A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, February 6, 1997, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 8:30 a.m.

Alan Glover

PRESENT: Ray Masayko Mayor

Tom Tatro Supervisor, Ward 3

Greg Smith Supervisor, Ward 1

Jon Plank Supervisor, Ward 2

Kay Bennett Supervisor, Ward 4

STAFF PRESENT: John Berkich

City Manager
Clerk-Recorder

Rod Banister Sheriff

Al Kramer Treasurer

Walter Sullivan Community Development Director Mary Walker Finance & Redevelopment Dir.

Louis Buckley Fire Chief

Steve Kastens
Paul Lipparelli
John Iratcabal
Ken Arnold
Pauks and Recreation Director
Deputy District Attorney
Acting Purchasing Director
Environmental Control Manager

Jay Ahrens Deputy Utilities Director Katherine McLaughlin Recording Secretary Purchasing Tech.

(B.O.S. 2/6/97 Tape 1-0001.5)

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 session at 8:30 a.m. Roll call was taken. The entire Board was present constituting a quorum. Rev. Bob Savage, Retired, of the Church of Christ gave the Invocation. Mayor Masayko lead the Pledge of Allegiance.

CITIZEN COMMENTS (1-0028.5) - Lois Lazor gave the Board a copy of her prepared statement which she read into the record. (A copy was not given to the Clerk.) She felt that Ordinance No. 1996-64 was flawed and should be repealed. She urged the Board to rewrite the ordinance to allow the electorate an opportunity to vote on the "Gas Tax". She also felt that the new ordinance was flawed as it repeatedly refers to the Nevada Tax Commission and not the County of Carson City. She reiterated her request that the proposal be placed before the electorate at a special election.

(1-0089.5) Phil, last name unknown, and Margaret Bargagliotti explained their problems with the new Albertson's store on Airport Road. Individuals/children are throwing the rocks from its landscaped area at their home. The light is not shielded and disturbs their ability to sleep at night. They had purportedly filed a report with the Sheriff's Office, however, the officer had been very upset with them for filing a complaint and rather threatening in his demeanor. They alleged harassment from the Sheriff's Department. When asked by Sheriff Banister, Phil indicated the officer was Ron Massman. Bags of the rocks were placed on the staff's table. Phil urged the City to require cement around the rocks and signage to keep the children out of the ditch. Mayor Masayko indicated that Sheriff Banister would check into his allegations and that Community Development would be made aware of the light problem. Phil then explained that the parking lot is swept from 3 a.m. to 6 a.m. on Sundays. He had called the Sheriff's Office about this noise. He also noted that he is no longer able to clean his sidewalk and questioned

what could be done to comply with the law for snow removal on residential sidewalks. Mayor Masayko requested he leave his telephone number with the Clerk so that the appropriate City Agencies could respond. Additional comments were solicited but none given.

1. APPROVAL OF MINUTES - November 21, 1996, Regular Session and the January 1, 1997, Emergency Session (1-0075.5) - Supervisor Tatro moved to approve. Supervisor Plank seconded the motion. (During the motion Supervisor Bennett left the dais.) Motion carried 4-0-1 with Supervisor Bennett abstaining.

LIQUOR AND ENTERTAINMENT BOARD (1-0245.5) - Mayor Masayko recessed the Board of Supervisors session and immediately reconvened the session as the Liquor and Entertainment Board. The entire Board was present including Sheriff Banister, constituting a quorum.

TREASURER - Al Kramer - ACTION ON A PACKAGED LIQUOR LICENSE FOR THE SOUTHLAND CORPORATION DOING BUSINESS AS 7-ELEVEN STORE 2236-14085, MR. DON THROP, LIQUOR LICENSE MANAGER (1-0248.5) - Mr. Throp explained his tenure with Southland. The local store manager would oversee the day-to-day operations and sales. Discussion ensued concerning the individual who should be licensed. Mr. Lipparelli indicated he would research this point. Mr. Throp introduced the Store Manager Mark Falls. Discussion indicated the Sheriff's Office had conducted its investigation on Mr. Throp. Mr. Throp then explained his reasons for leaving the question concerning having been arrested for a felony blank. He had not been convicted of a felony but, as the question also relates the store, some of Southland's 5,000 store managers have been convicted in the past. It is his understanding, therefore, that Southland has been convicted of a felony. His attachment, which was not included in the packet, had indicated those cases. Mr. Throp indicated he is familiar with Nevada Liquor Laws and is aware of the procedure for checking identifications. His employees are trained in these procedures. Member Tatro indicated that the Board had licensed several others businesses in the same fashion and moved that the Liquor and Entertainment Board approve the packaged liquor license for The Southland Corporation, doing business as 7-Eleven Store No. 2236-14085 and Mr. Don Throp as the Liquor License Manager, fiscal impact is \$1,000 New fee, \$500 Investigation Fee, and \$200 Quarterly Fee. Member Smith seconded the motion. Motion carried 6-0.

BOARD OF SUPERVISORS (1-0365.5) - There being no other matters for consideration by 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.)

- 3. **CONSENT AGENDA (1-0370.5)**
- A. TREASURER ACTION TO REVOKE ALL DELINQUENT BUSINESS LICENSES FOR 1997
 - B. PURCHASING DIRECTOR
- i. ACTION ON CONTRACT NO. 9697-166 REQUEST TO CONTRACT WITH WESTERN ENERGETIX CORPORATION BY JOINDER BID WITH WASHOE COUNTY TO PROVIDE CARSON CITY'S FUEL NEEDS
- ii. ACTION ON CONTRACT NO. 9697-156 GOVERNOR'S FIELD FENCE INSTALLATIONS, AWARD
- iii. ACTION ON CONTRACT NO. 9596-203 SOUTHEAST CARSON SEWER EXTENSION, PHASES 2 AND 3
- iv. ACTION ON CONTRACT NO. 9697-160 OUTDOOR POOL ENCLOSURE SCHEMATIC DESIGN, CONTRACT APPROVAL Supervisor Tatro requested Item A, Business License revocations, be pulled for discussion. Supervisor Smith moved to approve the four remaining Consent Agenda items. Supervisor Plank seconded the motion. Motion carried 5-0.
- **A.** (1-0395.5) Mr. Kramer described the notification process. Additional comments were solicited but none given. Supervisor Tatro moved to revoke all business licenses that are delinquent for 1997 per CCMC 4.04.120 Sub 4. Supervisor Plank seconded the motion. Motion carried 5-0.

4. TREASURER - Al Kramer

- ACTION TO REVOKE THE BUSINESS LICENSE FOR KENTON SCOTT CAMPBELL, DOING BUSINESS AS DOWNTOWNER MOTOR INN, DUE TO DELINQUENT LODGING TAX PAYMENTS (1-0446.5) - Convention and Visitors Bureau Executive Director Candace Duncan, Scott Campbell -Mr. Campbell acknowledged the debt, however, was unable to pay at this time. He felt that, if the Board granted an extension, he would be able to find the funds. The economic downturn had impacted his revenue. He was attempting to sell the business as well as to obtain a loan. Supervisor Smith asked Mr. Lipparelli to research the Code concerning whether the Board had any options. Mr. Kramer felt that he could not renew the business license due to the Code. Both he and Ms. Duncan were willing to work with Mr. Campbell if at all possible. Ms. Duncan had discussed a payment schedule with the Bureau's legal counsel. He had felt that it is possible, however, Mr. Campbell must understand that the interest and penalties would continue to accrue and that payments must be made. Mr. Lipparelli read the Code into the record and explained that it does not provide the Board with any leeway in granting a Business License if the lodging taxes are delinquent. Discussion between Mr. Kramer and Mr. Lipparelli indicated that if Mr. Kramer felt that a note is considered as payment, the license could be issued. Mr. Campbell indicated his willingness to meet with Mr. Kramer and Ms. Duncan and pursue the note option during the two week period between Board meetings. He emphasized his intent to pay the obligation in the interim. Supervisor Smith moved that the Board of Supervisors postpone taking any action on the revocation of the Business License for the Downtowner Motor Inn until the February 20, 1997, meeting. Supervisor Plank seconded the motion. Motion carried 5-0.
- B. REVIEW OF AND POSSIBLE ACTION ON THE BUSINESS LICENSE CLASSIFICATION FOR MASSAGE THERAPIST (1-0620.5) Pulled.
- 5. COMMUNITY DEVELOPMENT DIRECTOR Walter Sullivan ORDINANCE SECOND READING ACTION ON BILL NO. 102 AN ORDINANCE EFFECTING A CHANGE OF LAND USE ON APPROXIMATELY 12,300 SQUARE FEET FROM MULTIFAMILY APARTMENT (MFA) TO RETAIL COMMERCIAL (RC) ON PROPERTY LOCATED ON THE WEST SIDE OF SOUTH CURRY STREET, APPROXIMATELY 1,500 FEET SOUTH OF WEST TENTH STREET, ASSESSOR'S PARCEL NUMBER 3-064-10 (PORTION), AND OTHER MATTERS PROPERLY RELATED THERETO (0625.5) Supervisor Smith moved that the Board of Supervisors adopt Ordinance No. 1997-3 on second reading, AN ORDINANCE EFFECTING A CHANGE OF LAND USE ON APPROXIMATELY 12,300 SQUARE FEET FROM MULTIFAMILY APARTMENT (MFA) TO RETAIL COMMERCIAL (RC) ON PROPERTY LOCATED ON THE WEST SIDE OF SOUTH CURRY STREET, APPROXIMATELY 1,500 FEET SOUTH OF WEST TENTH STREET, ASSESSOR'S PARCEL NUMBER 3-064-10 (PORTION), AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Plank seconded the motion. Motion carried 5-0.
- 6. AIRPORT AUTHORITY Member Louis Buckley ORDINANCE SECOND READING ACTION ON BILL NO. 105 AN ORDINANCE AMENDING SECTION 19.02.020 (AIRPORT RULES AND REGULATIONS) OF THE CARSON CITY MUNICIPAL CODE AUTHORIZING THE ENFORCEMENT OF OTHER CHAPTERS OF THE CARSON CITY MUNICIPAL CODE AT THE AIRPORT AND OTHER MATTERS PROPERLY RELATED THERETO (1-0655.5) Supervisor Bennett moved that the Board of Supervisors adopt on Ordinance No. 1997-4, Bill No. 105 on second reading, AN ORDINANCE AMENDING SECTION 19.02.020 (AIRPORT RULES AND REGULATIONS) OF THE CARSON CITY MUNICIPAL CODE AUTHORIZING THE ENFORCEMENT OF OTHER CHAPTERS OF THE CARSON CITY MUNICIPAL CODE AT THE AIRPORT AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Plank seconded the motion. Motion carried 5-0.
- 7. **PUBLIC WORKS DIRECTOR** Building Official Phil Herrington
 - A. ORDINANCE SECOND READING ACTION ON BILL NO. 104 AN ORDINANCE

AMENDING SECTION 15.05.018 OF THE CARSON CITY MUNICIPAL CODE (AMENDMENTS TO CHAPTER 1 OF THE UNIFORM BUILDING CODE) TO AUTHORIZE THE WAIVER OF FEES FOR PERMITS, REVIEWS AND INSPECTIONS FOR CONSTRUCTION, REPAIRS, DEMOLITION, AND OTHER WORK MADE NECESSARY BY A NATURAL DISASTER AND OTHER MATTERS PROPERLY RELATED THERETO (1-0685.5) - Supervisor Plank moved to adopt on second reading Bill No. 104, AN ORDINANCE AMENDING SECTION 15.05.018 OF THE CARSON CITY MUNICIPAL CODE (AMENDMENTS TO CHAPTER 1 OF THE UNIFORM BUILDING CODE) TO AUTHORIZE THE WAIVER OF FEES FOR PERMITS, REVIEWS AND INSPECTIONS FOR CONSTRUCTION, REPAIRS, DEMOLITION, AND OTHER WORK MADE NECESSARY BY A NATURAL DISASTER AND OTHER MATTERS PROPERLY RELATED THERETO, to be known as Ordinance No. 1997-5. Supervisor Tatro seconded the motion. Motion carried 5-0.

- ACTION ON A RESOLUTION TO APPROVE THE REQUEST OF THE BUILDING В. OFFICIAL UNDER CCMC 15.05.018 TO AUTHORIZE THE WAIVER OF FEES FOR PERMITS, REVIEWS AND INSPECTIONS FOR CONSTRUCTION, REPAIRS, DEMOLITION, OR OTHER WORK MADE NECESSARY BY THE 1997 NEW YEAR'S DAY FLOOD NATURAL DISASTER AS **DECLARED BY THE PRESIDENT (1-0724.5)** - Discussion explained that the fee waiver would be granted for six months only. The disaster was declared on January 3. The six month period would end on July 3. Mr. Lipparelli recommended amending Paragraph 2 to include "July 3, 1997". Supervisor Tatro moved to adopt Resolution No. 1997-R-7, A RESOLUTION TO APPROVE THE REQUEST OF THE BUILDING OFFICIAL UNDER CCMC 15.05.018 TO AUTHORIZE THE WAIVER OF FEES FOR PERMITS, REVIEWS AND INSPECTIONS FOR CONSTRUCTION, REPAIRS, DEMOLITION, OR OTHER WORK MADE NECESSARY BY THE 1997 NEW YEAR'S DAY FLOOD NATURAL DISASTER AS DECLARED BY THE PRESIDENT and amend Paragraph 2 on Page 2 of the Resolution to include "namely, July 3, 1997" at the end of the sentence. Supervisor Plank seconded the motion. Mr. Herrington explained that any resident impacted by the disaster would be eligible for the waiver even if the damage occurred prior to the January 3 declaration date. The six month period would use the declaration date to calculate the termination period. Additional comments were solicited but none given. The motion to adopt Resolution No. 1997-R-7 was voted and carried 5-0.
- 8. FINANCE AND REDEVELOPMENT DIRECTOR Mary Walker ACTION ON APPROVAL OF CARSON CITY PLAN OF CORRECTIVE ACTION FOR FISCAL YEAR 95-96 AUDIT RECOMMENDATIONS (1-0809.5) Ms. Walker read the corrective measures into the record and explained her reasons for supporting them. She gave the Board and Clerk a copy of her memo recommending approval of the recommendations. She thanked Kafoury Armstrong for its assistance. Mayor Masayko commended both Kafoury Armstrong and the staff on their efforts. Supervisor Smith moved that the Board of Supervisors approve Carson City's Plan of Corrective Action for the Fiscal Year 95-96 Audit Recommendations. Supervisor Tatro seconded the motion. Motion carried 5-0.
- 9. PURCHASING DIRECTOR Acting Director John Iratcabal ACTION ON CONTRACT NO. 9697-140 CITY HALL REMODEL, AWARD (1-0970.5) City Manager John Berkich; Consultants John Ganther and Glen Morris of Ganther, Melby, and Lee; Deputy District Attorney Paul Lipparelli; Metcalf Builders Representative Tom Metcalf; Western Nevada Builders Association Executive Director Gayle Farley; Orion Constructors Project Manager Michael Grashuis

and President Michael Keife - Mayor Masayko explained his request for a review of the entire process used to acquire and convert the building into a City Hall. Supervisor Tatro noted that the Board had received a four page letter from Attorney Scott Heaton, representing Metcalf Builders, just before the meeting. He had not had an opportunity to read this letter and would do so during the recess. He asked if anyone else had any written correspondence for the Board so that it could be reviewed at the same time. Mr. Berkich indicated that staff is prepared to respond to Mr. Heaton's points. Builders Association Executive Director Gayle Farley gave the Board and Clerk a letter.

BREAK: A twelve minute recess was declared at 9:35 a.m. Mayor Masayko reconvened the session at 9:47 a.m.

The entire Board was present constituting a quorum.

Mr. Berkich briefly noted the information which had been provided to the Board and the history of the project. Mr. Ganther explained the office concept proposed for the building, naming the functions which will be provided at the site, and by using an artist's rendering the remodel/reconstruction of the exterior. This would create 14,347 square feet of office space. There is 20,000 square feet of underground parking. Mr. Berkich then explained that the employees would require 38 parking spaces. There are 50 spaces provided on site. There are 97 on-street spaces available for use by the City. This figure includes some parking in the adjacent State parking lot. All of these spaces are east of Carson Street and north of Musser. Mr. Berkich then distributed to the Board and reviewed a report outlining his reasons for believing the site is the best location and facility for a City hall. (None to the Clerk.) Discussion indicated that a study of copying and fax equipment needs will be conducted. If possible, some equipment will be eliminated. Public parking will be provided both on-site and in the immediate vicinity. Long-term on-street parking will be identified for the employees. The State parking lot could be used by the City employees, however, demand for this lot will be at a premium. Mayor Masayko felt that there should be a minimum of ten to fifteen designated public parking spaces. Mr. Berkich also pointed out the facility's drive-up feature. A memo of understanding has not been drafted on the use of the State parking lot. The State has been using the two City lots under a verbal agreement. Mr. Berkich was willing to commit the agreement to writing if necessary. The functions which would be relocated to the facility were listed. Public Works and Community Development will remain at Northgate. The one-stop building permit process will remain in intact. Parking fines could be paid at either the new City Hall or at Northgate. Applications for variances will be available at the new City Hall. Discussion pointed out that traffic would be a challenge for the employees who are relocated to the facility. This could be mitigated by staggering the office hours. Contact with the Northgate functions may require telephone conference calls and additional travel. Mr. Berkich felt that the advantages offered by the building far outweighed any negative concerns. He also pointed out that the security features and vault area would be expensive/difficult to replicate. His comments included the advantages and additional protection which would be provided by these features. Discussion indicated that the parking analysis had included growth. Mr. Berkich indicated that, if the City adds additional floors to the building, the conceptual discussions with the State and the Nugget about a potential joint venture for construction of a parking garage should be seriously pursued. Benefits of this approach were noted. Supervisor Tatro then explained his reasons for feeling that the services which would be provided at the facility would not grow enough to create a problem in the foreseeable future. The services at Northgate, the Corporate Yard, and those connected to public safety will continue to expand as the City grows. The advantages of moving the administrative functions closer to the District Attorney's office and Courts were pointed out. Electronic capabilities will also reduce the downside of having Public Works and Community Development at Northgate. He agreed that with appropriate scheduling the traffic concerns in the downtown area could be mitigated. The additional City employees would have a minimal impact on the core area. The challenges associated with commuting to the Northgate Complex were cited to illustrate the advantage of having a centralized administrative complex. Board comments supported Supervisor Tatro. Supervisor Smith also pointed out the building's ability to be expanded by adding additional floors. He, too, felt that a parking structure will eventually be needed in the vicinity.

(1-1705.5) The conceptual Corporate Yard master plan was then displayed and explained. Supervisor Smith expressed his feeling that the plan should have been discussed previously. The conceptual plan to consolidate functions, such as purchasing, with the School and Hospital was felt to be valid and should be pursued.

(1-1835.5) Mr. Ganther described the process for expanding the building by adding floors. The building was originally designed and constructed for this expansion. Supervisor Bennett suggested expanding the facility and providing private/public offices for other services. Mr. Berkich indicated that discussions had included having the Board's meeting room moved to the facility as well as the Convention and Visitors Bureau and other joint uses. Discussion indicated that some retail commercial uses could be provided in the facility. Supervisor Smith voiced his opposition to competing with private property owners by renting City facilities. Mayor Masayko felt that retail commercial space should not be constructed by the City. Mr. Ganther then explained how the elevator could be expanded to serve additional floors. The area adjacent to it is separate from the main building and could be used for meetings. A structural analysis had supported the statements that the additional floors could be constructed.

(1-1930.5) Mr. Ganther then discussed with the Board the cost comparison study which included the expansion cost for adding floors to the building. Supervisor Smith also pointed out that the building had been obtainable within the City's funding capacity without imposing an additional burden on the taxpayers. Mr. Berkich then explained the budget which included renovation and relocation cost as well as the sale of Northgate. Mayor Masayko also pointed out that this would require renting office space for Community Development and Public Works as well as finding funds for construction of a building at the Corporate Yard. Mr. Berkich explained that the City had been leasing the Public Works office space for several years and would continue to do so. The space requirements for this function had been reduced by a previously approved relocation program. Public Works and Community Development will require approximately 3,000 square feet of office space. Ms. Walker described the Bank of America loan under which the building had been acquired. It includes provisions allowing the City to payoff the note early without a penalty. She felt that the Northgate building may not be sold until August. Mayor Masayko expressed his desire to reconsider this direction. Ms. Walker then explained the funding for remodeling. Mr. Berkich indicated the timeframe for disposal of Northgate which he felt fit within the remodeling period. The City offices would be moving at the end of July. The budget process will include discussion of the building plans for Community Development and Public Works. Mayor Masayko explained the reasons for his request to review the foregoing information and for staff to develop the necessary master plan document justifying City decisions of this caliber.

(1-2290.5) Mr. Iratcabal then explained the bidding process, the problems encountered during the bid analysis, and the protests which had been filed against the staff's recommendation and the process. His comments included an explanation of NRS 338.174, the five percent preferential bidder status. Investigation indicates that Orion Constructors has been doing business as Mikennis Mechanical. The Nevada Taxation Department's letter indicates that Mikennis' tax payments satisfy the requirements for Orion Constructors. Orion Constructors have provided requested documentation to support the DBA. Mr. Heaton's letter objected to Mr. Iratcabal's statements during the pre-bid conference during which he had indicated that only the major contractors had to be listed on the bid. Reasons for this change in the specifications were provided.

(1-2410.5) Mr. Lipparelli explained Mr. Heaton's objections and the Statutes mandating listing of any subcontractor performing more than five percent of the work on a Public Works project costing more than \$100,000. The City's written specifications require listing of any and all subcontractors in addition to the notifications procedures for changing any of those subcontractors. Therefore, Mr. Iratcabal's statements should not have been relied upon. Orion's bid contains a listing of subcontractors. He requested the Board ascertain from Orion if it will do all of the work required on the project themselves or by one of the listed subcontractors. There may not be an issue if all of the work over five percent is to be performed by either Orion or one of the listed subcontractors. If this is not the case, the State law would require the Board to deem the bid as unresponsive and to reject it. Supervisor Tatro questioned whether the State Contractor's License would allow the contractor or the listed subcontractors to perform the work. Mr. Lipparelli indicated that Orion would have to respond to this question. Metcalf, Orion, and the Western Nevada Builders Association had representatives present and wished to address the Board. Supervisor Smith pointed out that the difference between Metcalf and Orion's bids was \$12,000. Even if Orion's bid is rejected, Metcalf's bid, with the penalty for failure to meet the tax requirement, would still not be the lowest. Metcalf's objection is based on the principle that the State laws should be followed. Supervisor Tatro pointed out that the project would cost \$12,500 more and allow a Sparks' firm to perform the work rather than a Carson City firm due to a State requirement.

(1-2580.5) Mr. Metcalf explained his request for information from Purchasing the morning after the bid opening; his original letter of concern about these four bidders; and his January 17th letter of protest. He felt that the third lowest bidder should be given the contract. It is \$4,000 higher than Orion's, however, is a complete bid. He emphasized his reasons for feeling that Carson City specs should be followed and any and all subs should be listed. Everyone should play by the same rules.

(1-2645.5) Ms. Farley read her statement into the record. (A copy is included in the file.) She also indicated that Mr. Metcalf is a member of her organization.

Discussion between Supervisor Tatro and Mr. Metcalf explored his objection to the method Orion had used to list his subcontractors and ability to meet the State Tax requirement. Mr. Metcalf emphasized that if one Statute is required, all of the Statutes must be met. He questioned whether the four contractors who had been listed could perform all of the work indicated or were licensed to do so.

Supervisor Tatro explained his employment at the Nevada Department of Transportation.

Mr. Lipparelli explained Mr. Iratcabal's investigation of the tax requirement. The Statutes do not address Mr. Metcalf's concern as to whether a contractor can with the use of the appropriate fictitious firm name filings comply with the Statute; however, in 1992 the Attorney General's office issued an opinion indicating that if two contractors submit a joint venture bid where one contractor meets this requirement and the other does not, with both contractors sharing equally in the profit and loss and job control, they could receive the preferential treatment as if both had been paying the taxes for the specified period. Staff viewed the Orion and Mikennis issue in the same fashion as they are the same legal entity with the same officers, the same bank account, and the same legal structures. Orion is merely a name under which Mikennis is now doing business as a general contractor.

Mr. Metcalf encouraged Mr. Lipparelli to reread the opinion as his interpretation would allow every out-of-state contractor to meet the requirement. He felt that the contractors should have identical licenses in order to joint venture a project. Mr. Lipparelli indicated that it is not just a question of having another partner as there are other legal requirements. Mr. Metcalf explained that NDOT's projects indicate requirements for joint ventures and partnering which he is not allowed to do.

(1-2889.5) Mr. Grashuis indicated that Orion and Mikennis were not joint ventures. They are one and the same. Orion has a general contractor's license which was originally owned by Mikennis. Reasons for having two similar contracting firms were provided. He had interpreted the requirement for listing of subcontractors to mean that any and all subcontractors should be listed which includes the five percent. They were all listed. He felt that his general contractor's license would allow him to perform all of the remaining duties. The general license is under Orion and the mechanical license is under Mikennis. He then explained his license which indicated that he must have at least two unrelated subs on his projects. The main question concerning his license is whether he can perform masonry work. Mr. Keife indicated that all of the subcontractors were listed who will exceed five percent of the project as mandated by the Statute. The second question is whether all of the subcontractors whose work will exceed one percent of the project or \$50,000 are listed. Mr. Grashuis indicated that all of these subcontractors had been listed. The bid had met all of the NRS and RFP requirements. He then explained that general contractors can perform all but two unrelated trades on a project. Subcontractors' licenses are for specialized fields. He then clarified that concrete contractors with a class B license can only perform two other trades on a project.

Additional public comments were solicited. (1-3105.5) Rick Correlli questioned the reasons the City must go out-of-town for a contractor when there is an in-town contractor with a \$12,000 lower bid. He felt that the law should be changed. He recommended that the subcontractors be listed otherwise a contractor could shop the price after the bid is submitted. Mayor Masayko indicated that Orion had indicated that all of the subcontractors had been listed. Mr. Correlli encouraged the Board to award the bid to the local contractor.

Mr. Iratcabal apologized for creating the confusion on the listing of subcontractors. He felt that Orion's bid was responsive.

Mr. Metcalf explained that Orion's bid was within five percent of his and expressed a willingness to accept its bid if Orion had indicated that all of the subs were listed.

Mr. Iratcabal explained staff's recommendation that Alternate E be added to the project which adds \$10,000 to the contract.

(1-3205.5) Ms. Farley indicated that 37 percent of the project is going to subcontractors. If they had been Carson City subs, the money would stay in Carson City. Mayor Masayko agreed that this is a valid point, however, the

State law does not allow this leeway.

Supervisor Tatro indicated that Orion had responded to the question concerning the subcontractor listing by indicating that all of the subcontractors were listed. The bid would have been unresponsive if it was an incomplete listing. The Board should accept the statement as there is no other evidence to indicate otherwise. The District Attorney had indicated that the preference law is covered by the firm. These issues may ultimately be resolved in court, however, until that occurs, the Board should accept Mr. Lipparelli's advice. He indicated his objection to the State preference law. The City was being forced to pay \$12,500 more for an out-of-town bidder to do its City Hall. This same requirement had forced the City to pay an additional \$40,000 to extend a sewer line in South Carson. He also did not like to send business out-of-town, however, the City did not have a choice. All of the legal requirements had been met.

Mr. Grashuis indicated for the record that if he had been a Carson City resident, he would have demanded the same amount of an investigation as had been conducted. He could not withdraw his bid. He understood all of the positions. Supervisor Tatro indicated that if he was in his position he would accept the contract and go to work. Additional comments were solicited but none given.

(1-3324.5) Supervisor Tatro moved that the Board accept the Purchasing Department's recommendation and award Contract 9697-140 to Bidder No. 8, Orion Constructors, P. O. Box 3330, Sparks, NV 89432, as the lowest responsive and responsible bidder pursuant to the requirements of NRS Chapter 332, 338, 339, and 624 for a contract amount of \$568,473 and a contingency amount of \$30,000 with the funding source of the Capital Acquisition Projects Fund. Supervisor Bennett seconded the motion. The motion was voted and carried 5-0.

BREAK: A seven minute recess was declared at 11:35 a.m. The entire Board was present when the meeting was reconvened at 11:42 a.m., constituting a quorum.

13. BOARD OF SUPERVISORS

C. STATUS REPORT ON THE SKATEBOARD PARK AT MILLS PARK (1-3358.5) - Virginia Orcutt questioned the status of the skateboard park bids. The Parks and Recreation Commission, in addition to herself, felt that it should have gone out to bid sometime ago. Her involvement with this project was described. Mr. Berkich explained that the RFP had been delayed by problems with the donations. He agreed to check into its status. Mayor Masayko requested the status be discussed at the next meeting. Discussion indicated her next project may be to get the bicycles off of the sidewalks. Supervisor Bennett solicited her assistance in getting the medians landscaped and thanked her for her patience.

10. PERSONNEL DIRECTOR - Judie Fisher

A. ACTION TO APPOINT THREE MEMBERS TO THE ADVISORY BOARD TO MANAGE WILDLIFE (1-3498.5) - The Board interviewed George Groth and James Mason. Mayor Masayko thanked the applicants for volunteering. Mr. Groth thanked the City and its staff for its handling of the recent emergencies/disasters. There were only three vacancies. Steve Sweetland's letter was read into the record. Robert Zappittini and George Wilkerson had appeared for the interviews, however, could not stay. Their applications were noted. Nita Demars and Thomas Hall had withdrawn their applications. Discussion indicated the desire to stagger the terms. Ms. Fisher explained the Board's function. The Supervisors followed their "round robin" method of indicating each one's top choice for these vacancies. From this process George Groth, James Mason, and George Wilkerson were selected. Supervisor Smith moved that the Board of Supervisors appoint the following to the Advisory Board to Manage Wildlife: George Groth to a three year term, James Mason to a three year term, and George Wilkerson to a two year term. Supervisors Plank and Bennett seconded the motion. Motion carried 5-0.

ACTION TO APPOINT TWO MEMBERS TO THE HISTORIC ARCHITECTURE **REVIEW COMMITTEE** (2-0156.5) - The Committee had recommended that Art Hannafin replace Richard Wipfli and that Mike Drews be reappointed. Both terms are for four years. Discussion noted that the terms are staggered for this Committee and reasons for having the Committee recommend the appointees. Mr. Lipparelli requested this procedure be discussed under Board of Supervisors Comments. Supervisor Plank moved to appoint Art Hannifin and Michael Drews to each a four year term on the Historic Architecture Review Committee. Supervisor Bennett seconded the motion. The motion to appoint Richard Wipfli and Michael Drews to four year terms on the Historic Architecture Review Committee was voted by roll call with the following result: Supervisor Tatro - My vote is based on the fact that the current Historic Architecture Review Committee is a body that sets in determination of things that balance the property rights of individual property owners with the interest of the City as a whole, I am aware that yesterday the interviews were conducted and that some of the questions of the applicants had to do with their philosophy on the rights of the individual property owners, this is philosophical values, it is the Board of Supervisors job to pick the individuals whose philosophy reflects the Board's philosophy, therefore, I vote against the selections, No; Bennett - Yes; Plank - Yes; Smith, I will vote yes as we had the process in place, although I agree with Supervisor Tatro that this may be one of the Commissions which should be looked at, and we should check into that, Yes; Bennett - That should be during our retreat; and Mayor Masayko - Yes. Motion carried 4-1 with Supervisor Tatro voting Naye.

Mayor Masayko expressed his desire to reconsider the appointment process. Comments indicated a desire to interview all new applicants for each committee/commission. Ms. Fisher pointed out that this would be a lengthy and time-consuming process. Supervisor Tatro noted his original opposition to the process. His vote had been based upon this opposition and was not against the applicants.

DISTRICT ATTORNEY - Paul Lipparelli - ORDINANCE - FIRST READING - ACTION ON AN 11. ORDINANCE AMENDING SECTION 10.14.040 (PEDESTRIANS ON HIGHWAYS--SOLICITING RIDES, BUSINESS--PEDESTRIAN UNDER INFLUENCE OR INTOXICATING LIQUORS, DRUGS) AMENDING PORTIONS THE ORDINANCE BY ADDING A SECTION MAKING IT UNLAWFUL FOR PEDESTRIANS TO INTERFERE WITH THE LAWFUL MOVEMENT OF TRAFFIC BY STANDING ALONG OR IN ROADWAYS AND OTHER MATTERS PROPERLY RELATED THERETO (2-0295.5) -Mayor Masayko indicated that he had not originated this ordinance nor was he involved with the efforts to cleanup "smokers' corner". Mr. Lipparelli indicated that the District Attorney's office had not been involved with these issues either. He then explained the request to implement an ordinance which would prohibit pedestrians from standing in the roadway blocking traffic. His comments included a description of the events which had indicated a need for the ordinance. Discussion indicated that jaywalking may be addressed under a different ordinance/statute. Supervisor Plank explained his concern that it could be used by a "scrupulous police officer" to cite an individual who is directing traffic at the scene of an accident. Mr. Lipparelli responded by explaining the checks and balances between citations and the courts which the District Attorney's office routinely performs. He felt that this would address such an incident. The intent of the ordinance is to provide a mechanism for removing individuals who refuse to leave the middle of a street when requested to do so by the proper authorities. Individuals who abuse their power can be reprimanded under other procedures. Supervisor Bennett felt that the proposal would provide law enforcement with additional tools. It would require the use of common sense and discretion. She then voiced her objection to the headlines related to this issue and its classification of the Mayor. Mayor Masayko indicated that he had not taken offense at the comments and thanked her for her comments. Supervisor Smith felt that an individual in the case cited by Supervisor Plank could use the defense that he/she was assisting in the movement of traffic until law enforcement arrives. He also felt that it is sometimes necessary to have laws to reenforce common sense. Supervisor Plank suggested the Section 5 terminate at the word traffic. Supervisor Smith felt that it is necessary to have the entire section. Mayor Masayko felt that the ordinance would provide an additional tool for the Sheriff's Office. Supervisor Smith moved that the Board introduce on first reading Bill No. 106, ACTION ON AN ORDINANCE AMENDING SECTION 10.14.040 (PEDESTRIANS ON HIGHWAYS--SOLICITING RIDES, BUSINESS--PEDESTRIAN UNDER INFLUENCE OR INTOXICATING LIQUORS, DRUGS) AMENDING PORTIONS THE ORDINANCE BY ADDING A SECTION MAKING IT UNLAWFUL FOR PEDESTRIANS TO INTERFERE WITH THE LAWFUL MOVEMENT OF TRAFFIC BY STANDING

ALONG OR IN ROADWAYS AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Plank seconded the motion. Motion was voted and carried 4-1 with Supervisor Tatro voting Naye.

12. CITY MANAGER - John Berkich and Administrative Assistant Liz Hernandez - **PUBLIC HEARING REGARDING THE ANNUAL COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) allocation process (2-0515.5)** - Mr. Berkich explained the grant application process and introduced Detox Center Executive Director Tim Hogan. Mr. Hogan briefly described the service and explained the funding needs to relocate and expand the Center. He introduced the Center's Architect Art Hannafin. Mr. Hannafin briefly described the relocation and expansion project. Mayor Masayko noted that Carson City funds would not be used as a match. The matching funds would be provided from the Detox Center's funds. There would not be an impact on the City's budget. Supervisor Smith indicated that the lack of questions should not be construed as detrimental. He felt it was a sign of the Board's awareness of the project and community needs. Community support will be needed when the request is considered by the State. Mayor Masayko and Supervisor Smith noted the benefits received from the Center and its activities. Additional comments were solicited but none given. No formal action was taken or required on this Item.

13. BOARD OF SUPERVISORS

NON-ACTION ITEMS - INTERNAL COMMUNICATIONS AND ADMINISTRATIVE **MATTERS** (2-0665.5) - Mayor Masayko indicated a desire to have reports from each Supervisor at each meeting on his/her assigned committees. Supervisor Plank listed the committees/commissions he had attended during the last 30 days. Supervisor Tatro reported on the Open Space Acquisition Seminar sponsored by the Lincoln Institute from the University of Nebraska. It provided different alternatives on how to preserve and maintain open space including zoning ordinance changes, purchase, and methods of working with private land owners for open space easements. Carson City could have held the seminar here and used its different programs for alternatives. The individuals from Carson City who had attended were noted. It may have been a more worthwhile seminar in October 1995 rather than now. Supervisor Smith reported on the Western Nevada Development District meeting and its EDA grant application for flood related issues and the Subconservancy District's meeting. Subconservancy will handle FEMA funding for repairs to the levees and irrigation channels. Subconservancy's early political problems and a change in attitude over the years were briefly noted. The FEMA funding will include 100 percent and 75/25 percent coverage. He was concerned that the matching funds would come from the City's three percent ad valorem while a majority of the repair work is done in Douglas County. He also pointed out the enthusiasm displayed by the new Douglas County members and explained a comment which one individual had made that if something does not occur soon, Douglas County would stop participating. This individual felt that nothing had occurred since its inception and it was time for results. Supervisor Smith explained his comments to this individual that Carson City, with its resources, gained the least from its funding, which is approximately 65 percent of the budget. The River would benefit from the Counties working together, however, if the politics revert to the original contentious atmosphere, it could be lost forever. Each County had the right to veto any project even though the membership varies for each. Supervisor Smith requested that the other Board members watch the activities and keep him informed on any comments/concerns. The damage incurred during the flooding may prohibit any and all irrigation activities this year. Mayor Masayko felt that his representation on the NACO Board and as the City's lobbyist would keep him apprised of these activities. Supervisor Bennett reported on the TTD Agency and NTCD activities on the "shuttle" transit system; the Carson-Tahoe Hospital's strategic planning workshop; her impression of the Subconservancy meeting; the changing health care provider field and its impact on the Hospital, medical providers, and the patients; and the physicians request for representation on the Mayor Masayko noted the Legislative reception/welcome sponsored by the Chamber of Commerce, his lobbying efforts for the quarter cent Open Space Tax Initiative, the upcoming NACO meeting, and the public officials workshop at UNR which he had attended with Supervisor Plank. He announced his Monday afternoon "Meetings with the Mayor" open door policy which will be from 1:30 to 4:30 p.m. His involvement with Tri-County Railway and his request for a status report on the private/public venture at Fuji Park were also noted. Mr. Berkich announced the February 12 Employee and Volunteer Recognition Day and its activities. The participants during the events were urged to attend.

B. STATUS REPORT ON THE DISASTER RECOVERY EFFORTS (2-1158.5) - Sewerlines and storm drain lines continue to be rodded on a daily basis by a contractor. Street sweeping efforts are continuing by the State, City and a private contractor. NDF Inmate Crews are continuing to work on picking up sand bags and address erosion/flood problems. The Lompa Lane flood problem has been declared an emergency and a study is being undertaken to develop alternatives. An outside engineering firm, RCI, has been retained to analyze the Vicee Canyon problems. Mayor Masayko pointed out RCI's comments at the last Board meeting indicating this area is fragile and needs immediate attention. Mr. Berkich indicated that there are two NDF Inmate Crews working in the canyon now. The City had lost its recharge facility as well as the sand pit.

BREAK: There being no other matters for discussion a recess was declared at 1 p.m. Mayor Masayko reconvened the session at 6:03 p.m. The entire Board was present, constituting a quorum. Staff members present included City Manager John Berkich, District Attorney Noel Waters, Clerk-Recorder Alan Glover, Finance Director Mary Walker, Public Works Director Jay Aldean, Deputy District Attorney Paul Lipparelli, and Recording Secretary Katherine McLaughlin.

14. CITY MANAGER - John Berkich

A. ACTION ON AN ORDINANCE REPEALING ORDINANCE 1996-64 (PERTAINING TO THE COUNTY MOTOR VEHICLE FUEL TAX) AND AMENDING CARSON CITY MUNICIPAL CODE SECTION 11.20.050 (IMPOSITION OF TAX) TO INCREASE THE COUNTY MOTOR VEHICLE FUEL TAX FROM FOUR CENTS PER GALLON TO NINE CENTS PER GALLON, STATING THE INTENT OF THE BOARD OF SUPERVISORS THAT THE INCREASED REVENUE BE USED FOR THE CARSON CITY BYPASS, PROVIDING FOR THE TERMINATION OF THE INCREASED TAX AT A CERTAIN DATE, AND OTHER MATTERS PROPERLY RELATED THERETO (2-1196.5) - Mr. Lipparelli explained the differences between the original ordinance and the proposed ordinance. Mayor Masayko indicated that the maximum term of the tax would be 15 years. Mr. Lipparelli explained how this term had been developed. Mayor Masayko then explained how the meeting would be conducted. Supervisor Bennett requested a poll of the audience to indicate by a show of hands the number present in support and opposing the ordinance. This resulted in an approximate response of 3 to 1.

(1-1342.5) David Beale expressed his desire that the electorate be given an opportunity to vote on the tax before its implementation. Mayor Masayko explained the agenda. Tony Marangi gave the Board and Clerk a copy of his remarks and read the statement into the record. He urged the Board to adopt the ordinance, implement the tax and construct the Bypass. (1-1486.5) John Biale voiced his opposition to the at-grade expressway. He urged the Board to not jeopardize the funding for the freeway and to begin its construction. He questioned where the opposition was during all of the meetings of the different alternatives. Chamber of Commerce Transportation Committee Representative Shelly Aldean explained the Chamber's work on the freeway and various alternatives, NDOT Board of Transportation's requirement that the City help fund the freeway, and her concerns if the freeway is not constructed/started. She also pointed out that the needed Highway 50 and Lompa Lane drainage improvements would be constructed as a part of the freeway. She supported the proposed ordinance amendments. She urged the Board to move forward. Chamber of Commerce President Sandra Pickens urged the Board to become pro-active and approve the ordinance. The Chamber's survey was cited to illustrate public support for the freeway and its need. Lawrence Meeker noted his original opposition to the Bypass concept proposed two years ago. He felt that the proposal would only cost the average driver five cents a gallon which would be \$39 a year. He felt that it would be worth the cost if the full freeway is provided. (1-1750.5) John McKenna urged the Board to correct the error and not reconsider the entire subject. Kay Elverum pointed out the traffic hazards posed every day to the pedestrians and children crossing the City's major arterials. She felt it was time something was done before another life is lost. Mr. Berkich read Tom and Linda Johnson's letter into the record urging the Board to adopt the ordinance and go forward with the project as it will allow the downtown area to recognize its redevelopment potential. Mayor Masayko read a letter from Art Hannafin supporting the Bypass and urging the Board to do the right thing. Copies of the proposed ordinance were distributed to members of the audience. Mayor Masayko also read Dennis Richey's letter to the Board of Supervisors and The Nevada Appeal editor into the record. Mr. Richey

indicated his strong opposition to the need for the City to assist with funding the freeway, however, his research indicates that this is becoming a common practice. His research further indicated that the City would receive at least \$1.10 for each dollar of its \$18 million contribution in drainage improvements. Mayor Masayko felt that the Board would discuss Mr. Richey's suggestion that the drainage improvements in the freeway corridor begin at Highway 50 and Lompa Lane. Mayor Masayko felt that this was a valid suggestion even though the City is attempting to develop some temporary mitigation measures at this site. He indicated for the record that he had six letters and eleven phone calls supporting the project/ordinance and one phone call against it.

(1915.5) Lois Laser felt that the individuals present this evening were a small portion of those who had signed her petition. The public wants the right to vote on the tax before it is implemented. She then expounded on her reasons for feeling that NDOT had received a fantastic agreement as the City would reimburse it \$23 million. If the tax does not provide the necessary revenue source to pay the bond, the City will be required to continue to make payments to NDOT from other sources until the full amount has been paid. Mayor Masayko pointed out that her discussion related to a different agenda item. Mrs. Laser indicated that she could not stay all evening and demanded that her comments be heard at this point as the public needed to know the true cost before the ordinance is implemented. Bob Reykers expressed his desire to have the opportunity to vote on the tax before it is implemented. He also explained that the Chamber's survey had only been sent to 880 individuals. Therefore, her percentages were invalid. Mayor Masayko noted the resolution on the ballot question would be considered later in the meeting. Cole Younger questioned when the balance of the freeway south of Highway 50 would be construction and how the traffic would be handled until that occurs. He felt that Graves Lane has become a truck route. The noise and lack of a sound wall were created a detrimental impact on his residence. If the funding is not provided, the State would hold the City hostage until it is. He requested the tax be put on a ballot. Rich Richardson indicated he is a Douglas County resident, however, manages a gas station in Carson City. He supported the Bypass but opposed the tax. He then explained his feeling that Nevada and Carson City residents are paying the highest tax for roads. He felt this amount was more than a fair share. He urged the Board to account for these taxes and questioned why additional funds are needed. Marvin Wakefield explained that his property taxes had increased \$300 in the last year. He is on a fixed income. He felt that the five cents a gallon is more than some people can afford. He questioned where the funding would come for the remaining 2/3rds of the Bypass and if the residents who pay for it would ever see it fully constructed. This is "taxation without representation". Mayor Masayko explained that these issues will be discussed under a different agenda item. Paul Deerlum urged the Board to allow the electorate an opportunity to vote on the tax otherwise it was true "taxation without representation". (1-2161.5) Mr. Peale felt that Reno is not paying to extend 395 and Carson City should not be treated any differently. He did not feel that the ordinance addressed this concern and that the proposal created an unnecessary worry for the residents as to how the \$26 million would be repaid. He felt that Governor Miller or the other Democrats in Congress should be able to get the money from the President. Mayor Masayko explained that Clark County has raised \$136 million a year to supplement NDOT funding. Ms. Lazor indicated that the Clark County residents had voted for this tax. Supervisor Smith responded to Mr. Peale by explaining that the Reno project had cost approximately \$60 million. Each Nevada County can levy up to nine cents per gallon for road projects within its boundaries. Washoe County had levied this amount, therefore, it could state that everything possible is being done to resolve its transit problems. Washoe County still needs help. Carson City has not raised its tax to the maximum. The NDOT Board of Directors had repeatedly asked when Carson City would increase the tax to solve its problems. (1-2248.5) Elwood Davis felt that the Bypass is progress which comes with a price. His neighborhood would pay a higher price than the rest of the community due to the impact which would be created by its noise, air pollution, property values, etc. He questioned who would mitigate these impacts. He felt that he could afford the \$40 to \$50 a year which the project would cost, however, the property taxes, utilities, etc., would continue to rise. These would equal the five cent gas tax increase. This could be a burden to some residents. He did not feel that he would ever use the Bypass although it would be helpful to others. He questioned the reasons for the proposed route around the City rather than a more direct route. It is progress for which we will all have to pay. Earl Atchison urged the Board to listen to the residents and not the Chamber of Commerce. It may take longer to get the Bypass. The City had already waited this long, a little longer would not hurt anything. The residents should be given an opportunity to vote on the tax. He felt that he could afford the extra tax. The stations have already increased the prices to generate an additional profit from the five cent tax. He felt that only Supervisor Smith was using common sense on this issue. The other Supervisors and Mayor were only doing what

the businesses want. Margie Soetje indicated she did not oppose the Bypass and noted the increased traffic and its changing patterns over the last several years. As the City continues to grow, there will be even more demand for a Bypass. She was opposed to the method used to implement the tax and urged the Board to allow the voters to voice their feeling about the tax. Examples of wasted tax funds were cited including a South Lake Tahoe request of \$250 million from the Room Tax. She questioned the priorities and the agenda of the elected officials. It is "taxation without representation". Additional public testimony was solicited but none given. Mayor Masayko closed public testimony.

(2-2420.5) Supervisor Smith explained his original request to have the gas tax issue on the 1996 ballot. He supported the project personally and indicated his awareness of the need to implement the five cent gas tax to make the project work. He acknowledged that it was only a fraction of the entire project, however, there had not been a freeway constructed as one total project in the amount of \$230 million anywhere. All had been phased. The proposal is a substantial commitment by the City and may be the only way to get the project completed. The commitment represents between seven and eight percent of the total project. The Chamber surveys are accurate and may not represent the 26,000 voters. A majority of the individuals with whom he had spoken supported the project. It is more of a philosophical question for him. The Legislature allows the Board to increase the gas tax to nine cents for Carson City projects. He then used the V&T Railroad tax proposal as an example of public response and the electorate's vote to illustrate the reasons for feeling that the electorate needed an opportunity to voice its feeling. It is the Board's responsibility to handle the day-to-day operations of the City, however, an issue of this magnitude where there is no money should be placed before the community. He would be consistent with his vote on this issue based on his philosophical views.

Supervisor Tatro indicated his support for a majority of Supervisor Smith's comments, however, did not feel that the issue could have been placed on the 1996 ballot as the City could not have responded to all of the necessary questions nor had all of the necessary details. The Board would have had the appearance of "switching things around, giving bad information, and changing the strategy when the opposition is determined". The proposal may have been unsuccessful due to this appearance. He had not felt that the NDOT Board of Directors would ever commit to the Bypass and its construction in two years as had occurred last September. This commitment had been made based on the City's commitment to help pay for the project. In December the Board had voted to accept the NDOT Board of Directors offer. Unfortunately the ordinance had a technical flaw. This evening's session will address this flaw. He felt that the vast majority of the individuals with whom he had talked about the Bypass had supported it. He had received a lot of negative comments on the V&T Railroad. He pointed out that the City's share of the Bypass equated to approximately 90 percent of the storm drain improvements which will be derived from the total project. If the City gets both the road and the storm drain improvements from the project, the City will be ahead. The Board had been elected to represent the Carson City residents and within its authority is the ability to raise the gas tax by five cents. The proposed project is an opportunity which the City may never again have a chance to see. He would vote to take this opportunity. He felt that the citizens have a right to object to any actions taken by the Board and could gather signatures and call for an advisory ballot question. If this occurs, the election will be held. Along with this right is the responsibility to correctly follow the procedures established to implement this process. The signatures on the initiative should be validated as required. If and when this happens or occurs, then the Board of Supervisors should judge the initiative and/or place the initiative on a ballot. He did not feel that the Board should "hold up a weather vane in an attempt to determine which way the wind is blowing". Nor should the Board take the easy way. He felt that the Board is present to gather all of the information possible on every issue considered and do what is believed to be the right thing. He believed that Carson City had only one shot at getting the Bypass. If the Board chooses to not capitalize on this opportunity, it may never be offered again. He would exercise his judgement and vote for the ordinance. He would also respect the electorate's right to petition.

(2-2685.5) Supervisor Plank expressed his feeling that the issue should have been on the 1996 ballot. He was philosophically opposed to proceeding, however, realistically the same issue would still be discussed in 20 years. He did not believe that the majority of the residents wished for this to occur. His own research indicated that the tax would cost him approximately \$5 a month or \$1.66 a driver. This is affordable. He was confident that once the first step is completed, the Department of Transportation will complete the balance of the project. He indicated

that he would vote for the ordinance.

Supervisor Bennett reminded the Board of former Mayor Teixeira's pleading for the Board to stay the course. He had attempted many different ways to get the Bypass or an alternative. She indicated her support for the ordinance and the Bypass as indicated in her campaign literature and with Edmond Bert's comments. She thanked Ms. Aldean for her comments and support over the years.

Mayor Masayko never believed that he would be involved in the vote on this issue. He had followed this issue for eight years. It had received a lot of effort and a lot of work. The purpose of this session is to reconsider the ordinance due to a technical issue. He felt that the City had done everything possible to assure the taxpayers that their interest was paramount. The money raised by the gas tax will be dedicated toward only one project. The City had negotiated very diligently with the State Department of Transportation. There is a very favorable payment schedule. It will sunset when the obligation is met. The City will receive as much in drainage improvements as is being paid in taxes. The City will receive a \$230 million project for an \$18 million contribution. He then explained the timing required to have the issue on the 1996 ballot. He felt that the public response to the July 11th meeting had been overwhelmingly in favor of the process. The Board had voted to proceed with the project. It is a great deal for the City. He then read a letter from NDOT Director Tom Stephens into the record. This letter committed to funding the northern portion of the Carson City Bypass. This project would not have been funded without the City's funding. Completion of the Carson City Bypass is included on its super projects for the next decade. Reasons for including it on the super project list were provided. Mayor Masayko then indicated his intent to continue representing the citizens' interest in the project.

(2-2930.5) Supervisor Bennett then moved that the Board of Supervisors introduce on first reading Bill No. 107, AN ORDINANCE REPEALING ORDINANCE 1996-64 (PERTAINING TO THE COUNTY MOTOR VEHICLE FUEL TAX) AND AMENDING CARSON CITY MUNICIPAL CODE SECTION 11.20.050 (IMPOSITION OF TAX) TO INCREASE THE COUNTY MOTOR VEHICLE FUEL TAX FROM FOUR CENTS PER GALLON TO NINE CENTS PER GALLON, STATING THE INTENT OF THE BOARD OF SUPERVISORS THAT THE INCREASED REVENUE BE USED FOR THE CARSON CITY BYPASS, PROVIDING FOR THE TERMINATION OF THE INCREASED TAX AT A CERTAIN DATE, AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Tatro seconded the motion. Motion was voted by roll call with the following result: Smith - No; Tatro - Yes; Bennett - Yes; Plank - Yes; and Mayor Masayko - Yes. Motion carried 4-1.

Ms. Lazor then restated her opposition to the ordinance and urged the Board to allow the electorate to vote. She felt that the ordinance was invalid as NRS 373.070 mandates that the County's name must be indicated as the taxing agency. The ordinance references the Nevada Department of Taxation. She reiterated her request that the matter be placed before the electorate.

BREAK: A 12 minute recess was declared at 7:30 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 7:42 p.m., constituting a quorum.

B. ACTION ON A RESOLUTION WHICH WOULD CALL AN ADVISORY ELECTION ASKING THE ADVICE OF REGISTERED CARSON CITY VOTERS AS TO WHETHER THE BOARD OF SUPERVISORS SHOULD REPEAL AN ORDINANCE WHICH RAISED THE GAS TAX BY FIVE CENTS TO A TOTAL OF NINE CENTS IF A PETITION CONTAINING A CERTAIN NUMBER OF SIGNATURES IS RECEIVED BY THE CLERK/RECORDER (3-0001.5) - Clerk-Recorder Alan Glover explained the Statutes regarding a special election which is allowed only if there is an emergency. Examples of an emergency were noted. If the Board is given a Clerk certified ballot petition, the Board could repeal the offending ordinance or not. If the ordinance is not repealed, the issue is to be placed on the next primary or general election ballot. There is no provision for a special election on advisory questions. This statute had not been tested in the courts. It may be possible for Storey County to have a special election on its school bond, however, it may be challenged.

Ms. Lazor then read NRS 295.115 which she interpreted to mean that the Board must repeal the ordinance if an adequate number of signatures are obtained on a petition. Mr. Glover agreed that this is part of the Statute and pointed out that it also provides a process for getting it on the ballot. Mayor Masayko indicated that the Statute states that the Board "may consider" the ordinance's repeal. This does not require its repeal. Supervisor Bennett requested that only one person speak at a time to keep the record straight. Supervisor Smith then indicated that the proposed resolution was a reasonable compromise. He could not return to 1996. The Resolution includes assurances to the citizens that the election will occur. He acknowledged that the resolution is not legally binding. It does express the Board's intent that, if the petitions are submitted to the Clerk with the appropriate number of valid signatures, the Board will allow the question to be placed on the 1998 ballot. This is a fair compromise of the position in which the matter is at this time. Supervisor Tatro questioned if the Statutes define a "valid signature". Mr. Glover indicated that it does. Discussion between Supervisor Tatro and Mr. Glover indicated that the signatures would have to be those of valid registered citizens. Statutory requirements could not be waived.

Deputy District Attorney Lipparelli then explained the differences between a petition which is presented as a referendum of an ordinance as indicated in NRS 295 and for placing an advisory question on a ballot. These requirements mandate that each petition include an attached affidavit executed by the circulator of the petition that he/she had personally circulated the document, that all of the signatures were affixed in his/her presence, and that he/she believes them to be genuine signatures of the person whose name they purport it to be. He then explained that if the proposed resolution includes conditions on which the petitions are to be submitted and these conditions are met, the Board will consider a resolution which will spell out the language for the advisory question as well as the arguments for and against the question. This must be accomplished by July 1998. Discussion between Supervisor Tatro and Mr. Lipparelli indicated that under the referendum process, if the ordinance is withdrawn, the petition process would have to begin again. The resolution could include this requirement and/or any other items which the Board wishes. Supervisor Tatro suggested Page 3 of the Resolution be amended to include: "...per gallon to nine cents per gallon 'for the purpose of funding the Bypass through Carson City.'". Reasons for his suggestion were provided. Supervisor Smith supported his suggestion.

Supervisor Smith then pointed out that the tax will have been collected for approximately two years when the question is considered. The contract with the State indicates that the first two years of work will be on items, such as design, hydrology, engineering, etc., which must eventually be done. It will be usable in the future. He was convinced that if the tax is repealed, it would be a long time before the Bypass is constructed. These funds will be a small contribution to the overall project.

Supervisor Bennett expressed her feeling that if the Board must start all over at square one on the imposition of the gas tax, the petitioners should also. If and when a valid, certified petition is presented to the Board, she will make an appropriate decision to (a) repeal the ordinance or (b) adopt a resolution placing the issue on the next ballot. She was willing to make that decision only when the petitions are presented.

Mayor Masayko indicated that the process required for the petitions is spelled out under NRS 295 on referendums, however, the resolution will allow the Board to establish criteria for submitting the petitions as indicated in NRS 293 for an advisory question. This abrogates some of the legal requirements of NRS 295 by allowing the petitions to be submitted which had been gathered on the original ordinance. Clarification indicated that the Board is not mandated to have 1900 signatures to call for placing a gas tax advisory question on a ballot. The Board could do this by a resolution. Mr. Lipparelli stated that NRS 293 mandates inclusion of a statement in the ballot question indicating that the results of the election are not binding. NRS 295 mandates that if the petitions are presented which have been signed and certified as required and the Board refuses to repeal the ordinance, the issue of repealing the ordinance automatically goes on the ballot. This vote is binding.

Mayor Masayko then explained that the ordinance under the previous agenda item had repealed the original ordinance and adopted different terms, i.e., sunset clause, implementation date, with appropriate contracts, etc. This is a different set of circumstances than originally considered.

Supervisor Bennett expressed her feeling that the individuals who had already signed the petitions had done so in

good faith, however, the petition's authors have responsibilities as well. She felt certain that anyone who had signed the petition and feels strongly about it would sign a second petition.

Mr. Glover explained that neither the Clerk, District Attorney, nor Board of Supervisors could declare the petition invalid. Only the Courts could do this. He was concerned with the fact that his office would be required to validate the signatures even though the ballot question does not have any effect. An individual could take the petition to court and have it declared invalid. The petition could be withdrawn by written consent of four of the five original petitioners. This would make the petition as a referendum petition null and void. Signatures could continue to be obtained on the same form as they had been using and presented to the Clerk. He could verify those signatures as registered Carson City voters. This would eliminate the need for the Clerk to determine if the petition was presented in the proper manner as stipulated in 295. This would be the same as a petition on zoning. He requested the legal concerns be addressed at this point.

(3-0405.5) District Attorney Noel Waters explained that the resolution had been drafted as the result of a request from one of the Supervisors. This was a direct result of the fact that the original ordinance was invalid. This would likewise result in invalidating their original petition. The intent was to not invalidate their petition. He was concerned, however, that the petitions were flawed in other respects. The Statutes for referendums mandates an affidavit accompanying each page of signatures indicating the individual had witnessed the signatures. It was his understanding that there are petitions in all of the gas stations throughout the City which do not have the ability for an individual to witness the signatures. Someone could challenge the referendum based on this information. The proposed resolution indicates that if the Clerk finds that there are 1900 valid Carson City voters on pieces of paper that are submitted to the Board within the time stipulated for the referendum process, then the Board resolves to place an advisory question on the next general election ballot. The Board could legally at this time direct staff to develop a resolution placing the issue on the next ballot as an advisory question. He felt that the present petitions were invalid based on his feeling that any challenger would be successful. The proposed resolution does not require the petitions to meet any of the referendum requirements. It only requires the petitioners to present 1900 valid Carson City registered voters' signatures. Additional requirements could be added if the Board so desires and the resolution amended.

Mr. Glover suggested that the petitions be submitted to the Board of Supervisors. The Board could then ask him to verify the signatures from Carson City. Mayor Masayko indicated that this process would not require 1900 signatures and neither does an advisory question require 1900 signatures. Mr. Waters pointed out that if the petitioners wish to have the tax/ordinance repealed they must begin the referendum process all over.

Finance Director Mary Walker described her concern about the process as it could establish a precedence. She felt that an individual could sign the petition for his/herself, his/her spouse, his/her children, neighbors, parents, etc. She questioned whether the process under discussion would only verify that the individual is a Carson City resident and not if they are a registered voter or whether the signature is truly from the individual as purported. This would allow for fraud to occur. Mr. Waters indicated that the Clerk could determine the validity of the signatures. The potential for fraud/forgery does exist in this and other manners. Mayor Masayko felt that the resolution would require signatures to be checked for validity.

Supervisor Smith agreed that the issue was becoming complex and compounded. His intent had been to acknowledge the invalid ordinance, as the petitioners had indicated, and allow them to proceed without a penalty. He felt that it was wrong to force them to begin over just because the City must. He was not suggesting that invalid signatures should be counted nor that inappropriate circulation procedures be allowed. The petitions should be counted and verified as all others are required. He agreed that a certain number of the signatures which had been obtained will be invalid. He felt that it would be difficult to get people to resign the petitions. He also felt that the process could be repeated until noone would be willing to sign the petition simply by repealing the last ordinance and revising it again, and again.

Supervisor Bennett responded by expressing her feeling that the petition process was fundamentally flawed. One such flaw had already been indicated by the District Attorney. She felt that to proceed with a process which is

flawed would cast a shadow over the entire process. It could be challenged legally, attacked editorially, etc. She urged the Board to reject the flawed process.

Supervisor Tatro questioned whether the petitioners were interested in the compromise.

(3-0584.5) Public comments were solicited. Bob Reykers indicated that both sides had made mistakes. He was willing to start over. He would refile. He indicated he had 2500 signatures but that they may not be signed in accordance with the requirements. He was willing to start over again. Supervisor Bennett and Mayor Masayko thanked him for his comments.

Mayor Masayko pointed out that the Board is not required to adopt the resolution this evening. If Mr. Reykers presents petitions with 1900 signatures, the Board could decide to place the issue on the ballot at that time.

Mr. Reykers indicated that the signatures had been gleaned in six weeks of bad weather. The gas station managers were Carson City residents and were instructed to witness the signatures. An affidavit would have been prepared for each page. Clarification indicated that anyone circulating a petition must sign an affidavit indicating that the signatures were legitimate. Mayor Masayko indicated that Mr. Glover would assist Mr. Reykers on the process. He also pointed out that the electorate would gain more by requesting a referendum rather than an advisory question. Mr. Reykers indicated he understood and would start again.

Supervisor Tatro moved to table the petition indefinitely. Supervisor Smith seconded the motion.

(3-0635.5) Mrs. Lazor indicated that the State agreement included a provision indicating that any agreement with it could not be repealed. Mayor Masayko requested she remain on the issue.

(3-0645.5) Dennis Richey felt he was being bounced back and forth on this issue. The City is spending \$18 million and the State is spending \$20 million on flood control. This is a good deal. He had originally opposed the project, however, would now support it in view of this information. He felt that there were many people who would have signed the petition originally but will not sign again. He then indicated he supported the revised ordinance and was now against the recall.

(3-0675.5) Earl Atchison supported Supervisor Smith's comments and urged the Board to accept the petitions and put the issue on the ballot. He felt that Supervisor Bennett owed the individuals who had circulated the petitions an apology. His concern with the original ordinance had been addressed as the revised ordinance includes a sunset clause.

Additional public comments were solicited but none given.

Mayor Masayko indicated Supervisor Tatro had moved and Supervisor Smith had seconded a motion to table the Resolution indefinitely. Additional Board comments were requested but none given. The motion was voted and carried 5-0.

C. ACTION ON A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH THE STATE OF NEVADA DEPARTMENT OF TRANSPORTATION TO ESTABLISH THE CITY'S FINANCIAL CONTRIBUTION FOR THE CONSTRUCTION OF PHASE I OF THE BYPASS (3-0715.5) - Mr. Berkich introduced Finance Director Mary Walker and NDOT Engineering Assistant Director Susan

Martinovich. He summary of the agreement included the differences between the original agreement and the one for consideration this evening. Ms. Martinovich indicated similar contracts have been used for other entities. Specific examples were provided. Mr. Lipparelli thanked Ms. Martinovich and her staff, Ms. Walker and her staff, the Attorney General and her staff for all their assistance on the agreement. Reasons for including RTC in the agreement were based on its control over gas taxes as indicated in the Statutes. Mayor Masayko felt certain that RTC would support the proposal. Discussion indicated that RTC approves the project but not the ordinance implementing the tax. Mr. Lipparelli, Ms. Martinovich, and Mr. Berkich then explained in detail the rational

behind the agreement changes. Clarification indicated the project would cost \$19 million. The City will be responsible for repaying \$23 million which includes the bond costs. This total is an estimate based on the best guess of what the interest rate will be. The money collected between April 1 and election will not be refunded to the City. It will be used to pay for the design, engineering, and preliminary work done on the project. No further work will be performed on the project if the agreement is terminated. Ms. Walker indicated that if NDOT incurs \$3.5 in costs for this work, the City will not be responsible for any amount over that which the tax generates. If costs are less than the amount generated, the City will be reimbursed for the difference. The agreement included a clause whereby the obligation could be terminated if the agreement is terminated. This will allow the Board to terminate the five cent gas tax. Actual construction is not to commence until after the election question is resolved.

(1-1085.5) Ms. Walker reviewed her memo on the proposed financing data. A copy was distributed to the Board and Clerk. Discussion explored her reasons for using a higher interest rate in the estimations, the benefit of making cash payments the first two years of the agreement and then bonding the balance of the project, the impact of delaying the gas tax collection while a new ordinance was being drafted and implemented, and the advantages of having the State bond. Under the proposed program the City may be able to repay the bond in 13 to 15 years. It would have cost the City between \$30 and \$35 million for its own 20 year bond. The City will save the \$10+ million difference by taking advantage of the State loan. Ms. Walker also thanked Ms. Martinovich and her staff for their assistance. Discussion emphasized that the total cost would be \$23 million. There would be \$3 million in upfront cash and a \$16 million bond which would cost \$4 million in interest. Ms. Walker stressed that the estimates were guesses using current information. The interest rate could be higher when the bond is issued. Supervisor Tatro pointed out that the expenses being avoided by using the State's loan would not be incurred by the State as the bond would be issued until later in the process. Ms. Martinovich agreed that the upfront money would allow the State to delay bonding. The City would repay the interest costs after the bond is issued. Mr. Lipparelli then explained the requested motion. Supervisor Smith explained that he had made his case earlier. His position had lost. He has taken pride in the Board's ability to act individually but functioned as a team. This part is over. Supervisor Smith then moved that the Board of Supervisors adopt Resolution No. 1997-R-8, A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT WITH THE STATE OF NEVADA DEPARTMENT OF TRANSPORTATION TO ESTABLISH THE CITY'S FINANCIAL CONTRIBUTION FOR THE CONSTRUCTION OF PHASE I OF THE BYPASS. Supervisor Tatro seconded the motion. Mayor Masayko pointed out that there is \$20.5 million worth of flood and drainage work included in Phase I on a total project estimated at \$230 million. Ms. Martinovich felt that the drainage and flood improvements of the project would total between \$30 and \$35 million. Mayor Masayko indicated this equated to a \$2 return on a \$1 investment. Supervisor Tatro then explained his employment at NDOT and his reasons for feeling that he did not have a conflict of interest on this item. The motion to adopt Resolution No. 1997-R-8 was voted by roll call with the following result: Ayes - Smith, Plank, Tatro, Bennett and Mayor Masayko. Nayes - None. Motion carried 5-

Supervisor Bennett then explained a comment made by an individual during the previous agenda item and his request for an apology. She explained that sometimes during the heat of the debate comments are made and misunderstood. If this had occurred and if the community had been offended, she apologized. Her statements had come from her heart and were made with the good of the community in mind. She expressed the hope that whatever bad feelings had been created could be put aside and that the community could move forward on a united front.

(3-1428.5) Mr. Marangi thanked the Board for its dedication and work.

There being no other matters for consideration, Supervisor Smith moved to adjourn. Supervisor Plank seconded the motion. Motion carried 5-0. Mayor Masayko adjourned the meeting at 9:10 p.m.

The Minutes of the February 6, 1997, Carson City Board of Supervisors meeting

$\Delta RFSO$	APPROVED ON	
$A \cap C \cap A \cap C$	AFFICURELLA	

1997.

	Ray Masayko, Mayor
ATTEST:	
Alan Glover, Clerk-Recorder	