMITTED USES, BY ADDING CAMPGROUND/RV PARK, 30 DAY MAXIMUM STAY, AS A PRIMARY PERMITTED USE AND OTHER MATTERS PROPERLY RELATED THERETO; there is no fiscal impact. Supervisor Williamson seconded the motion. Motion was voted and carried 5-0.
- ii. A-00/01-4(B) DISCUSSION AND ACTION REGARDING ADOPTION ON FIRST READING OF AN ORDINANCE AMENDING TITLE 18, ZONING, SECTION 18.04.010, DISTRICTS ESTABLISHED BY DELETING COMMERCIAL INDUSTRIAL (CI), MANUFACTURING INDUSTRIAL (MI) AND HEAVY MANUFACTURING INDUSTRIAL (HMI), BY ADDING LIMITED INDUSTRIAL (LI), GENERAL INDUSTRIAL (GI) AND AIRPORT INDUSTRIAL PARK (AIP)

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AND OTHER MATTERS PROPERLY RELATED THERETO (1-3505) - Supervisor Plank moved to approve A-00/01-4(B) and introduce on first reading Bill No. 103, AN ORDINANCE AMENDING TITLE 18, ZONING, SECTION 18.04.010, DISTRICTS ESTABLISHED BY DELETING COMMERCIAL INDUSTRIAL, CI, MANUFACTURING INDUSTRIAL, MI, AND HEAVY MANUFACTURING INDUSTRIAL, HMI, BY ADDING LIMITED INDUSTRIAL, LI, GENERAL INDUSTRIAL, GI, AND AIRPORT INDUSTRIAL PARK, AIP, AND OTHER MATTERS PROPERLY RELATED THERETO; there is no fiscal impact. Supervisor Williamson seconded the motion. Motion carried 5-0.

### 10. FINANCE - Director David Heath - ORDINANCES - FIRST READING

- AN ORDINANCE OF THE BOARD OF SUPERVISORS OF CARSON CITY, NV, DESIGNATED BY THE SHORT TITLE "2002 SEWER BOND ORDINANCE": PROVIDING FOR THE ISSUANCE OF ITS REGISTERED, NEGOTIABLE, GENERAL OBLIGATION (LIMITED TAX) SEWER IMPROVEMENT AND REFUNDING BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES), SERIES 2002; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS AND COVENANTS RELATING TO THE PAYMENT OF SUCH BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF ANNUAL GENERAL (AD VALOREM) TAXES FOR THE PAYMENT OF SUCH BONDS; ADDITIONALLY SECURING THEIR PAYMENT BY A PLEDGE OF REVENUES DERIVED FROM THE SEWER SYSTEM OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD THE ISSUANCE OF SUCH BONDS; AND PROVIDING OTHER MATTERS RELATING THERETO (1-3601) - The projects had been discussed with the Board previously under the utility master plan. The bonds are for 15 years. Public comments were solicited but none were given. Discussion indicated that only \$3.5 million of the bonds will be issued for the water and \$2.5 million will be issued for the sewer. When the request to refund the bonds was made, it appeared that the City would save approximately \$95,000 by refunding other issues. The interest rates today are not as favorable. Therefore, the bonds will not be refunded unless interest rates drop in the next 25 days. Supervisor Williamson moved to introduce on first reading Bill No. 104, AN ORDINANCE OF THE BOARD OF SUPERVISORS OF CARSON CITY, NV, DESIGNATED BY THE SHORT TITLE "2002 SEWER BOND ORDINANCE"; PROVIDING FOR THE ISSUANCE OF ITS REGISTERED, NEGOTIABLE, GENERAL OBLIGATION, LIMITED TAX, SEWER IMPROVEMENT AND REFUND-ING BONDS, ADDITIONALLY SECURED BY PLEDGED REVENUES, SERIES 2002; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS AND COVENANTS RELATING TO THE PAY-MENT OF SUCH BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF ANNUAL GENERAL, AD VALOREM, TAXES FOR THE PAYMENT OF SUCH BONDS; ADDITIONALLY SECURING THEIR PAYMENT BY A PLEDGE OF REVENUES DERIVED FROM THE SEWER SYSTEM OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD THE ISSUANCE OF SUCH BONDS; AND PROVIDING OTHER MATTERS RELATING THERETO. Supervisor Livermore seconded the motion. Motion carried 5-0.
- B. AN ORDINANCE OF THE BOARD OF SUPERVISORS OF CARSON CITY, NV, DESIGNATED BY THE SHORT TITLE "2002 WATER BOND ORDINANCE"; PROVIDING FOR THE ISSUANCE OF ITS REGISTERED, NEGOTIABLE, GENERAL OBLIGATION (LIMITED TAX) WATER IMPROVEMENT AND REFUNDING BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES), SERIES 2002; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS AND COVENANTS RELATING TO THE PAYMENT OF SUCH BONDS;

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PROVIDING FOR THE LEVY AND COLLECTION OF ANNUAL GENERAL (AD VALOREM) TAXES FOR THE PAYMENT OF SUCH BONDS; ADDITIONALLY SECURING THEIR PAYMENT BY A PLEDGE OF REVENUES DERIVED FROM THE WATER SYSTEM OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD THE ISSUANCE OF SUCH BONDS; AND PROVIDING OTHER MATTERS RELATING THERETO (2-0076) - Supervisor Williamson moved to introduce on first reading Bill No. 105, AN ORDINANCE OF THE BOARD OF SUPERVISORS OF CARSON CITY, NV, DESIGNATED BY THE SHORT TITLE "2002 WATER BOND ORDINANCE"; PROVIDING FOR THE ISSUANCE OF ITS REGISTERED, NEGOTIABLE, GENERAL OBLIGATION, LIMITED TAX, WATER IMPROVEMENT AND REFUNDING BONDS, ADDITIONAL-LY SECURED BY PLEDGED REVENUE, SERIES 2002; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS AND COVENANTS RELATING TO THE PAYMENT OF SUCH BONDS: PROVIDING FOR THE LEVY AND COLLECTION OF ANNUAL GENERAL. AD VALOREM. TAXES FOR THE PAYMENT OF SUCH BONDS; ADDITIONALLY SECURING THEIR PAYMENT BY A PLEDGE OF REVENUES DERIVED FROM THE WATER SYSTEM OF THE CITY; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD THE ISSUANCE OF SUCH BONDS; AND PROVIDING OTHER MATTERS RELATING THERETO. Supervisors Livermore and Plank seconded the motion. Motion carried 5-0.

11. ECONOMIC DEVELOPMENT/REDEVELOPMENT MANAGER - Rob Joiner - DISCUSSION AND POSSIBLE ACTION ON THE ECONOMIC DEVELOPMENT TEAM RECOMMENDATION TO A CCEPT MEMBERS TO SERVE ON ECONOMIC DEVELOPMENT STRATEGIC PLANNING **TASK FORCES (2-0107)** - Discussion indicated that the funding source will be a CDBG grant. Applications are still being received. A revision to the lists of members for the various task forces was distributed to the Board and Clerk. (A copy is in the file.) Mr. Joiner hoped to fill all of the positions by January 15 which is the teams' "kick off date". It was felt that revisions/additions after January 29th would not be made. Mr. Berkich added Gary Sheerin to the Citywide Economic Development Team. Mayor Masayko indicated for the record that, in looking through the listing, they had completed the Economic Development Team. He commended the 51 individuals who had responded to the call. There are still two open slots in the Utility area. He also recognized that some of the individuals will be unable to complete the assignment. Individuals can be added until January 29. Supervisor Williamson also thanked the applicants and looked forward to working with them. Mayor Masayko then recognized Tom Keeton and thanked him for applying. He also indicated that any additional applicants will be approved on the Consent Agenda. Discussion indicated that the media will have to cover three meetings on January 29. Justification for the schedule was provided. Additional comments were solicited but none were given. Supervisor Livermore moved that the Board of Supervisors accept the recommendation from the Economic Development Team to accept members to serve on Economic Development Strategic Planning Task Forces which includes the three new names that were submitted today. Supervisor Williamson seconded the motion. Motion carried 5-0.

### 12. CITY MANAGER - John Berkich

A. ACTION TO ADOPT A RESOLUTION AMENDING CQI POLICY ADDING DISTRICT COURT DEPARTMENT TWO (2-0259) - A copy of the resolution was distributed to the Board and Clerk. Supervisor Plank moved to adopt Resolution No. 2002-R-4, A RESOLUTION AMENDING CQI POLICY ADDING DISTRICT COURT DEPARTMENT TWO. Supervisor Williamson seconded the motion. Motion carried 5-0.

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ACTION ON CONTRACT NO. 0102-084 - AN AGREEMENT FOR PROFESSIONAL В. SERVICES WITH JUSTICE BENEFITS, INC., TO REVIEW THE POLICIES AND PROCEDURES USED BY CARSON CITY TO IDENTIFY SUCH ADDITIONAL FEDERAL AND OTHER REVENUE SOURCES, IF ANY, AS MAY BE AVAILABLE TO CARSON CITY THROUGH PARTICIPATION IN NEW PROGRAMS OR EXPANSION OF EXISTING FEDERAL FINANCIAL PARTICIPATION THROUGH DECEMBER 19, 2005 (2-0293) - Senior Regional Account Manager Steven Boyle, Chief Deputy District Attorney Mark Forsberg - Mr. Boyle described his function and counties whom he represents in Nevada. Mayor Masayko indicated that he had read the contract. The firm will not take a percentage of any existing contracts or grants which the City currently has or finds on its own. The firm will work to find grants that are less obvious. Mr. Boyle explained that his firm does not work in the grant field. Entitlements were explained and are sought by his firm. Mr. Boyle acknowledged that the City had done well in this field, however, the City had missed several opportunities and could do better. Mayor Masayko pointed out that the firm is performance based and commended Mr. Berkich on finding the firm. If the City finds the entitlement, Mr. Boyle's firm will not get a cut of the funds. Mr. Boyle explained that his firm's expertise helps increase the revenue from entitlements. Their experience in Washoe County was cited as an indication of how his service will help Carson City. The service fee will include successful increases in entitlements which the City may already have or has found on its own. Mr. Berkich explained staff's support of the contract. Clarification indicated that the application for the entitlement will not be filed before the Board approves it. This eliminates any "hooks/surprises" from coming to light after acceptance of the entitlement including the mandatory hiring of additional personnel. Mr. Boyle also explained that the funding for entitlements varies from year-to-year and should not be used to fund a budget. Mr. Boyle reiterated the process for filing the application including requiring the Board's approval. The funds are routinely sent to the City electronically. The firm does not serve as the middle man for them. Clarification explained that the entitlement allows his fees to be paid with its monies. His fee is not included in the application due to the lack of knowledge as to how much money the funding agency will provide. There allegedly are no limitations on the amount of funds used to pay his administrative fees. The entitlement programs run monthly, annually, or quarterly. They normally are based on the Federal fiscal year. Although a program may commence in 2002, the criteria may vary for the 2003 funding.

Supervisor Plank asked Mr. Berkich to have the Public Safety Master Plan include areas which should seek entitlements.

Supervisor Williamson expressed her willingness to support the program. Mr. Boyle indicated that his firm will represent the City in any audit situation that arises. He also explained that entitlement audit criterion is not as restrictive as that required for grants. Periodic synopses of their successes will be provided. It will also include areas being researched for additional entitlements. Examples of successes and entitlements being sought for Washoe County were limned.

Supervisor Staub expressed his concern regarding Paragraph 6.5 of the contract. Mr. Boyle explained that entitlements are based on audited reimbursements. His fee is based on the success rate of obtaining the entitlements. Therefore, his firm should be paid a fee based on the incremental revenue. If his firm overcharges the City as a result of the estimated revenue originally indicated and prior to completion of the program/project and determination of the actual audited reimbursement, it will immediately return the overage. This has allegedly never occurred, however, there is a potential for it to happen. The government does not require repayment of any overages. It adjusts the next year's entitlement by the overage amount. Supervisor

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Staub expressed his belief that the term "damages" should be claim or payments that may have been paid pursuant to an entitlement that he had obtained. His definition of the term "damages" means any potential recovery under the terms of the contract. He then questioned the clause that eliminated the liability for the firm's loss of an opportunity as its purpose is to find such opportunities. Mr. Boyle explained that it is possible for there to be entitlements which they cannot find. They do not feel that they should be held responsible for this failure particularly if they had not been neglectful in their search. It is difficult to know everything that the Federal government is doing. Justification for their having the ability to look at all of the City's books and records was based on the intent to seek indirect costs which may have been overlooked and should be added to the cost of the program for the entitlement. A review of previous programs also provides his firm with the ability to know and understand what has been done in the past. This eliminates their providing information on programs which are already being utilized. Supervisor Staub felt that their review should be restricted to only that which is related to entitlements they obtain to ensure that the correct fee has been paid to the firm. He then explained his concern with Paragraph 7.11 and indicated that he did not have a concern with Paragraph 6.7 as the records are public.

Mr. Forsberg justified the Paragraphs referenced by Mr. Staub. He agreed that Paragraph 7.11 should be discussed with Mr. Boyle's attorney and may be revised. He did not have a problem with Paragraph 6.7 as all of the City records are public. The firm will not be paid unless it finds opportunities for the City. The firm does not want to be sued if they miss an opportunity. He read Section 6.5 to mean if an entitlement is disallowed, the firm will not be liable to the City beyond the amount that they received. He also advised the Board that the Section regarding cancellations in Article III had been revised to remove "prior to the beginning of the County's fiscal year". This makes the contract cancelable upon 30 days notice throughout the year. Mr. Boyles indicated that this is acceptable to the firm. Discussion also corrected the numbering within the contract which made the second "8" in the contract be 8.11. The final version had already been corrected. Section 3.01 was correct. Public testimony was solicited but none was given. Mayor Masayko cautioned Mr. Boyle that the entitlements should not include ongoing costs, personnel or expenses. Funding which is saved should be used to fund one time expenditures or capital facilities. Supervisor Staub moved to approve Contract No. 0102-084 as to be amended or with further comments by the Carson City District Attorney's office and Justice Benefits, Inc., an agreement for professional services with Justice Benefits, Inc., to review the policies and procedures used by Carson City to identify such additional Federal and other revenue sources, if any, as may be available to Carson City through participation in new programs or expansion of existing Federal Financial Participation through December 19, 2005; and that there is a fiscal impact as Justice Benefits, Inc., will be paid 22 percent of all revenue paid to Carson City, prospectively or retroactively, as described in each of the initiatives. Supervisor Livermore seconded the motion. Following a request for an amendment, Supervisor Staub amended his motion to allow the Mayor to sign the amended contract without the matter having to come back to the Board. Supervisor Livermore concurred. Motion carried 5-0.

RECESS: A recess was declared at 12:32 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 1:35 P.M., constituting a quorum.

## 13. PERSONNEL - Manager Judie Fisher

A. ACTION TO APPOINT TWO APPLICANTS TO THE REDEVELOPMENT AUTHORITY CITIZENS COMMITTEE FOR THREE YEARS (1-0912) - Mr. Munning asked if his interview would cover both the Parks and Recreation Commission and the Redevelopment Authority. Mayor

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Masayko indicated that this should not be allowed as the questions are not the same. Mr. Hannafin was the only applicant for the Architect opening on the Committee. Dave Campbell and Joe McCarthy were out of town and unable to be at the interview. Supervisor Plank moved to approve the reappointment of Art Hannafin to the Redevelopment Authority (Citizens Committee), who had asked for reappointment as the Architect or Engineer on the Redevelopment Authority Citizens Committee. Supervisor Livermore seconded the motion. Mayor Masayko indicated that it is a three-year term. The motion was voted and carried 5-0.

The Board interviewed: (2-0968) Shirley Faiella, (2-1085) David Barber, (2-1240) Gene Munning, and (2-1410) Lisa Sheppard. Mayor Masayko thanked each applicant for applying. Mayor Masayko directed that the record indicate that Dave Campbell and Joe McCarthy, who is a setting member of the Committee, were unable to attend and were out of town. This does not immediately eliminate their eligibility for appointment. The Board was polled. Justification for the nominations was provided. Supervisor Williamson moved to appoint Joe McCarthy to the Redevelopment Citizens Committee. Supervisor Plank seconded the motion. Mayor Masayko explained his reasons for nominating another applicant as change is inevitable and he understood his colleagues' point. The motion was voted and carried 5-0. Mayor Masayko again thanked the other applicants for applying. He also expressed the hope that they will reapply in the future.

RECESS: A recess was declared at 2:30 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 2:37 p.m., constituting a quorum.

**B.** ACTION ON APPOINTMENT OF ONE APPLICANT TO THE CARSON RIVER ADVISORY COMMITTEE FOR THREE YEARS (2-2016) - Janice Fliegler withdrew her application. Mayor Masayko welcomed Charles Zimmerman. The Board thanked him for applying. Mr. Zimmerman was interviewed by the Board. Supervisor Plank moved to reappoint Charles Zimmerman to another three-year term on the Carson City River Advisory Committee. Supervisor Williamson seconded the motion. Motion carried 5-0.

6. NONACTION ITEMS - INTERNAL COMMUNCATIONS AND ADMINISTRATIVE Ε. MATTERS (2-2302) - Supervisor Livermore reported on contacts he had with the public regarding cable television and Charter Communications. He asked that the television committee and Ms. Teixeira have a public meeting regarding the cable television fees and management of the cable franchise system. He then reported on his meetings with State Lands, public contacts regarding the Sage Grouse issue, and his Carson-Tahoe Hospital meetings. Supervisor Staub reported on the Airport Authority meeting. Mayor Masayko solicited applications for the vacant pilot position on the Airport Authority. Supervisor Staub explained that the Authority is working to find someone to fill this vacancy and that the categories should be revised to allow citizens-at-large to fill vacancies when applicants cannot be found. Supervisor Williamson reported on her family's holiday activities. Supervisor Plank reported on his TRPA meetings, the Parks and Recreation Commission meetings, and his family holiday activities. Mayor Masayko reported on a V&T Railway meeting, the Statewide Transportation Advisory Commission meeting, and subsequent NDOT meetings. Discussion briefly noted the history of the delays in completing the bicycle trail along the V&T right-of-way on the west side of Carson City.

RECESS: A recess was declared at 3:05 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 3:15 p.m., constituting a quorum.

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# 14. C. ACTION TO APPOINT THREE APPLICANTS TO THE PARKS AND RECREATION COMMISSION (2-0919) (2-1832) (2-2774) - Mayor Masayko noted for the record that Gene Munnings had been interviewed and that Shirley Faiella had withdrawn. The Board interviewed (2-2796) John Simms; (2-3099) Ronni Hannaman; (2-3422) Arlin Detke; (3-0001) Thomas Keeton; and (3-0249) Donna Kuester DePauw. Mayor Masayko thanked each for applying and explained that there are only three vacancies. Discussion noted the Board's policy to reappoint individuals who have served only one term and are active participants in the committee/commission's activities. Supervisors Livermore and Plank explained their support for Mr. Simms reappointment. Supervisor Livermore moved that the Board of Supervisors reappoint John Simms to another four-year term on the Carson City Parks and Recreation Commission. Supervisor Plank seconded the motion. Motion carried 5-0.

The Board was polled regarding whom to appoint to the two remaining vacancies. Supervisor Livermore moved that the Board of Supervisors appoint Donna Kuester DePauw to a four-year term on the Carson City Parks and Recreation Commission and also moved that the Board of Supervisors appoint Thomas Keeton to a four-year term on the Carson City Parks and Recreation Commission. Supervisor Plank seconded the motion. Motion carried 5-0.

RECESS: A recess was declared at 4:10 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 6 p.m. Staff members present included City Manager Berkich, Clerk-Recorder Glover, Development Services Director Burnham, Parks and Recreation Director Kastens, Chief Deputy District Attorney Forsberg, and Recording Secretary McLaughlin.

# 15. CITY MANAGER - John Berkich - DISCUSSION AND ACTION TO DIRECT STAFF REGARDING THE INITIATIVE PETITION CONCERNING THE FAIRGROUNDS AT FUJI PARK

(3-0490) - Clerk-Recorder Alan Glover, Chief Deputy District Attorney Mark Forsberg, Michael Hoffman, Julian Smith, John Nowlin, Denny French, Charles Kuhn, Dave Hampton, Vivian Kuhn, John Wagner; Harold Siegfried - Mayor Masayko's introduction included indicating for the record that Clerk-Recorder Glover had been presented with a petition bearing the signatures of a certain number of people and that it is his statutory duty to examine that petition and signatures. Mr. Glover explained that his Department had certified the petition that was presented. They needed 15 percent of the number of electors who voted in the last General Election. This requirement was met. He had, therefore, certified the petition and presented it to the Board. Mayor Masayko indicated that he had allowed the Board 30 days to react to the petition. The purpose this evening is to discuss that action and decide what options are available. The Board will hear from staff and then debate, deliberate, and provide staff with direction regarding the next step in the process.

Mr. Berkich then explained Chief Deputy District Attorney Mark Forsberg's opinion regarding the petition, its intent to compel the Board to preserve the park, and alternatives the Board may wish to consider. Mr. Forsberg then summarized his involvement with the petition since its conception and explained the opinions he had issued on it. Discussion indicated that, if the ordinance as requested in the petition is placed on the ballot, the Board could appeal to the courts for relief due to a previous court ruling that found similar legislation to be unlawful. It was not necessary for the Board to wait until after the election and passage of the ballot question for a court decision. The Supreme Court had previously wrestled with the issue of what is legislative acts as compared to administrative acts. It weighs each case separately when such issues are presented to it. Mr. Forsberg felt that the NRS enables the Board to administratively sell, give, lease, etc., land without requiring the legal force of law to complete. The petition is an attempt to force the Board to act

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in a specified manner for perpetuity. This does not match the legislative scheme of conduct on land. It also infringes on the constitutional and statutory powers given to the City and Board throughout the NRS. The petition, therefore, conflicts with the NRS. He opined that the Board could use the petition to not develop or sell the park. The Board can place an advisory question on the ballot without a petition. Such a question would be nonbinding. It would lack the force of law after the election is over. Discussion indicated that the Board could adopt an ordinance which would indicate that the park is not to be sold or commercial developed. This ordinance would not contain the word "perpetuity" and could be revised by future Boards. Mr. Forsberg reiterated his belief that such a subject is not appropriate for an ordinance. A resolution or a policy statement may be the more appropriate process. He also opined that placing a deed restriction on the property was not a legal option. Reasons for this opinion were provided. Clarification indicated that the Board could sell the property before the ballot question is voted upon in November without fear of legal recourse from the public. The statutes mandate placement of the petition question on the next Primary or General Election ballot. A special election could not be held on it. The electorate expresses its support or rejection of the elected officials' decision through the ballot box. There are legal steps which can be taken to compel the elected officials to act in a certain fashion/manner. An example was cited using a building permit which had followed the standard criteria for issuance. Under such conditions, failure to issue a building permit would be addressed in the courts and result in a court order compelling its issuance. The petition is not one of the items on which the Statutes mandate Board action. The Board could also ignore the petition without violating the law. If the petition did meet the legal parameters, the Board would be required to place it on the ballot. There is time for the Board to challenge the petition and determine if it must be placed on the ballot.

(3-1015) Mayor Masayko then explained the protocol to be followed during the public discussion on the petition. He asked that the comments be succinct and that the speakers be courteous to each other and the Board.

Mr. Hoffman, representing the Concerned Citizens to Save Fuji Park and Fairgrounds, thanked the Board for holding an evening session on the topic. He also thanked the City staff for its communication with the initiative petitioners and cooperation. The petitioners' activities since last June were noted. He then introduced Julian Smith.

Mr. Smith briefly noted that he has been a practicing attorney in Carson City since 1970. His opinion is different from that provided by Mr. Forsberg regarding the initiative process. He agreed with Mr. Forsberg that the Board is not required to act today. If the ordinance is not adopted as presented, it will be on the ballot. The Statutes require its placement on the ballot if the Board fails to act on it within 30 days. That period expires either tomorrow or the following day. The citizens' support of the laws of the Country were explained to illustrate his point that the Board must comply with the laws and place the initiative on the Primary or General Ballot. The Board had decided previously not to save the park for perpetuity. Therefore, the petition was circulated and supported by the residents. He then opined that the Board could bind the acts of future Boards for perpetuity as illustrated by a previous Board's acceptance of Mills Park. It has a condition on it that requires it to remain as a park or be transferred to the Carson-Tahoe Hospital. Previous attempts to use it for another purpose had brought this condition to light and forced the Board to reconsider its use. The Board had also enacted an ordinance that will preserve Fuji Park for perpetuity. The petition is a request for the remainder of that area—the Fairgrounds. He also noted that the Board had previously deeded a portion of the Fairgrounds to the 4-H Club in trust that was later deeded back to the Board in trust. He felt certain that, if the Board does not recognize the petition, legal recourse will be sought. He then explained the difference between the Reno lawsuit referenced to support Mr. Forsberg's opinion and the petition filed in

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Carson City. The petition is a request to preserve the Fairgrounds in perpetuity the same way as Mills Park is preserved. He also indicated that a portion of the Fairgrounds will revert to the Federal government as it was obtained for public purposes. In order to convert it to commercial purposes, the City will have to acquire that parcel. A third portion of the Fairgrounds was given in trust to the City by the 4-Club. He reiterated his belief that the petition must be on the ballot. The Board can put it there. If the Board does not take any action today or within the 30-day period required by Statute, it will automatically be on the ballot. Action taken as requested will eliminate the need for a campaign and election. Discussion between Mr. Smith and Supervisor Staub pointed out the difference in legal opinions. Mr. Smith felt that obtaining a second opinion could be wise decision. Mr. Glover pointed out that he is not the individual who decides whether an initiative is to be placed on the ballot. The Statute delegates that authority to the Board. Mr. Forsberg expressed his belief that the matter should be debated in court and not before the Board. He reiterated his opinion that the petition is not appropriate for placement on a ballot. Mayor Masayko indicated that the Board had received Mr. Forsberg's opinion and may or may not follow it. Mr. Smith pointed out that his advice does not deal with whether the initiative should be on the ballot. It deals with whether the proposal is appropriate for the Board to act on. Appropriateness is an issue that the courts should decide. Additional comments were solicited.

Mr. Nowlin indicated that he is also a member of the Concerned Citizens. He explained that the Concerned Citizens had conducted a lot of research and put a lot of thought into the petition before circulating it. He felt that NRS 295.180 does not make the decision irrevocable. If the citizens approve the ballot question, the use of the Fairgrounds can be rescinded upon another vote of the electorate in the future. Mayor Masayko pointed out that this is his opinion of the Statute. The Board will not debate the issue with him. Additional comments were solicited.

Mr. French felt that selling the Fairgrounds would destroy it forever. This act would bind the current and all future Boards as well as the entire community. He urged the Board to allow the public to make a decision on it. His personal desire to save the park and Fairgrounds was expressed.

Mr. Kuhn felt that the argument should be left to the "professionals" and, if necessary, the courts. A zone change was not requested. They were asking for a deed restriction that the parcels be changed and maintained. The deed should state that the park will not be sold and that it will not be used for commercial development. This is what the petition is about. An advisory question would be a slap in the face of the petition signers. They had signed the petition asking that action be taken to preserve the park and Fairgrounds. An advisory question would be repetitious and delay the process further. He also noted that two of the Board members were up for reelection this year. The issue is also one of credibility. There have been numerous discussions and delays on this issue. It is still unknown when a decision will be made. He urged the Board to not turn its back on the 3,400 registered voters who have signed the petition. Additional comments were solicited.

(3-1484) Mr. Hampton indicated that he had been silent on the issue until now. He then stated that he supported Fuji as it is. He hoped that, if it is possible to acquire Bodines, it will be enlarged in the future. He did not like to waste this type of capital.

Ms. Kuhn, a Concerned Citizen member, felt that the Charter allowed the Board to sell, lease and preserve City property. If the petition is like "murky water", then it is also up to interpretation. She pointed out that the Country is about having a "government of the people, by the people, and for the people".

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Mr. Wagner indicated that he has been by the park many, many times. The maximum number of people he had seen using the park was four. It is mainly used by NDOT people who are eating their lunches or people with their dogs. It is a nice park and has its merits. He left it up to the Board whether to put the initiative on the ballot or not. If it is put on the ballot, he urged the Board to separate the Fairgrounds and Fuji Park. The Fairgrounds is an eye sore. The separation will require two separate issues to be placed on the ballot. He also felt that there had been an implied threat made against the Board and expressed his alarm at that threat. The issue should be taken to court as a result of that threat. Additional comments were solicited but none were given. Mayor Masayko then closed public testimony.

RECESS: A recess was declared at 7:05 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 7:10 p.m., constituting a quorum.

Mayor Masayko explained that he had been elected by the voters of Carson City on two separate occasions. The residents of the community have and do talk with him. When he receives a document signed by 15 percent of the voters, he notices it. He felt that the advice provided by the District Attorney's office was sound and should not be ignored. The ballot question may be different from the one submitted to the Board. He assured the public that he was not prepared to ignore their message. He will make sure that the public knows what the petition does and will do in the future. The Board has already made a commitment to set aside 13 acres from the Fairgrounds and spend \$2 million upgrading and improving them. This work should be completed by Nevada Day. This area is Fuji Park. The Fairgrounds and race track should be provided in a venue that is better, larger, more modern, and more functional than the present location. He did not believe that staff should stop looking for this site. The Board is trying to balance the interests of the future of the community by providing an area that can be developed commercially to provide economic support for police, fire, parks, health, recreational, etc., opportunities. This would create a long term win, win situation for the community. He was willing to stop the process and put an advisory question on the ballot. It is just as binding to him as an ordinance. He also believed that future Boards will honor the message sent by the ballot question. The decision should be made based on informed facts telling what has been done, what will be done and what is intended to be done. He will abide by the message that is given by the electorate.

Supervisor Plank indicated his support for the Mayor's comments. The advisory ballot question will allow the voters of Carson City an opportunity to express an opinion on the issue. The Board will follow the outcome of the majority of the voters. He trusted his colleagues to follow the direction that the election provides. He preferred to have the question on the General Ballot as it will have a larger turnout. He also indicated that he had received a number of comments indicating that people had signed the petition who wished they had not done so. The ballot is the best opportunity to determine the electorate's desires. Originally there was an urgency to do something due to the development occurring in Douglas County, however, 9-11 occurred since then and changed the entire atmosphere. The rush is gone. There is time to allow us to get sane advice from the citizens of Carson City in November 2002.

Supervisor Livermore also supported the Mayor's message. The Board needs to determine whether a majority support or reject the petition. His work to solve the economic needs of the community and balance the cost of local government so that everyone can afford to continue living here was noted. City employees work hard for the community and are entitled to a fair salary for their work. This is the economic balance he must make. He takes his job and position seriously and sacrifices continually to serve the community. He hears the 3400 petitioners. He was not sure that this is the message being sent by the majority of the community. The media

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needs to fairly hear and represent both sides of the issue. He hoped that calm heads will continue to lead the City.

Supervisor Williamson congratulated and commended the petitioners on their work to obtain the signatures. The Board and staff had been working to attract a major retailer to the area due to the loss of two major retailers. Retailers fund the majority of the City's budget. During this process the Board acted to keep and improve Fuji Park in accordance with the desires of the Fuji Park users. This process has started and has been funded. The plans will be considered at the next Parks and Recreation Commission meeting. The question today is the Fairgrounds. She supported putting the question on the ballot. She did not have a preference on which ballot. If she decides to run for reelection, she will be listening to all of the comments on the Fairgrounds. She welcomed the challenge. She was proud of her record and being a member of the Board. The Board works hard trying to serve all of the City's residents and make sure it is a model community. This does not allow the Board to make everyone happy all of the time. The gauntlet has been thrown. She was willing to pick it up and run with it. She looked forward to future discussions.

Supervisor Staub indicated that last August he had stated that the Board is a government for, by, and of the people. At that time he felt that the people should be allowed to vote on the issue. His decision remains the same today. He is an elected representative of, by, and for the people. He recognizes that every day and tries to live by it. He was also elected to use judgement for the betterment of Carson City and the community. He did not want petitioners to overrun any decision made by the majority of the voters. He felt that the petitioners were a minority of the voters. Both proponents and opponents of the question will pay if sales tax dollars are lost due to the decision to not develop the Fairground area for a commercial site. The issue of Fuji Park is moot. The Board has made a decision to improve it. It is the correct decision. The Board must make a decision that will provide the service level demanded by the community. For that reason he believed that a vote on the Fairground usage should be placed on the ballot. He will follow legal counsel's advice regarding the petition but not ignore it. He commended the Concerned Citizens on their drive. The people should vote on the Fairgrounds issue. Both the opponents and the proponents of the issue should participate in its educational process. He urged the individuals who had threatened a lawsuit to think long and hard before taking that step. He felt that the vote from the Board this evening will relate to only the Fairgrounds. He urged the Concern Citizens and other proponents to not proceed with a lawsuit until after a vote has been taken.

Mayor Masayko suggested that staff be directed to: put a hold on all activities to prepare the Fairgrounds for sale or lease; prepare language for an advisory ballot question in November regarding the Fairgrounds disposal and disposition issue; and continue to explore sites for possible relocation of an improved Fairgrounds.

Supervisor Livermore explained his support for the suggested direction. The City has been searching for an appropriate location for the Fairgrounds for, in his opinion, 15 years. Numerous sites have been discussed during this period. If a decision made to retain the current location, it will not cost too much beyond the amount of staff time used searching for another location. Mayor Masayko indicated that staff will stop the search if the advisory question indicates that the Fairgrounds should remain where it is.

Mr. Berkich indicated his understanding of the Mayor's suggestions are to suspend all activities to move the Fairgrounds toward a development scenario; prepare language for an advisory question; and to continue to

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pursue possible sites for relocation of the Fairgrounds. In November the Board directed staff to return on January 17 with an agenda item on possible relocation sites. Mayor Masayko indicated that he will expect a report on January 17 from staff and that action tonight will not be a "fatal flaw" in that process. Staff should be prepared to tell the Board that there are some sites available or sites that have the possibility of being developed as a Fairgrounds. Action on the 17<sup>th</sup> may suspend the search but at this time the search is to continue.

Supervisor Plank pointed out the opportunity to have the State Fair relocate to Carson City. This justified continuing the search for another location for the Fairgrounds and its inclusion in the economic study that will be occurring in six months. Mayor Masayko noted, in all honesty, that without the proceeds from the sale of the current Fairgrounds, it may not be possible to provide a location for the State Fair. The decision on the 17<sup>th</sup> may keep the door open. Discussion elaborated on the direction to suspend all activities regarding the sale or lease of the Fairgrounds.

Supervisor Livermore moved to direct staff in three scenarios: 1. To suspend the potential commercial development of the Fuji Fairgrounds; 2. To prepare language by (for) an advisory ballot question—. Supervisor Livermore then withdrew his motion.

Supervisor Staub moved that the Board direct staff to suspend all further actions regarding the preparation of the Fairgrounds at Fuji Park for sale or lease until the advisory vote has been taken on the General Election ballot in November 2002; No. 2. That we instruct staff to prepare language for an advisory vote regarding the disposition of the Fairgrounds at Fuji Park to be, which is to be put on the General Election ballot in November 2002; and 3. We request staff to continue their search for a relocation of the Fairgrounds at Fuji Park, a better location for the Fairgrounds at Fuji Park with a report to us on January 17, 2002. Mayor Masayko felt that the motion fairly reflected the discussion. Supervisor Livermore seconded the motion.

John Nowlin sincerely applauded the results of the Board's decision. It is the result that they were looking toward. He was disappointed in the Board's failure to follow the legal process outlined in the NRS regarding the initiative petition. The Board's option was, before egos were trashed, to follow the advice of the District Attorney, who thinks that the initiative is flawed, and ask for a court ruling. As the Board did not do that, he was disappointed. Mayor Masayko thanked him for his comments and explained that the point had been considered and the direction was deliberate.

Harold Siegfried, a resident of Comstock Mobile Home Village, explained that he had been reading the newspaper and its numerous articles on the Fairgrounds. He felt that they sometimes make one wonder if the Board ever reads the paper. There had even been an editorial by the Editor about his opinion on what was occurring with the Fairgrounds and Fuji Park. He felt that the Board should really honestly look at those things and give the people of Carson City credit for wanting something that is used by the people all the time. He felt the comments about never seeing anyone at the Fairgrounds/Fuji Park were ridiculous. If one drives by Mills Park, it is not a full park every day. It is full on weekends. This week there had been an article that said something about an event that occurred at the Park which includes the Fairgrounds. It is not just the Park itself. The Open Space initiative that was voted on was for open space for the City. This is one of those spaces. Why is the Board so determined to get rid of it? Look at K-mart. There are a whole bunch of buildings over there that are supposed to----. Mayor Masayko thanked him for the input. Mr. Siegfried

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explained that he felt that the Board should listen to us. Mayor Masayko again thanked him and expressed his belief that the Board is listening. He felt that what the Board had decided to do tonight was listen to every registered voter in Carson City who decides to show up on November 6 to give the Board their advice/direction/input and that is to whom the Board is responsible. Discussion corrected the General Election date to be November 5. Mayor Masayko asked that the record show that he knew the General Election is to be on November 5<sup>th</sup>. Additional comments were solicited.

Vivian Kuhn asked whether Supervisor Staub had stated Fuji Park rather than Fairgrounds. Supervisor Staub and Mayor Masayko indicated that he had stated Fairgrounds at Fuji Park. Ms. Kuhn felt that the question was to include both. Mayor Masayko responded that the ballot question did not mention Fuji Park. It only mentions the Fairgrounds at Fuji Park. He was trying to make the point that the Park had been put in trust and is being improved. What more could be done. He then called for the vote.

The motion to direct staff to suspend all action regarding the preparation of the Fairgrounds at Fuji Park for sale or lease until the advisory question has been taken, to prepare the language for an advisory question regarding the disposition of the Fairgrounds at Fuji Park for the November General Election, and for staff to continue the search for a better location for the Fairgrounds with a report to be provided on January 17<sup>th</sup> was voted and carried 5-0. Mayor Masayko explained his plan to have the report on the Fairgrounds at the regular meeting of the Board on the 17<sup>th</sup> which will not be an evening meeting.

Supervisor Livermore then moved to adjourn. Supervisor Williamson seconded the motion. Motion carried 5-0. Mayor Masayko adjourned the meeting at 7:47 p.m.

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The Minutes of the January 3, 2002, Carson City Board of Supervisors meeting

	ARE SO APPROVED ON <u>April 7</u>	_, 2005.
	_ <u>/s/</u> Marv Teixeira, Mayor	
ATTEST:		
_/s/		
Alan Glover, Clerk-Recorder		