

CARSON CITY BOARD OF SUPERVISORS

Minutes of the December 5, 2013 Meeting

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A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, December 5, 2013 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Mayor Robert Crowell
Supervisor Karen Abowd, Ward 1
Supervisor Brad Bonkowski, Ward 2
Supervisor John McKenna, Ward 3
Supervisor Jim Shirk, Ward 4

STAFF: Larry Werner, City Manager
Alan Glover, Clerk - Recorder
Marena Works, Deputy City Manager
Randal Munn, Chief Deputy District Attorney
Kathleen King, Deputy Clerk / Recording Secretary

NOTE: A recording of these proceedings, the Board's agenda materials, and any written comments or documentation provided to the Clerk, during the meeting, are part of the public record. These materials are available for review, in the Clerk's Office, during regular business hours.

1 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE

(8:30:44) - Mayor Crowell called the meeting to order at 8:30 a.m. Mr. Glover called the roll; a quorum was present. Airport Road Church of Christ Pastor Bruce Henderson provided the invocation. At Mayor Crowell's request, Carson Water Subconservancy District Executive Director Ed James led the pledge of allegiance.

5. PUBLIC COMMENTS AND DISCUSSION (8:32:53) - Mayor Crowell entertained public comment. (8:33:25) Charlie Abowd, owner of Café at Adele's, expressed the belief that "government and business are partners ... in what we do." He discussed the benefits of the Downtown 20 / 20 proposal presented at a recent Board of Supervisors meeting. He expressed the opinion that infrastructure is the City's obligation, and that "it's up to ... [the] business people to take that opportunity and capitalize on it." He discussed the importance to the community of the Boys and Girls Clubs of Western Nevada and the Animal Services facility; benefits of the redevelopment incentive program; and the interest of every citizen in "making our community vital." Mayor Crowell thanked Mr. Abowd, and entertained additional public comment.

(8:41:19) Ed James, a resident of Simons Court in Carson City, invited the Board members and the public to visit the drive-thru nativity at the Methodist Church on December 14 and 15, 2013, from 6:30 to 8:00 p.m. At Supervisor McKenna's request, Mr. James reviewed the designated route. Mayor Crowell entertained additional public comment; however, none was forthcoming.

6. POSSIBLE ACTION ON APPROVAL OF MINUTES - August 15, 2013 and September 5, 2013 (8:42:37) - Mayor Crowell entertained suggested revisions to the August 15, 2013 minutes and, when none were forthcoming, a motion. **Supervisor Bonkowski moved to approve the minutes, as presented. Supervisor Abowd** noted a correction to the spelling of Dana Freund's name, and **seconded the motion. Motion carried 5-0.** Mayor Crowell entertained suggested revisions to the September 5, 2013 minutes and, when none were forthcoming, a motion. **Supervisor Bonkowski moved to approve the minutes, as presented. Supervisor Abowd seconded the motion. Motion carried 5-0.**

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7. POSSIBLE ACTION ON ADOPTION OF AGENDA (8:43:22) - Mayor Crowell entertained modifications to the agenda, and when none were forthcoming, deemed it adopted as published.

8. SPECIAL PRESENTATION OF A PROCLAMATION FOR ENERGYFIT NEVADA DAY, DECEMBER 5, 2013 (8:43:45) - Mayor Crowell introduced this item, and invited State Energy Office Energy Program Manager Kevin Hill to join him at the podium. Mayor Crowell read into the record the language of the Proclamation, included in the agenda materials, and provided background information on Mr. Hill's involvement in the development and passage of Question #1. Mayor Crowell presented the original Proclamation to Mr. Hill.

(8:46:25) Mr. Hill thanked Mayor Crowell and the Board for the Proclamation and introduced Neil Van Sitters. Mr. Van Sitters provided an overview of the EnergyFit Program, and reviewed corresponding statistical information. Mr. Hill discussed his personal experience with the EnergyFit Program, and encouraged participation. He, again, thanked the Board for the Proclamation and provided the web address at EnergyFitNevada.org.

9. CONSENT AGENDA (8:50:16) - Mayor Crowell introduced this item, and entertained requests to hear items separate from the consent agenda. Supervisor Bonkowski requested to separately hear item 9-3. Mayor Crowell entertained additional requests and, when none were forthcoming, a motion. **Supervisor McKenna moved to approve the consent agenda, consisting of one item from the Assessor, 9-1; one item from Finance, 9-2; two items from Public Works, 9-4(A) and (B); and one item from Health and Human Services, 9-5. Supervisor Abowd seconded the motion.**

RESULT:	Approved [5 - 0]
MOVER:	Supervisor John McKenna
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors McKenna, Abowd, Bonkowski, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

9-1. ASSESSOR - POSSIBLE ACTION TO APPROVE THE PARTIAL REMOVAL AND REFUND OF REAL PROPERTY TAXES FOR PARCEL NUMBERS 003-151-25, 501 SOUTH ORMSBY BOULEVARD, AND 009-014-05, 502 SOUTH ORMSBY BOULEVARD, FOR THE 2013 / 2014 TAX YEAR, PURSUANT TO NRS 361.060, IN THE AMOUNT OF \$804.13 (\$256.13 REFUNDED)

9-2. FINANCE DEPARTMENT - POSSIBLE ACTION TO ACCEPT THE REPORT ON THE CONDITION OF EACH FUND IN THE TREASURY AND THE STATEMENTS OF RECEIPTS AND EXPENDITURES, THROUGH NOVEMBER 25, 2013, PURSUANT TO NRS 251.030 AND NRS 354.290

9-3. PURCHASING AND CONTRACTS - POSSIBLE ACTION TO DETERMINE THAT CONTRACT NO. 1314-123 IS A CONTRACT FOR PROFESSIONAL SERVICES AND, THEREFORE, NOT SUITABLE FOR PUBLIC BIDDING, PURSUANT TO NRS 332.115, AND TO APPROVE CONTRACT NO. 1314-123, A REQUEST FOR PROFESSIONAL SERVICES TO BE PROVIDED BY RALPH ANDERSEN & ASSOCIATES, THROUGH DECEMBER 4, 2014, FOR

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AN AMOUNT NOT TO EXCEED \$35,000.00, TO BE FUNDED FROM THE HUMAN RESOURCES PROFESSIONAL SERVICES ACCOUNT IN THE GENERAL FUND, AS PROVIDED IN FY 2013 / 2014 (8:51:14) - Mayor Crowell introduced this item and, in response to a question, Human Resources Department Director Melanie Bruketta provided background information on the \$35,000 contract figure. Mayor Crowell entertained additional questions and, when none were forthcoming, a motion. Supervisor Bonkowski moved determine that Contract No. 1314-123 is a contract for professional services and, therefore, not suitable for public bidding, pursuant to NRS 332.115, and to approve Contract No. 1314-123, a request for professional services to be provided by Ralph Andersen & Associates, through December 4, 2014, for an amount not to exceed \$35,000, to be funded from the Human Resources Professional Services account in the general fund, as provided in FY 2013 / 2014. Supervisor Abowd seconded the motion.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bonkowski, Abowd, McKenna, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

9-4. PUBLIC WORKS DEPARTMENT

9-4(A) POSSIBLE ACTION TO APPROVE CHANGING THE TITLE OF THE CITY ENGINEER POSITION TO ENGINEERING MANAGER AND APPOINTING THE DEPUTY PUBLIC WORKS DIRECTOR AS CITY ENGINEER FOR PURPOSES OF ADMINISTERING THE CARSON CITY MUNICIPAL CODE

9-4(B) POSSIBLE ACTION TO ACCEPT A GRANT FROM THE NEVADA GOVERNOR'S OFFICE OF ENERGY ("NGOE") AND NEVADA ENERGY FOR THE INSTALLATION OF AN ELECTRIC VEHICLE CHARGING STATION AT THE CARSON CITY COMMUNITY CENTER

9-5. HEALTH AND HUMAN SERVICES DEPARTMENT - POSSIBLE ACTION TO APPROVE CARSON CITY HEALTH AND HUMAN SERVICES ("CCHHS") APPLYING FOR A GRANT THROUGH THE NATIONAL ASSOCIATION OF COUNTY AND CITY HEALTH OFFICIALS ("NACCHO") FOR THE SUPPORT OF LOCAL PUBLIC HEALTH DEPARTMENTS IN UNDERTAKING ACCREDITATION PREPARATION ACTIVITIES

ORDINANCES, RESOLUTIONS, AND OTHER ITEMS

10. ANY ITEM(S) PULLED FROM THE CONSENT AGENDA WILL BE HEARD AT THIS TIME (8:51:06) - Please see the minutes for item 9-3.

11. CITY MANAGER

11(A) POSSIBLE ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 2, ADMINISTRATION AND PERSONNEL, CHAPTER 2.34, CODE OF ETHICS FOR ELECTED AND APPOINTED OFFICIALS, BY REPEALING THE ENTIRE CHAPTER, AND OTHER MATTERS PROPERLY RELATED THERETO (8:52:40) - Mayor Crowell introduced this item, and Mr. Werner provided

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background information. He commended Andrea Engleman's chairmanship of the Board's Ethics Ordinance Review Committee as "very professional ..." Mayor Crowell thanked Ms. Engleman, and invited her to comment.

(8:53:57) Andrea Engleman introduced Ethics Ordinance Review Committee members Angela Miles, Jeanette Bloom, Caren Cafferata-Jenkins, and Dawn Ellerbrock, who were present in the meeting room. Ms. Engleman provided an overview of the Ethics Ordinance Review Committee process. Supervisor McKenna discussed various provisions of the ethics statutes. Ms. Engleman commended Recording Secretary Tamar Warren on the meeting minutes, and expressed appreciation for the opportunity to have worked with City staff.

Mr. Werner discussed the purpose of the proposed ordinance. Mayor Crowell emphasized that the provisions of the ethics statutes are more stringent than those of the City's Municipal Code. Discussion followed. Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to introduce, on first reading, Bill No. 128, an ordinance amending the Carson City Municipal Code, Title 2, Administration and Personnel, Chapter 2.34, Code of Ethics for Elected and Appointed Officials, by repealing the entire chapter, and other matters properly related thereto. Supervisor Bonkowski seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Karen Abowd
SECOND:	Supervisor Brad Bonkowski
AYES:	Supervisors Abowd, Bonkowski, McKenna, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

11(B) POSSIBLE ACTION TO ADOPT A RESOLUTION ESTABLISHING A POLICY OF ETHICS COMPLIANCE FOR CARSON CITY ELECTED AND APPOINTED PUBLIC OFFICERS AND PUBLIC EMPLOYEES (9:00:10) - Mayor Crowell introduced this item and, at his invitation, Andrea Engleman provided background information on the purpose of the resolution. Mayor Crowell entertained public comment; however, none was forthcoming. Mayor Crowell requested to have the subject resolution enlarged, framed, and hung in the Sierra Room. Mayor Crowell entertained a motion. **Supervisor Bonkowski moved to adopt Resolution No. 2013-R-44, a resolution establishing a policy of ethics compliance for Carson City elected and appointed public officers and public employees. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bonkowski, Abowd, McKenna, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

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Mayor Crowell moved to enlarge the subject resolution, frame it, and hang it in a prominent place in the Sierra Room. Supervisor Abowd seconded the motion. Mayor Crowell entertained discussion on the motion. Supervisor McKenna requested to have the resolution framed and hung in other City offices. He provided an overview of discussion at the recent Audit Committee meeting that the Fraud, Waste, and Abuse hotline could also be used to report ethics violations, noting that the primary report should be to the Ethics Commission. Mayor Crowell entertained additional discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Mayor Robert Crowell
SECOND:	Supervisor Karen Abowd
AYES:	Mayor Crowell and Supervisors Abowd, Bonkowski, McKenna, Shirk
NAYS:	None
ABSENT:	None
ABSTAIN:	None

Mayor Crowell thanked the Ethics Ordinance Review Committee for their service, and looked forward to training to be provided by Ms. Cafferata-Jenkins.

11(C) PRESENTATION BY CARSON WATER SUBCONSERVANCY DISTRICT (“CWSD”) STAFF REGARDING THE COMPREHENSIVE REGIONAL WATER SYSTEM REPORT AND OVERVIEW OF THE BUREAU OF RECLAMATION PLAN OF STUDY (9:04:42) - Mayor Crowell introduced this item and recessed the meeting at 9:05 a.m. in order to provide time to set up the presentation. Mayor Crowell reconvened the meeting at 9:15 a.m., and Carson Water Subconservancy District Executive Director Ed James advised of having left copies of *The Flow* publication on the back table in the meeting room. He narrated the subject PowerPoint presentation, copies of which were included in the agenda materials. He responded to questions of clarification throughout the presentation, and discussion followed. Mayor Crowell entertained public comments and, when none were forthcoming, thanked Mr. James for his presentation.

12. COMMUNITY DEVELOPMENT DEPARTMENT, BUSINESS LICENSE DIVISION - POSSIBLE ACTION WITH REGARD TO THE BOARD CONDUCTING A DUE PROCESS SHOW CAUSE HEARING, DELIBERATING, AND TAKING ACTION, PURSUANT TO CCMC 4.04.210, ON THE COMPLAINT FOR THE SUSPENSION, CANCELLATION, OR REVOCATION OF THE BUSINESS LICENSE OF CHATMAN SALES, INC., BUSINESS LICENSE NO. 13-30069, FOR HAVING SOLICITORS OPERATE IN CARSON CITY WITHOUT THE REQUIRED SOLICITORS’ REGISTRATION PERMITS ISSUED BY THE CARSON CITY SHERIFF’S OFFICE (9:54:51) - Mayor Crowell introduced this item, noting that he had inquired, at approximately 9:35 a.m., as to the presence of a representative of Chatman Sales, Inc. Mayor Crowell called again for a Chatman Sales, Inc. representative; however, no one was forthcoming. Mayor Crowell introduced this item. (9:54:40) Senior Business License Technician Lena Reseck provided background information and reviewed the agenda materials.

Mayor Crowell opened the show cause hearing and called again for a representative of Chatman Sales, Inc. When no one was forthcoming, he entertained additional comments from staff and questions of the Board members. When no questions or comments were forthcoming, he entertained a motion. **Supervisor Abowd moved that the Board hereby makes findings of fact that Chatman Sales, Inc. has not timely filed an answer to the complaint served November 15, 2013, issued pursuant to CCMC 4.04.210, and**

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that the allegations in that complaint are true; that Chatman Sales, Inc. had solicitors operating in Carson City, on or about October 2, 2013, not in compliance with required registration permits issued by the Carson City Sheriff, as set forth in CCMC 4.16.010; and, therefore, further moved to revoke the business license no. 13-30069, held by Chatman Sales, Inc., and instruct the Carson City Clerk to transcribe this oral order, attest to such transcription, and deliver such order to the business license division for its immediate service of the attested order by certified mail, return receipt requested, addressed to the last known address of the licensee. Supervisors Bonkowski and McKenna seconded the motion. Mayor Crowell called again for a representative from Chatman Sales, Inc. and, when no one was forthcoming, called for a vote on the pending motion.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Karen Abowd
SECOND:	Supervisors Bonkowski and McKenna
AYES:	Supervisors Abowd, Bonkowski, McKenna, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

Mayor Crowell closed the show cause hearing.

13. HEALTH AND HUMAN SERVICES DEPARTMENT - POSSIBLE ACTION TO ADOPT, ON SECOND READING, BILL NO. 127, AN ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 7, ANIMALS, CHAPTER 7.13, LICENSING AND REGULATIONS, BY AMENDING SECTION 7.13.010, DEFINITIONS, TO AMEND AND ADD NEW DEFINITIONS, BY AMENDING SECTION 7.13.020, CARSON CITY ANIMAL SERVICES / POWERS, BY AMENDING DUTIES ANIMAL SERVICES, AND BY AMENDING SECTION 7.13.050, ANIMAL SERVICES / PERMITS / LICENSE / ADOPTIONS, TO REVISE AND ELIMINATE CERTAIN PROVISIONS, AMENDING SECTION 7.13.060, VACCINATIONS / RABIES / ANIMAL BITES AND QUARANTINE, BY UPDATING THE LANGUAGE AND BY AMENDING SECTION 7.13.070, IMPOUNDING OF ANIMALS, BY UPDATING RESPONSIBILITY OF OWNER, AND OTHER MATTERS PROPERLY RELATED THERETO (9:58:23) - Mayor Crowell introduced this item and, in response to a question, Health and Human Services Department Director Nicki Aaker advised of having added a reference, in Section 7.13.070, Impounding of Animals, to Section 7.13.040, which provides for imposing or waiving fees. Ms. Aaker advised of having received no comments on the proposed ordinance, since introduction on first reading.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to adopt, on second reading, Bill No. 127, Ordinance No. 2013-30, amending the Carson City Municipal Code, Title 7, Animals, Chapter 7.13, Licensing and Regulations, by amending Section 7.13.010, Definitions, to amend and add new definitions, by amending Section 7.13.020, Carson City Animal Services / Powers, by amending Duties Animal Services, and by amending Section 7.13.050, Animal Permits / Licenses / Adoptions, to revise and eliminate certain provisions, amending Section 7.13.060, Vaccinations / Rabies / Animal Bites and Quarantine, by updating the language, and by amending Section 7.13.070, Impounding of Animals, by updating responsibility of owner, and other matters properly related thereto. Supervisor McKenna seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming called for a vote:

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RESULT:	Approved [5 - 0]
MOVER:	Supervisor Karen Abowd
SECOND:	Supervisor John McKenna
AYES:	Supervisors Abowd, McKenna, Bonkowski, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

14. DISTRICT ATTORNEY - POSSIBLE ACTION TO INTRODUCE, ON FIRST READING, A PROPOSED ORDINANCE AMENDING THE CARSON CITY MUNICIPAL CODE, TITLE 8, AT SECTION 8.04.127, ENTITLED "MARIJUANA POSSESSION WITHOUT MEDICAL PRIVILEGE CARD IS A MISDEMEANOR," BY ADDING SECTIONS PERTINENT TO FINES, AS REQUIRED AND ADDRESSED AT NEVADA REVISED STATUTE 453.3361 (10:00:45) - Mayor Crowell introduced this item. Senior Deputy District Attorney Joseph Ward reviewed the agenda materials, and responded to questions of clarification. He explained the purpose of the proposed ordinance to ensure that the Carson City Municipal Code comports with the statute, and responded to questions of clarification.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Bonkowski moved to introduce, on first reading, Bill No. 129, which is an ordinance amending CCMC 8.04.127 to address the disbursements of fines, pursuant to NRS 453.3361. Supervisor McKenna seconded the motion.** Mayor Crowell entertained discussion. Mr. Ward and Supervisor Bonkowski responded to questions of clarification regarding statistical information relative to medical marijuana and dispensaries; and requirements associated with a medical marijuana privilege card. Mayor Crowell called for a vote on the pending motion.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor John McKenna
AYES:	Supervisors Bonkowski, McKenna, Abowd, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

15. FINANCE DEPARTMENT

15(A) PUBLIC HEARING ON THE INTENT OF CARSON CITY, NEVADA TO ISSUE GENERAL OBLIGATION (LIMITED TAX) BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES) (10:06:35) - Mayor Crowell introduced this item, and Finance Department Director Nick Providenti reviewed the agenda materials. Mayor Crowell opened the public hearing and entertained public testimony. When no one was forthcoming, he closed the public hearing.

15(B) POSSIBLE ACTION TO ADOPT THE FINANCIAL AND BUDGET POLICIES FOR CARSON CITY (10:07:49) - Mayor Crowell introduced this item. Finance Department Director Nick Providenti provided background information and reviewed the agenda materials. Public Works Department Director Andrew Burnham provided additional clarification regarding the enterprise fund financial stabilization policy section. Mr. Providenti responded to various questions of clarification.

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In response to a question, Mr. Werner advised of the likelihood that the policy document will “change at each budget session to some extent.” Mr. Providenti, Mr. Werner, and Mr. Burnham responded to additional questions of clarification, and discussion took place, regarding the provisions of the debt management policy; the purview and purpose of the Utility Financial Oversight Committee; and the mechanism of the system replacement reserves portion of the policy.

Mayor Crowell entertained public comment. (10:25:58) Lori Bagwell commended the financial and budget policies, and suggested additions and revisions. Mr. Providenti and Mr. Werner responded to questions regarding the budget process and the provisions of the subject policy.

Mr. Providenti and Mr. Werner responded to additional questions of clarification regarding the proposed provisions relative to reserve funds and the purpose for the stabilization funds. Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to adopt the attached financial and budget policies for Carson City, taking into consideration language additions and clarifications, as discussed. Supervisor McKenna seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Karen Abowd
SECOND:	Supervisor John McKenna
AYES:	Supervisors Abowd, McKenna, Bonkowski, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

Mayor Crowell recessed the meeting at 10:45 a.m. and reconvened at 10:53 a.m.

16. CITY MANAGER

16(A) POSSIBLE ACTION TO ADOPT A RESOLUTION FORMALLY ESTABLISHING THE CARSON CITY UTILITY FINANCIAL OVERSIGHT COMMITTEE (10:54:00) - Mayor Crowell introduced this item, noting the discussion which took place under the previous agenda item. He provided background information on this item, and Mr. Werner reviewed the agenda materials. Mr. Werner advised that each Board member would be requested to submit a nominee to the City Manager's Office, and discussed the process by which meetings would thereafter be scheduled.

Mayor Crowell entertained public comment and, when none was forthcoming, Board member questions or comments. Supervisor Shirk requested to have the subject committee “oversee other entities ...” Public Works Department Director Andy Burnham advised that this would be a Board decision. He expressed doubt as to the necessity “since we don't have financial policies ... as specific as we do for utilities. Most of those other ... funds are much smaller in scope and scale.” Finance Department Director Nick Providenti explained that the ambulance and the cemetery are the two other enterprise funds, and that these are supported by the general fund. “They really don't spend any money on capital. They basically just have their operations so it's not as sophisticated ... or as expansive ...” Discussion followed, and Mr. Burnham responded to additional questions of clarification relative to the provisions of the resolution.

Mayor Crowell entertained a motion. **Supervisor Bonkowski moved to adopt Resolution No. 2013-R-45, formally establishing the Carson City Utility Financial Oversight Committee. Supervisor McKenna seconded the motion.** Mayor Crowell entertained public comment and, when none was forthcoming,

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Board discussion. Supervisor Shirk expressed objection to the subject committee. Mayor Crowell entertained additional discussion and, when none was forthcoming, called for a vote.

RESULT:	Approved [4-1]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor John McKenna
AYES:	Supervisors Bonkowski, McKenna, Abowd and Mayor Crowell
NAYS:	Supervisor Jim Shirk
ABSENT:	None
ABSTAIN:	None

Supervisor Bonkowski nominated Mark Rotter. Supervisor Abowd nominated Andrea Engleman. Supervisors McKenna and Shirk requested volunteers from Ward 3 and Ward 4, respectively.

16(B) POSSIBLE ACTION TO HAVE THE CITY MANAGER AND STAFF EXPLORE POSSIBLE WAYS TO ENSURE THE CITY WILL CONTINUE TO HAVE THE ABILITY TO DISCHARGE EXCESS RECLAIMED WASTEWATER ONTO THE EMPIRE RANCH GOLF COURSE REAL PROPERTY, INCLUDING POSSIBLY PURCHASING IT THROUGH A BANKRUPTCY COURT APPROVED SALE (11:04:32) - Mayor Crowell introduced this item. Mr. Werner provided extensive background information and reviewed the agenda materials. He responded to questions regarding possible outside interest in the Empire Ranch Golf Course, the possibility of other alternatives for the disposal of effluent water, possible alternatives to the recommended action, and the necessity for ongoing evaluation. In response to a question, Parks and Recreation Department Director Roger Moellendorf discussed the possibility of utilizing the property for a disc golf course. Following discussion, in response to a further question, Mr. Werner provided an overview of discussions relative to regional approaches to addressing the matter.

Following additional discussion, Mayor Crowell entertained a motion. When no public comment was forthcoming, he entertained a motion. **Supervisor McKenna moved to authorize the City Manager and staff to bring back ways to ensure Carson City will continue to have the ability to discharge reclaimed wastewater, including exploring the possibility of a City purchase of Empire Ranch Golf Course real property. Supervisor Bonkowski seconded the motion.** Mayor Crowell entertained discussion. In response to a question, Supervisor McKenna advised that the intent of the motion was to indicate “there are many ways to ensure the City will continue to have the ability to discharge reclaimed wastewater; not just the Empire Ranch Golf Course, but that is a possibility.” In response to a comment, Supervisor McKenna noted that he had not specified a timetable in his motion. Following a brief discussion, Mayor Crowell called for a vote on the pending motion.

RESULT:	Approved [5-0]
MOVER:	Supervisor John McKenna
SECOND:	Supervisor Brad Bonkowski
AYES:	Supervisors McKenna, Bonkowski, Abowd, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

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16(C) POSSIBLE ACTION TO SECURE THE EMPLOYMENT OF LEE B. SMITH, MAI-ARA, OF LEE B. SMITH & ASSOCIATES, A COMPETENT LICENSED REAL ESTATE APPRAISER, TO APPRAISE THE EMPIRE RANCH GOLF COURSE REAL PROPERTY (11:53:42) - Mayor Crowell introduced this item, and Mr. Werner reviewed the agenda materials. Mr. Werner responded to questions regarding appraisal cost. Supervisor McKenna commended Mr. Smith as very knowledgeable and very frugal. Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to appoint and have Mr. Lee Smith sworn, pursuant to NRS 244.275, to appraise the Empire Ranch Golf Course real property, facilitating the City's consideration of a possible purchase of such land. Supervisor Bonkowski seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5-0]
MOVER:	Supervisor Karen Abowd
SECOND:	Supervisor Brad Bonkowski
AYES:	Supervisors Abowd, Bonkowski, McKenna, Shirk and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

Supervisor McKenna suggested considering the possibility of financing the sale of the golf course in the event an interested buyer was to come forward. He reiterated previous comments in opposition to the City owning another golf course, and Mr. Werner acknowledged understanding.

RECESS AND RECONVENE BOARD OF SUPERVISORS (11:56:49; 2:03:19) - Mayor Crowell recessed the meeting at 11:56 a.m. and reconvened at 2:03 p.m.

17. COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION - POSSIBLE ACTION TO CONSIDER AN APPEAL OF CERTAIN CONDITIONS IN THE PLANNING COMMISSION'S APPROVAL TO AMEND A PREVIOUSLY-APPROVED SPECIAL USE PERMIT FOR ROB LAUDER (PROPERTY OWNERS: BERNARD / BERNARD, CUCCARO, LLC AND WILLIAM F. AND D. HORNE, ET AL.), FOR PERMANENT OUTDOOR DISPLAY OF MERCHANDISE, ON PROPERTY ZONED RETAIL COMMERCIAL, LOCATED AT 1803, -05, -07, -09, -11, -15, -17, -19, AND -21 NORTH CARSON STREET, APNs 002-091-03, -04, AND -06 (SUP-09-055A) (2:03:30) - Mayor Crowell introduced this item and advised of having just returned from the Douglas County Commissioners meeting where Mr. Werner was presented a formal Proclamation acknowledging all he has done to benefit both counties. Ms. Dorr Pansky reviewed the agenda materials in conjunction with displayed slides. She noted staff's response to the appellant's justification included in the agenda materials. She introduced Fire Prevention Captain Dave Ruben and Chief Building Official Kevin Gattis. At Mayor Crowell's request, Ms. Dorr Pansky reviewed the three issues of appeal and responded to corresponding questions of clarification. She acknowledged that special use permits are property specific. In response to a further question, she advised that the City could vacate a special use permit for cause. She suggested "we could, if the Board chose, put a condition on this special use permit. We didn't previously, but we could potentially put a condition that stated that should this tenant vacate, the special use permit would no longer exist."

Ms. Dorr Pansky further acknowledged that there is no time frame associated with the subject special use permit. She further acknowledged that Building Division staff is in agreement with the Planning Commission's action, and responded to additional questions of clarification. In response to a further

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question, she advised that parking standards at the shopping center, constructed in the 1960s, does not meet current parking standards. “However, because this has been in existence as a legal, nonconforming use, and the fact that they are proposing to bring the parking lot back to the number of spaces they had before the display was expanded and, actually, they're adding ... three spaces, is acceptable to staff.” In response to a further question, Ms. Dorr Pansky advised that “because of the large nature of these display areas in the parking lot, having under-eave display areas in addition to that, creates a problem if and when there is a fire and there is a need for large quantities of people to exit the building at one time. Because they are not able to go out into the parking lot and disperse, they have to go around the display areas down the sidewalk adjacent to the building to get into the parking lot. And as far as the parking, display area number two, which is adjacent to A to Zen, ... staff does not agree with what the appellant is proposing because of the fact that there will be people not just coming to and from their cars in this display area that will be mingling with traffic, but also there will be people that are going to be looking at displays in this area. ... the cars only have 16 feet on the north and 12 feet on the west to navigate around where these people will be looking at merchandise is not something that's acceptable to staff.”

Mayor Crowell invited the appellant's representative to the podium. (2:17:23) Attorney Mike Suglia, representing Evergreen Gene's, introduced Gene and Rowena Munnings. Mr. Suglia expressed the opinion there are “three important reasons why the appeal should be approved. First of all, this business is good for Carson City. Second of all, if you've carefully read the staff report from Ms. Pansky, ... she's asking you to make a discretionary decision that's well within your authority to make. And, thirdly, ... this particular case [will] send a message to the business community of Carson City as to how this Board values and views businesses and new businesses.” Mayor Crowell expressed understanding, and requested Mr. Suglia to discuss “why there is not a public health and safety issue that exists with the method that Gene's asking for.” Mr. Suglia advised of having patronized Mr. Munnings' store for many years. “He's got a unique garden shop and has created an attraction on North Carson Street. He's taken that particular business ... and ... created this wonderful shop with unique plants. They just thrive in our community. ... He's created an attraction on North Carson Street. We talk a lot about redevelopment in this City. We're not here asking for grants or handouts or help or anything else. What we're asking for is a chance for this business to thrive.” Mr. Suglia expressed the opinion that “Gene and his wife, they've kind of been their own ... two-person redevelopment business. They came in here and took that shopping center and created this.” In reference to the “blacktop,” Mr. Suglia advised that “Gene took the material to seal that and he did it by hand, the whole ... parking lot. He built a little barrier there. He's put in an incredible amount of sweat equity and an incredible commitment to this City and he did it all by himself, all on his own initiative. Mr. Suglia reiterated that “when it comes right down to it, this appeal is discretionary. ... we're not asking you to change Code or bend Code or compromise safety. Discretionary decisions. It's well within your authority to do it. And second of all, you're going to tell the business community, with your decision today, that we want to encourage business. We want to help business. We want the businesses to thrive and we don't want to micromanage a person's ability to make a living. Those are the policy reasons why this is so important.”

In consideration of safety, Mr. Suglia referenced the area “near Carson Street” in conjunction with a displayed photograph. “What we're proposing, ... as a compromise to the staff's concerns about safety, what we're considering is putting some additional striping around that display.” Mr. Suglia expressed the opinion that “those of you who have been there will know that we're not talking about a high volume of traffic in this shopping center. It has some people come and use it largely ... because of Gene and A to Zen. We're not talking about a situation like Wal-Mart. ... When you park at the Wal-Mart in Carson, you have to walk through a parking lot. You have to almost cross a street that has literally hundreds of cars going by to get inside the store. And that seems to be accomplished every day without safety concerns. This is

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nowhere near that because what we're proposing is that there's a full 12 feet to the nearest parking space ... and there's also 12 feet out to Carson Street. When the City first looked at this, they issued a memo and said, 'We don't have concerns about that.' And then there was a clarification. They said, 'Well, we didn't really look at that.' But, since 2009, there's been a plant display out front. There's a low volume of traffic and there's been no incidences that the landlord or Gene has ever been aware of conflicts with cars and pedestrians." Mr. Suglia personally attested, "You don't really even notice cars going by. You look at the plants, you're in between these big racks. The cars go by far away from you if they're even there and you can safely purchase your plants." He expressed the opinion, "I don't think it's really a safety issue. And, in addition, because of staff's concerns ...," he reiterated the proposal for additional striping "around this display to make it even more noticeable to the traffic that might go by while someone's looking at plants. If we don't have a problem, ... we [don't] have something that we really have to fix. Despite that, we're going to make it even safer even though there is no known safety issue to us." In reference to the Wal-Mart comparison, he reiterated "this is nothing like that because there's not the volume." Mr. Suglia advised that the landlord "can testify to that."

In consideration of condition of approval 10, Mr. Suglia compared walking out to the Community Center west parking lot. "... if I walk out the door, take a left and go out these doors, I can go straight out into the parking lot in case there is an emergency. That's safe. But if I go left or right, there's a little wall right here blocking my access. Well, think about that entrance right here on the west side of this very building we're in and then think about Gene's. ... He's got an aisle way when you walk out his front door. You have access to the outside of the building. If that was a parking lot, you might have a car in the way, but it's not. It's a plant display area. You walk out the front door if any kind of emergency in that building should occur and you're out of the building. Now, in our map that we presented, we did not designate that as a permanent area to leave open, but we're certainly willing to do that. And, in exchange, under the eaves, right now you have six feet of space. ... What we would like is to still maintain some display under there, not to exceed two feet. So we have 48 inches of walkway under the eaves and we have an aisle way so you can walk out of the building and get out of the building should you need to in an emergency. And then, after we do that, it would kind of look like this entrance right out here." Mr. Suglia expressed the opinion there's nothing unsafe about the Community Center and nothing unsafe about the proposed design. "And so that would be why we're asking for this Board to modify those conditions and allow us to have under-the-eaves display." In reference to a displayed map, Mr. Suglia pointed out "a lot of area under the eaves where display is going to be allowed and there's no problem with that. It's only right in front of Gene's. This is important to the businessman to have his merchandise right there near the store for a number of reasons. It can avoid the problem of theft. He can move ... different merchandise as the seasons dictate and he's willing to leave the 48 inches. It has been a problem in the past. There's been some clutter there. It's not going to be a problem in the future. If we approve that, we're going to maintain the 48 inches." Mr. Suglia again reiterated, "This is a ... discretionary decision for the decision-making body and that's this Board." He further reiterated he was not asking to "bend Code or violate Code ... [or] for something that's unsafe." He requested the Board "to allow this person, who's done so much for Carson City and has brought so much of his own sweat-equity redevelopment to North Carson Street, to let him thrive; to let him run his business as he sees fit." Mr. Suglia acknowledged the importance of safety. "No one wants an unsafe business nor will it be if you approve the conditions that we're asking for the appeal."

In reference to the map at page 22 of the agenda materials, Ms. Dorr Pansky acknowledged that the west drive will have 12 feet of clearance for vehicular traffic. In response to a further question, she explained that "this is what was proposed at the Planning Commission meeting by the applicant after the staff report came out." In response to a further question, she clarified her recommendation for a 25-foot width in conjunction with a displayed drawing. She explained, "when staff issued the staff report, the applicant

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came back with this potential compromise with the four-foot striping around it.” In response to a further question, Captain Ruben explained the maintenance issue relative to “the ability to walk in that walkway.” Mr. Suglia advised that he has been “working with the applicant and ... agree[d] that, before we started working together, there was some clutter out there. ... There wasn't always 48 inches. There was a big rack that had succulents on it and, as soon as the season wound down, Mr. Munnings went ahead and moved that into the front display. That was one of the big areas where he had a little bit of a bottle neck there and that's been moved there. He had a fountain that was ... chained to one of the pillars and that inhibited some of the movement too. He moved that so it's now in the front display.” Mr. Suglia advised that he has been working with Mr. Munnings and has “gone out there with a tape measure. ... We're going to maintain 48 inches and ... when we do that, then we've eliminated the concerns.” Mr. Suglia expressed a willingness to stipulate and have a condition of approval that the aisle way out the front doors and into the parking lot be maintained. “It's not shown on the map ... but we're certainly willing to do that and it's been there since the inception.” He reiterated “it resembles the exact same thing we have right out front of this building as you walk out the west side. You can go straight out. If you go left or right, you have a longer time before you can get into that parking lot. It's not unsafe, but we'll make sure that we maintain that front entrance and keep the aisle ways clear. ... 48 inches should be more than adequate.” Mr. Suglia suggested having Engineer Rob Lauder address “some of the Code issues ... about the spacing there.” In response to a question, Mr. Suglia advised that the aisle ways are six feet without the obstructions. He and Ms. Dorr Pansky responded to corresponding questions of clarification in conjunction with displayed slides. In response to a further question, Mr. Suglia advised of having been threatened with a citation and “in response, we submitted to do it right.”

In response to a question, Ms. Dorr Pansky further clarified the 25-foot width recommendation. Mr. Plemel explained the purpose for the special use permit relative to permanent outdoor display. He acknowledged that the special use permit could be amended to allow only for plant display, but clarified that neither the applicant nor the property owner had proposed this in the past. “... we have gone forward considering it as being open display for whatever uses may be in the shopping center thus far.”

In reference to the August 20, 2013 memo, at page 28 of the agenda materials, Mr. Suglia read into the record paragraph 3. He explained, “this display in front, as it's currently used, is only used from about May 'til September and then those plants are done. The season's over and if you went by now, you would not see any display whatsoever out there. ... But ... during that season, it's real important to have that sunny spot for those annuals, ... the tomatoes and peppers that people buy to put in their gardens just for those few months of growing season. It's important to this business to have that space out there. It's not used all year round.” In reference to the August 20, 2013 memo, Ms. Dorr Pansky advised of having discussed the conditions of approval with Engineering Technician / Plan Reviewer Rory Hogan. Ms. Dorr Pansky clarified that “the conflict of shoppers in a display area with potential traffic was not something he specifically contemplated and he typically does not contemplate that type of thing. Whether or not he should have, ... that remains to be seen, but just as a clarification ...”

(2:47:21) At Mr. Suglia's request, Engineer Rob Lauder advised of having completed the special use permit application on behalf of the property owners. He expressed the opinion that the “Code issues” have been “gone over ... pretty extensively between us and staff.” He advised of no “real disagreement about Code issues and egress requirements.” In response to a question, Mr. Plemel disagreed that the appeal is discretionary and not Code related. He requested to have Chief Building Official Kevin Gattis testify at the appropriate time. Mr. Lauder clarified that “we are not interested in impeding exiting people from the building in an emergency situation or any kind of situation.” He advised of having “made a mistake in [his] application when [he] did not show that three-foot aisle from Evergreen Gene's front door out to the parking

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lot. That should have been there,” and Mr. Lauder apologized. He recommended that any approval “include that requirement.” He described adequate emergency egress from Evergreen Gene's and the other vacant spaces. He advocated that “for display area number two, ... the proposal that we made ... to include a four-foot walk zone at the outer perimeter ... just makes sense.” He recommended adding conditions of approval “that the three-foot aisle be maintained west of Evergreen Gene's and that the display that impedes the egress of those two doors back in the corner ... not be allowed, and that we keep at least a four-foot wide space ... at that outer display area number two.”

(2:53:15) Property Manager Bill Horne expressed appreciation for “what Evergreen Gene has done for the center. ... it's attractive, ... it's unique, and ... it is something that reflects well on Carson City.” He expressed the hope that “everyone would agree.” Mr. Horne advised that he has served as the property manager for the past ten years. “The bypass is causing change and the traffic that is there today, along Carson Street, is about 40 percent of what it was before the bypass. ... if we have three cars moving at any one time, that's at the high end. ... I believe that we have less than one-half of one percent of the traffic that you would see at Wal-Mart. It is not a high traffic area and so, when you talk about traffic flow and how things are and how we're changing it, we don't really have much in the way of traffic flow. Ninety-five percent of the traffic that I have seen, during the ten years, comes in the middle entrance ... We have almost no use of the south area. Typically, the owner of A to Zen parks there and, occasionally, he'll have a customer park there, but it is rare.” Mr. Horne advised of having measured “to Carson Street and two lanes of Carson Street that are adjacent, the total distance from the curb to the end of Carson Street is 22 feet for two lanes.” He expressed support for Evergreen Gene's and for business in general, and the belief that “our plan has addressed safety issues ... We're in change. The building was not originally designed to have the business it does now. We have ... to accommodate change if we're going to stay in business. We have to make do with what we've got and we have to try and make it fit with the requirements of the City and what needs to be done for safety. And that is a difficult thing. It is certainly a difficult thing for your staff to go through all the Code on things that are unique and try and make that fit to Code and that's what we're trying to do.” Mr. Horne discussed anticipated change to downtown businesses relative to the freeway bypass. “... those property owners, because of decisions about the bypass, are going to have to find new uses as we do. And all we want to do is survive.” Mr. Horne described the property as “an asset to Carson City. We pay taxes. Carson City needs destination businesses. Evergreen Gene's and A to Zen are unique and ... they are destination businesses. We're struggling through a depression and, if we can support these businesses, keeping in mind that we should be safe, ... then people will have resources in Carson City, local people can shop here and get things that they don't have to go to Reno for. We will have business coming in and we will begin trying to generate prosperity. ... We want a beautiful Carson City and ... Evergreen Gene's is pretty and we want it to be attractive for people to come in and we want to have local people be able to get the different things that they want. And that's a variety of businesses. Evergreen Gene's is unique and it requires a unique solution. If we can find the unique solutions and allow these businesses to survive, that's ... what we should be doing and that's why I'm trying to do when I manage this.” Mr. Horne expressed the hope that “we can work together and make Carson City a better place for all of us.”

In response to a question, Mr. Horne advised that rent is not charged for the display areas. In response to a further question, he pointed out Nevada Gun Exchange and the nail salon in conjunction with a displayed photograph. He expressed agreement with Mr. Lauder that one of the proposed display areas should be amended in consideration of emergency egress. He expressed the belief that “for what we've got, ... this is going to be a safe solution. We don't have a lot of traffic. We don't have a lot of pedestrians. Some of our businesses get eight, ten customers a day. ... the Carson Coffee Shop is a drive-through. That is most

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of the traffic. The number of cars that come through there probably is close to 50 percent of what the whole center has. We need more traffic and Carson Street is going to provide less and less traffic. So we need to have reasons for people coming on Carson Street.”

In response to a further question, Mr. Horne discussed his philosophy relative to managing complaints from tenants about other tenants, and balancing the economic benefits between the tenants. In light of the preceding testimony relative to encouraging business, Supervisor Bonkowski noted that two other tenants have complained against Evergreen Gene's. Mr. Horne discussed complaints between the two beauty shop tenants. “When you have tenants that have personality conflicts, then you have to ... try your best to take a look at whether the issue is serious.” He advised of having done his best to deal fairly with all the tenants. “The life blood of business is traffic and to make decisions that interfere with traffic is injurious to both even though it would satisfy one.” He reiterated having “tried very hard to do the right things in each situation without regard to the personalities.” In response to a further question, Mr. Horne advised “we were out of compliance with our permit. So, in that sense, any complaint on whether we were in compliance with what our permit was, was valid. ... the parking, there was never any encroachment in front of the businesses from their personal parking. There was some complaint about visibility but, actually, Carson Coffee, ... impedes visibility for some of the tenants. ... it was there before I came and I have no intention of tearing that down for visibility. The complaint that led to all these proceedings is because we have a personality thing. Not that we weren't wrong. But the fact that we were wrong enabled the complaining party to bring this issue in front of the City and the City should ... address this and, what we have tried to do is, say, 'Yes, there has been an encroachment on the displays,' and it has been an encroachment not for the intention of violating City Code and trying to do something bad. It has been a businessman trying to build a business and trying to survive in times that are very, very tough and who has expanded his inventory in order to try to become profitable. It has been ill-advised. It was not correct, but it was not done purposely to be out of compliance with the City.”

In response to a question, Ms. Dorr Pansky advised that the complaints have not yet been addressed because the special use permit is under appeal and they are still open complaints. She explained that the complaints were “very specific in the size of the outdoor display areas, the number of parking spaces they were taking up, the pedestrian access around the display areas, and the fact that it was blocked off or reduced so the handicapped could not go through. So, if there is a personality issue, it's not something that we would see or even look at ... when we're looking at doing Code enforcement.”

In response to a question, Mr. Horne reiterated “we are not a high traffic area so we might have 100 cars a day ... in and out of there. We may have less than that. And so the 25 feet, which is wider than two lanes of Carson Street, ... exceeds what we need for a safety issue.” In response to a question of clarification relative to the importance of the display area, he expressed the desire for “Evergreen Gene to survive ...” In response to a further question, Mr. Horne expressed the understanding that “twelve feet was the Code. ... For the traffic lane, they want 25 feet which is more than the width for safety when we have essentially no traffic there.” Mr. Horne expressed the desire to “be safe but allow Evergreen Gene to have as much space as he can so that he ... can get more sales, so that he can become more profitable. ... As a property owner,” he requested “maximum flexibility because that allows [his] tenants to have the maximum flexibility to flourish.”

(3:13:07) Chief Building Official Kevin Gattis introduced himself for the record, and explained that “some of the issues ... at hand are ... that the space in front of Evergreen Gene's and how folks can exit ... what's been missed is that the exit ways throughout this strip mall are for all the tenants and all the public, not just one tenant.” He acknowledged this as a Code violation. Mr. Suglia acknowledged the accuracy of the

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statement. In response to a question, Mr. Gattis described the situation as “impeded egress out of tenant spaces. As was mentioned earlier, a 48-inch space was approved with the SUP originally. Since that time, this has become an enforcement issue with [the] Building [Division] and [the] Fire [Department.]” Mr. Gattis advised of having visited the site on October 21, 2013 and taken measurements. “There were restrictions in the exit ways down to 32 inches. There were three exit ways out from Mr. Munnings tenant space. All three of them were blocked. This was an early-morning visit. They were blocked intentionally.” Mr. Gattis advised of having visited the site at 10:00 this morning and of having measured “storage items in there, such as Christmas trees. The aisle width was down to 19 inches. This was in the exit way under the eaves. This is not a discretionary item. It's a Code item and it's a very serious Code item. The building was designed with 72-inch aisle ways under the eaves out of the tenant spaces to the parking lot. There are columns spaced periodically throughout the strip mall holding up the eave structure. Now, when you come out of the tenant spaces, granted there's going to be cars parked in front of you ... You can still walk between the cars or you can turn right or left and get to an aisle way to get away from the buildings. This building was not designed with solid barriers in front of the tenant doors and that's what's been created with the storage space.” Mr. Gattis expressed support for the success of Mr. Munnings' business; “however, we cannot create a hazardous situation by allowing these aisle ways to be blocked.”

In response to a question, Mr. Gattis advised that the building is not sprinklered. He acknowledged that eaves are considered part of a building structure. In response to a further question, he explained that the Code requires a “clear path to a public way, yard, or a court” when exiting a building. “So once you're out into the parking area, that's considered safe once you're a certain distance away from the structure.” Supervisor McKenna suggested a special use permit for the parking lot only and nothing for the eave spaces or two special use permits; one for the parking lot and one for the eave spaces. Mr. Gattis agreed and expressed the belief there should be no storage items under the eaves. He responded to questions of clarification relative to the Code requirements for exiting a building. He expressed the opinion that the property can “function okay as long as there are no obstructions in the aisle ways. That ... is creating the hazard in this case.” In response to a further question, Mr. Gattis explained that “under the eaves ... is a designed walkway. Out in the parking area, ... that area was designed for automobiles, not pedestrian traffic.” In response to a further question, Ms. Dorr Pansky and Mr. Plemel provided additional clarification relative to the 25-foot width recommendation in conjunction with displayed slides.

(3:21:29) In response to a suggestion, Mr. Suglia advised that the original plan was for the display area to be located in the front of the store. He reviewed the costs associated with submitting a special use permit application. “... to start over might just be the straw that breaks the camel's back. Likewise, every time we take away a business opportunity, you don't really know where the tipping point is and the breaking point. And that's a real concern we have here.” He expressed appreciation for the suggestion, and the opinion “we're kind of far beyond that.” He suggested that 48-inches of unimpeded space under the eaves would eliminate the Code violation. In response to earlier questions relative to tenant disputes, he advised that “there was a lot of discussion about parking” at the Planning Commission meeting. “We're kind of beyond that ..., but this plan actually increases parking by adding three spaces and it changed the traffic flow to make that one-way from that center aisle way on Carson Street where most of the traffic comes in. When we're talking about in front of A to Zen,” he advised of never having seen a car. “The other complaint from the other tenants was the access and, ... I hear now there's some Christmas trees blocking that. Before it was some whirlygigs ... If we get approval, there will be 48 inches. ... We want to comply and agree 48 inches is necessary. ... It was originally six feet but if the Code's telling you 48 inches, then ... that's what should be imposed and not more ... If you can walk straight out of Evergreen Gene's into the parking lot, which we're agreeing to also, you've eliminated that main safety issue. You get right out there and you're out of harm's way. When we had the Planning Commission meeting, that display near Carson Street, there

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were no complaints about that other than staff didn't want it as large as we had asked for. No one from the public stood up" and protested. "And, again, anecdotally, there's never been a car or pedestrian incident because of that."

In response to a question, Mr. Gattis explained that he could not agree to 48 inches clearance "without doing a Code analysis. ... the building was designed with 72-inch aisle ways." He agreed that 48 inches may be possible, "but in order to verify that, we need to go through the process. When architects and engineers submit plans, they go through the review process based on occupant loads, travel distances and things of that nature to see if 48 inches is acceptable. And, without doing that, you can't answer the question correctly." In response to a question, Ms. Dorr Pansky advised that the recommended 25-foot width is not pursuant to the Code. "However, ... in a discretionary permit situation, staff ... can make a recommendation to go beyond Code when the situation exists where it's unique to the point where it's not specifically addressed in Code. And pedestrians looking at items in outdoor display areas, commingling with traffic is not specifically addressed in the Code."

(3:28:22) In response to an earlier comment, Mr. Lauder advised there are two aspects to special use permits. "One is granting or denying ... the special use permit. And the other side is enforcement." He requested the Board to "keep those things clear." He expressed no doubt "that the City should enforce special use permits as well as all other laws," and expressed concern that "we don't confuse the two."

In response to a question, Ms. Dorr Pansky advised that the minimum distance acceptable to staff is 25 feet. (3:29:57) Mr. Lauder suggested that "for shops of this size, the occupant load is such that it's not the occupant load that drives the minimum opening width which is what [Mr. Gattis] was talking about. When you do a Code analysis, the Code says, 'first you determine the occupant load of the space that you're trying to exit from, then you multiply that times a factor and it depends on what kind of occupancy you have, and you come up with a minimum exit width. But when you have relatively low occupant loads, which is what you generally have in this shopping center, what's going to govern is the minimum aisle width that's required by the Code." He read into the record Section 1003.3.4, Clear Width, from the 2012 International Building Code. "For this sort of shopping center, this sort of occupant load, it's clear ... that the minimum access width for egress is 36 inches."

Mayor Crowell entertained additional questions of staff and, when none were forthcoming, discussion of the Board members. Supervisor McKenna described the arguments as "very confusing," and suggested that "the way you have a friendly place to do business is you have rules that are clear, in place, and are enforced equally without bias toward one or the other. The other part of it is the building versus the parking lot are ... two completely separate issues. And then the other part of it is the fact that the current tenant has failed to meet their responsibilities to maintain that space in a safe manner." Supervisor McKenna expressed uncertainty that "this is ready to come to the Board as an appeal. ... There were very few people of the Planning Commission there. ... Out of seven people, there were four ... against it or three and three; three weren't there. Three said yes." Supervisor McKenna expressed a preference for "some type of negotiated settlement. Either you take this back to the Planning Commission or you accept the City's requirements or the City modify the requirements. ... the Board is capable of making this decision, but ... this [isn't] the right place for it." **Supervisor McKenna moved to send this back to the Planning Commission for reconsideration. Supervisor Bonkowski seconded the motion for sake of discussion.** Supervisor Bonkowski noted that "outdoor display is not an entitled right on this property. ... That's why there's a special use permit in place." Supervisor Bonkowski expressed the opinion that "the City's already bent over backwards to try to accommodate the success of the business. The reason that this is in front of us today is because the tenant and the property owner have not been in compliance with the terms of that

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special use permit and, per the testimony of [Mr. Gattis], that noncompliance has been in effect right up through this morning.” Supervisor Bonkowski expressed “serious concerns about changing anything here if there isn't going to be compliance or if the City doesn't have recourse in the case of noncompliance. ... until we solve that issue,” Supervisor Bonkowski expressed agreement with Supervisor McKenna “that this needs to go back somewhere else and we need to have a clearer picture of what's going to happen here before we make a decision.” Mayor Crowell expressed concern over ingress and egress, and advised that if the matter is appealed again “on these issues,” he would “vote with the City staff's side.” Supervisor Shirk expressed agreement with the previous comments and suggested that the Planning Commission require “taking everything out of that aisle way.” In response to a question, Ms. Dorr Pansky advised there would be no additional fee for further negotiation between staff and the applicant. “If they were to come back and modify this again a year from now, ... after the Board has made their decision or the Planning Commission has made the decision, then it would be an additional fee to modify the permit.”

Mr. Munn provided an overview of CCMC Section 18.02.060(4)(c)(4) relative to decision making time frames. He expressed concern that if the matter is referred back to the Planning Commission, “we're going to go past that sixty days.” Mr. Plemel advised that the appellant voluntarily extended the deadline and that they would have to agree to a further extension of time. He advised that the result of not rendering a decision within sixty days is the appeal would be approved, as submitted. Supervisor McKenna suggested recessing the meeting in order for staff and the appellants to confer. Discussion followed and Mayor Crowell suggested upholding the Planning Commission's decision with direction to staff to further negotiate with the applicant. **Supervisor McKenna withdrew his motion. Supervisor Bonkowski withdrew his second.**

Mayor Crowell entertained a motion. **Supervisor McKenna moved to uphold the Planning Commission's decision to approve the amended special use permit, SUP-09-055A, for permanent outdoor display of merchandise, on property zoned retail commercial, located at 1803, -05, -07, -09, -11, -15, -17, -19, and -21 North Carson Street, APNs 002-091-03, -04, and -06, based upon the required findings and subject to all conditions of approval, as approved by the Planning Commission, with the following modification to condition of approval 9, “Nothing in the northwest corner of display area number 3, measured at a 45-degree angle, 20 feet from the eastern edge of the display, shall exceed 36 inches in height at any time. Supervisor Bonkowski seconded the motion for purposes of discussion,** and recommended adding conditions to enforce “item 9 on the relocation space so the 45-degree angle needs to continue in existence if that space is relocated.” And, in addition, “we need to retain the 36-inch walkway from the front door of Evergreen Gene's out to the parking lot. Those were the two additional conditions that ... everybody agreed to here today.” **Supervisor McKenna so amended his motion,** with staff's agreement. Mayor Crowell recessed the meeting at 3:43 p.m. in order to provide staff the opportunity to confer.

Mayor Crowell reconvened the meeting at 3:55 p.m., and invited Mr. Suglia to provide a status. Mr. Suglia expressed the opinion “it's going to require some discussion between engineers and building officials to possibly come to a greater consensus. We only have three issues and one was eliminated. We may be able to eliminate more, but then we have to go back to the whole Planning Commission process.” Mr. Suglia advised that his client is willing to go back to the Planning Commission. “And that would give us a little time to sit down again with staff and try to resolve these issues.” Mr. Suglia acknowledged a waiver of the sixty-day time limit.

Following direction by Mr. Munn, Mayor Crowell referred to the pending motion. **Supervisor McKenna withdrew his motion. Supervisor Bonkowski withdrew his second.** Mayor Crowell reviewed the

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original motion made by Supervisor McKenna and seconded by Supervisor Bonkowski. Supervisor Bonkowski referred to his concerns, as noted on the record, and suggested that they should be worked out at the Planning Commission level. Mayor Crowell reviewed the original motion and second "to send this back to the Planning Commission for further discussion and, hopefully, resolution." Mayor Crowell called for a vote on the motion.

RESULT:	Approved [5-0]
MOVER:	Supervisor John McKenna
SECOND:	Supervisor Brad Bonkowski
AYES:	Supervisors McKenna, Bonkowski, Abowd, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

Mayor Crowell thanked Mr. Suglia.

**18. BOARD OF SUPERVISORS NON-ACTION ITEMS:
STATUS REVIEW OF PROJECTS**

INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS

**CORRESPONDENCE TO THE BOARD OF SUPERVISORS; INCLUDING MONTHLY
REPORT ON THE ACTIVITIES OF THE TRPA GOVERNING BOARD, SUBMITTED BY
SHELLY ALDEAN**

STATUS REPORTS AND COMMENTS FROM BOARD MEMBERS

STAFF COMMENTS AND STATUS REPORT

19. PUBLIC COMMENT (3:58:27) - Mayor Crowell entertained public comment; however, none was forthcoming.

20. ACTION TO ADJOURN (3:58:32) - Mayor Crowell adjourned the meeting at 3:58 p.m.

The Minutes of the December 5, 2013 Carson City Board of Supervisors meeting are so approved this _____ day of February, 2014.

ROBERT L. CROWELL, Mayor

ATTEST:

ALAN GLOVER, Clerk - Recorder