

CARSON CITY REGIONAL PLANNING COMMISSION
Minutes of the Special July 20, 1998, Meeting
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A special meeting of the Carson City Regional Planning Commission was held on Monday, July 20, 1998, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 6 p.m.

PRESENT: Chairperson Verne Horton, Vice Chairperson Deborah Uhart, and Commissioners Allan Christianson, William Mally, Alan Rogers, Roger Sedway, and Richard Wipfli

STAFF PRESENT: Community Development Director Walter Sullivan, Chief Deputy District Attorney Paul Lipparelli, Senior Planner Juan Guzman, and Recording Secretary Katherine McLaughlin (R.P.C. 7/20/98 Tape 1-001.5)

NOTE: Unless otherwise indicated, each item was introduced by the Chairperson. Staff then presented/clarified the staff report/supporting documentation. 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.

A. ROLL CALL AND DETERMINATION OF A QUORUM - Chairperson Horton convened the meeting at 6:05 p.m. Roll call was taken. The entire Commission was present constituting a quorum. Chairperson Horton lead the Pledge of Allegiance.

B. PUBLIC COMMENTS (1-0013.5) - None.

C. DISCLOSURES (1-0019.5) - Commissioner Rogers indicated he had met with Jim Bawden and discussed his plans for Quail Run. They did not discuss the merits of the issue before the Commission this evening. Commissioners Uhart, Mally, Christianson, Wipfli and Chairperson Horton indicated they had had similar meetings. Commissioner Christianson also indicated that he had held discussions with Del White and Larry Osborne over a period of several weeks. No conclusion was reached at these discussions.

D. PUBLIC HEARINGS (1-0033.5)

1. DISCUSSION AND POSSIBLE ACTION ON AN APPEAL OF THE COMMUNITY DEVELOPMENT DEPARTMENT'S "NOTICE OF VIOLATION/ORDER TO COMPLY" TO CYGNET STAMPING AND FABRICATING, INC. - Cygnet Attorney James Cavilia gave Mr. Sullivan a packet of information on which he had based his appeal. (A copy was not given to the Clerk.) He explained CCMC 18.06.290; 18.06.296; Cygnet's cabinets manufacturing process; 18.03.010 and the use of Webster's dictionary to define definitions, i.e., the term "basic"; his contention that stamping is not listed in either the General Industrial or Limited Industrial's list of permitted uses; its business license application and its approval of cabinet assembly; the license's restriction of cabinet assembly to 20 percent of its activity; his interpretation that the 20 percent should be applied to the space/square footage as found in CCMC 18.03.015, .030, .0330, etc.; Cygnet's compliance with the footage restriction; Cygnet's history in the neighborhood; Quail Run's development; Cygnet's relationship to Crystal Mark; Crystal Mark's opposition to Quail Run's special use permit; notification requirements relating to noise which were placed on Quail Run's development; written communications about the notification process; Cygnet's relocation plans; and sound proofing efforts undertaken since May 28.

Cygnet Representative Marko Swan felt that the 20 percent restriction had been related to the industry standard. This could have been the square footage of floor space, the available manpower, or sales price. He was unsure of the actual coverage but felt that it had made sense at the time. The 20 percent would grow as his business grew. Current stamping is approximately 15 percent of the total man-hours; 12 percent if square footage is used; 10 percent of the area allocated to the presses; 20 percent of the sales price; and requires two employees out of the staff of 22. Efforts are now being made to keep the large doors closed, however, they are used to move material in and out of the building. Discussion ensued between the Commission and Mr. Swan on the proposed noise deadening material which is to be installed, the firm's growth, and his understanding of the noise restrictions on Quail Run.

Senior Planner Juan Guzman noted Cygnet's previous efforts to mitigate the noise. Mr. Swan felt that the major problem occurs when stamping is conducted. He was unsure whether he would remain at the site or if the new mitigation program would work. Mr. Guzman explained staff's efforts to work and cooperate with the firm. The same was said of the firm's efforts. The process had not been adversarial even though the Chamber of Commerce had indicated that staff was attempting to run the firm out of business. Mr. Swan felt that it is a stressful situation due to uncertainty of not knowing what to do next.

Mr. Cavilia indicated that his involvement with City staff had been that staff was very good to work with, had been very open, and honest. There is clearly a disagreement on how to interpret the ordinance. This has serious repercussions to manufacturers and employers throughout the community. Clarification by Mr. Cavilia reiterated his interpretation of the Code which would allow cabinet making in the LI zone and that stamping is not restricted to the GI zone. He also explained the missing line from the bottom of the copy of the business license application and the different interpretation created by adding "fundamental" to the Code definitions in the process for steel manufacturing rather than basic industrial. "Fundamentally basic steel manufacturing" does not include punching in his definition.

Discussion between the Commission and Mr. Guzman explained that the business licenses are reviewed by his Department on a complaint basis only. Mr. Swan felt that the only change in his operation is an increase in operations. Mr. Guzman did not feel that a business license had ever been revoked due to an increase in business. Commissioner Uhart explained her original concern with having Quail Run adjacent to the LI zone. Education of the buyers was to mitigate this concern. Mr. Swan then described his original plan to expand his operation to the west on the current site. In view of the problems he had recently encountered, he was now looking for an entirely new location outside Carson City. He was unsure why the City became so active in forcing the issue. Mr. Cavilia felt that a change in Quail Run developers had caused the issue to be brought forward.

(1-0795.5) Mr. Guzman then reviewed the staff report and supporting documentation, the zoning violation, reasons staff had not pursued a noise violation, the complaint(s), the District Attorney's opinion about staff's ability to authorize the 20 percent, mitigation efforts, and the need for Cygnet to halt all stamping activities. His comments noted the Chamber of Commerce and manufacturers' work on related Code revision and the need for a noise ordinance. Discussion between the Commission and Mr. Guzman indicated the meaning of the "20 percent clause" should have been more specific. The Department was willing to accept the District Attorney's advice and, if mitigation procedures can be established, would proceed cautiously along those lines. The complaints were included in the staff report. A majority of them were from the immediate vicinity.

Mr. Sullivan explained the District Attorney's opinion that staff should not have granted the business license. He explained his recollection of the initial application and reasons for the 20 percent restriction. Staff's policy had been to approve business licenses where restricted machining is allowed. An example was provided to illustrate the policy. The percentage was to restrict the use to a minority of the operation. Therefore, he felt that the restriction related to hours of operation. Complaints had caused the activity to be noticed. (During his comments, Chairperson Horton stepped from the room--7:25 p.m. and Commissioner Wipfli stepped from the room--7:27 p.m. A quorum was present.) Only the activity is under scrutiny at this time and not noise. His research supported restricting the activity to a GI zone. When Mr. Swan's original letter was received indicating he would be relocating, staff felt the activity would be reduced; however, the stamping had increased more and more resulting in additional complaints. Therefore, the notice to comply was issued. The stamping activity needed to cease. The original Cygnet attorney had requested, and was granted, a period of time to complete/fill the orders as he had indicated that the activity would cease at that point. The question before the Commission is whether the volume of stamping activity is allowed in the LI zone. (Chairperson Horton returned--7:28 p.m. A quorum was present.)

Discussion between staff and the Commission explained the mitigation efforts imposed on Quail Run relating to the noise concern with Cygnet. Commissioner Rogers felt that Quail Run was to be responsible for a sound wall, advising the potential buyers, etc. (Commissioner Wipfli returned at 7:29 p.m. The entire Commission was present constituting a quorum.) Mr. Guzman agreed and explained his knowledge of meetings held between Mr. Swan and Quail Run Representative Mark Rotter. These meetings were unsuccessful in resolving the situation. Comments indicated that staff had not been aware of the "illegal" stamping activity until recently. Commissioner Rogers then explained his contact with an attorney which had indicated that the City's ordinances were inadequate.

This contact had been based on the material contained within the packet. The inadequacy centered around the lack of definitions between mechanical functions/technology and manual assembly functions and the list of permitted uses for the Light Industrial zone.

(1-1495.5) Mr. Lipparelli indicated the Commission's role is to determine the zoning issue. The noise element of Cygnet's operation has created the issue. Reasons for the different zoning districts were described. Code interpretation will determine whether Cygnet's use is permitted within the LI district. The need for discretion in granting a reasonable limitation is indicated by the 20 percent restriction. Staff needed this discretion as does the Commission when interpreting the Code. Without this discretion the Code would be even thicker due to the attempt to envision all circumstances. The Commission should analyze the report and uphold or deny staff's finding that the current use of the property is not authorized by the Code. Procedures which the Commission could use to reach a conclusion were briefly noted. Discussion ensued on the permitted uses allowed in the LI and GI districts and justification for allowing the stamping in either district. Mr. Lipparelli also explained that the Commission does not have jurisdiction over the Business License issue. Discussion followed on whether the use was grandfathered as a prior non-conforming use. Justification for allowing a property owner to expand his usage were noted. Mr. Guzman urged the Commission to separate the Quail Run issue from the complaint against Cygnet. If the Commission determines staff made an error in allowing the use in 1992, it should not be justified by calling it a "legal, non-conforming use". The Commission could also determine that staff made the decision based on the zoning tools and information available at that time and that the use is no longer acceptable due to the complaints. Such issues are always difficult. Mr. Lipparelli then explained that Cygnet had not addressed the issue of prior non-conforming use as Cygnet believes it is in conformance with the zoning and licensing requirements. He felt that the Commission should not find that the use was illegal since 1992 as reviews since that time have failed to make this finding.

BREAK: A ten minute recess was declared at 7:55 p.m. The entire Commission was present when the meeting was reconvened at 8:05 p.m., constituting a quorum.

Chairperson Horton explained the rules of protocol which were to be followed. He requested comments from group representatives.

(1-1865.5) Scott Heaton, the representative/attorney for the Quail Run developer, also felt that the issue was whether Cygnet was operating within the criteria of the LI zoning district. The other issues are only factors in the overall picture but not the major concern. He used the Code to support his contention that Cygnet's use does not comply with the LI zoning restrictions, including conditional uses allowed in GI districts, 18.06.305, permitted uses in LI, 18.02.010, and 18.02.036. He urged the Commission to support staff's position, otherwise Cygnet will be allowed to operate 24-hours a day, seven days a week. He agreed with Commissioner Roger's suggestion that 18.06.300 also supported his position. He agreed that if the operation was quiet, they would not be here. Legal/illegal issues do not arise until a complaint is filed and the operation is investigated. The Commission's decision will undoubtedly be appealed to the Board of Supervisors. He hoped that the process will allow for a compromise to be developed.

(1-2115.5) Quail Run Homeowners Association Board of Directors Representative Dick Murray explained his reasons for moving to Quail Run. The entire growth program at Quail Run has been inhibited by Cygnet's operation. His need for Quail Run to be a viable, growing community was stressed. This is the only gated, senior community in Northern Nevada. EPA studies on noise impacts on an individual's health and Federal statutes were cited to support his concern. His experience with the percentage restriction dealt with the brew pub ordinance and the desire have a restaurant and prohibit a microwave. This created a viable business. OSHA regulations and Denver ordinances were also cited. The importance to each of the factions in resolving the issue were noted. The importance of the issue to the future of the Quail Run residents was stressed.

(1-2250.5) Ray Bacon, representing the Nevada Manufacturers Association, described the purpose of the Association. Mr. Bacon used the industry standards to define the terms "basic manufacturing", "sheet metal fabrication", and "metal stamping". He then illustrated and described the unique "thumping" noise created by the punch press. Noise deadening efforts have been made. Additional ones could be attempted but may not be successful. The impact on other industrial operations if the Commission determines the operation should not be

allowed in the LI zone were cited. This could create a message that industrial operations are not welcome in Carson City. The industry would equate time restrictions to man-hours rather than hours of the day. The restriction may have been a miscommunication. In terms of man-hours, the firm is not in violation of the business license. The violation should be filed against Quail Run's previous owners due to their failure to adequately represent the noise issue. If the Commission upholds the staff's recommendation, the City may find itself facing a "takings action" as it had allowed the operation to continue for six years. Mr. Bacon discussed with Commission Christianson new die casting techniques which may reduce the noise. This is a relatively new process and extremely expensive. It purportedly changes the angle cut which extends the noise time and changes its frequency. It may be the same general level of total noise.

Chairperson Horton then requested public comments from individuals and indicated he would impose the three minute time limit.

(1-2435.5) Tom Fettic explained his personal knowledge of the noise as he had been one of the salesperson for the development. The potential buyers were well aware of the noise situation as it could be heard from any location in the development. His sales had been predicated on the efforts being expended by the developer and Cygnet to mitigate the noise situation. The noise had grown steadily until it was no longer tolerable. Phase 2 of the development abuts Cygnet's property. Lots cannot be sold in Phase 2. He felt it was a personal affront to be accused of not having made the buyers aware of the situation. Anyone who was close to buying the property or was an actual buyer was made aware of the situation. He felt that Cygnet had made Quail Run's Phase 2 "dead in its tracks". Its zoning had been mobile home park since 1975. He felt that Cygnet should have been aware of the surrounding zoning when it came in 1992.

(1-2525.5) Del White of Redco felt that a noise ordinance would be a weapon instead of a tool. Cygnet had been there for six years, had grown, and is now a problem. He cautioned against closing the business as it would not be easy to restart. His license was cited to support his contention that a business should not be restricted. Could Community Development now question his license? The message now being sent to the manufacturers indicates the rules can be changed at a whim. Can Carson City afford the risk of losing its manufacturers and stopping new industrial growth? Mallory has been taken over by Mr. Gasket. It is a stamping operation and is in the same zone as Cygnet. Will it be closed, too? Should he forget about his expansion plans?

(1-2585.5) Chamber of Commerce Executive Vice President Larry Osborne indicated he represented his Board of Directors. Both Cygnet and Quail Run were Chamber members. He regretted having the residents placed in such a position. He questioned what would happen to the business community. There are conflicting stories about the situation, i.e., Community Development lacked the authority to have granted the license to operate in that district according to the District Attorney. The company had been there for eight years and was still doing the same thing it originally did. Is Carson City sending a signal that no more businesses/manufacturers are welcome or that the rules can be changed without warning? The business had been notified to cease and desist. Purportedly, his office had been contacted by both local businesses and others from outside the area who are reluctant to expand/relocate to Carson City. In response to Commissioner Rogers' question, he indicated that he did not have any statistical information concerning manufacturing. NNDA and, specifically, Chris Holt, may have this information. He felt that the statistics had increased "slightly" from the slow down two years ago. Reasons industrial/manufacturers were coming to Nevada are due to California conditions. Its economy is now better and relocations are decreasing. Commissioner Rogers felt that there had been an error made in not providing an adequate buffer between the industrial and residential areas. Mr. Osborne was unaware of any similar conflict areas but felt certain they are there. The work undertaken on the Code zoning revisions were noted and included this issue. This issue will be presented in October. Conflict areas include the airport, Fairview, AIP, Deer Run Road, etc. The problem arises due to the location of the mixed uses and not due to the increased demand for more and more housing. K-mart was cited as an example due to its location adjacent to a residential area. Commissioner Rogers felt that the discussion this evening clearly indicates that Limited Industrial should not be used as a buffer to residential. Mr. Osborne indicated that the zoning revisions eliminated this provision but used LI to buffer GI.

(1-2772.5) Commissioner Christianson explained a similar situation across from Cygnet at a company called OMENCO and its efforts to mitigate its noise. Eventually the firm was able to successfully mitigate the situation by installing sound walls. Similar ingenious solutions needed to be found for Cygnet. Mr. Osborne felt that Mr.

Swan had expressed a willingness to do the same thing. The question before the Commission is whether Cygnet should be allowed to continue to operate. If Cygnet is closed, who will be next? Commissioner Christianson suggested having the two factions agree upon a timeframe within which the community would be able to determine whether or not the sound system would work.

In response to Commissioner Sedway's question, Mr. Osborne indicated that the Chamber, at this time, opposed a noise ordinance. There had not been a study supporting the need for one. Concerns about the type of noises which would be regulated were cited to illustrate reasons for the Chamber's reluctance to implement such an ordinance. The Chamber had asked the Board to stop the process at this time; however, as it has gone forward, judgment will be withheld until the study is completed. Additional public input is needed before a decision is made. Public contact with his office clearly supported their concerns.

(1-2873.5) Carson City real estate broker and economic developer Gary Cook indicated he is Cygnet's real estate broker. He urged the Commission to overturn staff's recommendation. Cygnet's use of the property is orderly, proper, and a permitted use. The zoning allows for fabrication which Cygnet does. Upholding staff's recommendation would impact other industries on Fairview. Purportedly, two other firms are also interested in leaving Carson City. The property values are being impacted by the public discussions on the LI uses. If the property values continue to drop, it may be impossible to sell the property. Who will pick up this tab?

Mike Heckley, representing a business on Fairview, explained his business operation which uses punch presses and stamping. He questioned whether punch presses would be disallowed while stamping would be? His location is close to the Colorado Street mobile home park. The issue does impact his operation. Quail Run should have been required to mitigate the issue. Cygnet has a sign on its building clearly indicating it makes noise which can be seen at the Quail Run sales office.

Wayne Pedlar noted the letter he had faxed to the Commission. The business had been operating within the scope of its business license and legally. The business has grown. The Commission will send the wrong message to manufacturers and businesses if staff's recommendation is upheld.

Gene Sheldon explained his personal knowledge as the former owner of OMENCO of its decision to locate on Fairview, the surrounding zoning and development, the zoning change of a portion of the industrial zone to residential, and his acquisition of the former OMENCO site. He felt that Cygnet was facing an ordeal created by Carson City. Placing the entire load on Cygnet for Carson City's errors is justly unfair. He then explained his efforts at OMENCO to deaden the sounds of his operation. The operation was believed to have been a "thorn in the sides" of the residents the entire time it was open. The neighbors were undoubtedly pleased when the new firm was closed and may not have been too happy with its operation either. He postulated on the reasons that firm eventually left Carson City.

(1-3120.5) John Bullis of Bullis, Crossley, and Heimark, CPAs, voiced his opposition to staff's recommendation and used complaints about airports to support his comments. Public education of manufacturing in Carson City had been undertaken recently to inform the residents about their operations. Cygnet's closure is a dangerous message to send. The lack of clarity regarding the 20 percent clearly indicates the need to improve the ordinances. The impact closing the firm for 30 days would have on its vitality and productivity was noted. The economic impact of such a closure should be considered.

James Bawden displayed a zoning map which illustrated similar conflict areas in the community. If the problem is not solved and Cygnet continues to operate, his 800 home residential project will be placed in jeopardy. He urged the Commission to consider the number of conflict areas in its deliberations. Mr. Bawden indicated he is in escrow to acquire Quail Run at this time. He was aware of the discussions between Cygnet and the previous developers, however, he is concerned about his feeling that Cygnet is not a good neighbor. Hours of operation when complaints have been filed and the failure to maintain the landscaping were cited to illustrate his reasons for this feeling. His attempted personal contact was made in an effort to resolve the issue, however, it had not been returned in a positive fashion. He also indicated that the current developer is not willing to consider any mitigation. Mr. Bawden, however, was willing to talk.

Additional public testimony was solicited but none given.

BREAK: A 15 minute recess was taken at 9:10 p.m. The entire Commission was present when the meeting was reconvened at 9:25 p.m.

(1-3350.5) Mr. Cavilia felt Cygnet had always indicated it would and did make noise. The zoning was corrected to be Limited Industrial rather than the referenced Light Industrial. He indicated that his representation of what salespersons were representing to buyers had been what he understood Community Development had represented to Cygnet as having been represented to buyers. He apologized to Mr. Feticc if he had stated otherwise. He reiterated his comments about the Code and feeling that assembly, fabrication, and manufacturing is allowed in the LI zone. The Business License should have clearly indicated what the 20 percent was. If it had been time, Cygnet would not have moved to Carson City. Transitional zoning is difficult to deal with but it occurs as a result of growth. Cygnet should not be forced to bear the brunt of Carson City's growing pains or the cost of it. The use was permitted in 1992 and is permitted today.

Mr. Guzman explained CCMC 18.06.305, which indicated that Cygnet's current use should be in the GI district. The stamping activities have increased as evidenced in the complaint. Staff's advice is ethical as well as professional and based upon the best planning advice possible under difficult circumstances. Not everyone will be happy with the result. The situation can no longer be ignored.

Commissioner Rogers commended staff for addressing a difficult situation. It is difficult to be on a Commission and act against staff's decision. Many hours have been spent on the issue. The recommendation should be upheld. People cannot live together without conflicts. The map concerns him a great deal. There is conflict on it. The Master Plan had mitigated a lot of conflicts, however, it is apparent that not all of them had been addressed. The community may not wish for the Commission to mitigate all of them as it could impact the ability to meet the demands of changing circumstances. He felt strongly that Cygnet had been operating legally. The Commission had attempted to mitigate the conflict to the best of its ability and based on the options available at the time. He, also, believed that in order to be within 18.06.300 as a Limited Industrial Cygnet is responsible for mitigation of the noise as the noise could be considered offensive if it continues. If the property owners worked together, the problem could be mitigated. This has not occurred. He was comfortable in the decision which he intended to take. He wished that the property owners would work together and resolve it without the courts and Commission/Board involvement. If this does not happen, then the Commission must make a decision based upon the information which has been provided.

(2-0042.5) Commissioner Christianson expressed his desire not to have to vote on the issue. The issue will not be resolved by the Commission's actions this evening. He suggested that, as Cygnet had already spent the money for the additional sound deadening and if a 30-60 day timeframe for installation is allowed, a period should be allowed to analyze any change in the volume and a decision made at the end of that time. The problem should be resolved between the two property owners without putting anyone out of business. He also felt that the residents should be given some consideration such as a reduction in the hours of operation and the amount of noise. He urged the attorneys to negotiate on these issues.

Commissioner Wipfli supported Commissioner Christianson's comments and explained the staff's role in the resolution of any vague issues in the ordinances. If an error had been committed by staff, it had been on the side of being good neighbors. Efforts had been undertaken to help the firm go into the district. The importance of the Limited Industrial district and its use as an intermediary to the larger industrial area was stressed. When a firm grows until it no longer fits in this category, it is time to relocate. He personally hates to move and would do everything within his power to avoid moving. Therefore, he was willing to do whatever is possible to grant time to do so.

Commissioner Uhart felt there could not be any winners in this situation. This is only one step in the process toward resolution. The Commission's decision may not be useful to either party. She questioned her ability to make a decision as it is a question of interpretation and could go either way. She agreed with Commissioner Rogers that at the point where noise becomes excessive in the Limited Industrial, the use no longer belongs there, however, based on the fact that they were there initially and were clear about what they were doing, how they were

doing it, etc., consideration must be granted. She was uncertain as to how to structure an ordinance to indicate when it would be sensible to relocate to a different zone. This may not be the answer. From her point of view, the use fits within the LI zone except for the noise issue and its magnitude which then means the firm should be located in the GI district. She realized that the parties would not be able to work together and find an answer. Neither would the Commission's decision be the basis for the death toll of the manufacturers in the future. The issue will probably end up in court. The Commission is obligated to make a decision based on the information available and to the best of the Commissioners' abilities. The use could fit under both GI and LI zoning. Although the noise issue was not be consider, she felt it was the line which indicates whether the use is permitted or prohibited. She would not support a motion to uphold staff's recommendation without a reasonable time limit and considers the firm's business interest.

Chairperson Horton then indicated that staff was not changing gears in mid-stream. Testimony had clearly indicated a difference of opinion as to the original agreement. The Department had merely followed through on its understanding of that agreement and the process is that which is required. He commended staff for doing it. There is a tremendous gray area in the entire issue. Thus, a decision could go either way with substantial support. He agreed that it would be magnificent if the parties could get together and mitigate the issue. There is, unfortunately, no leverage available to force this to occur. A decision should be made this evening even though a continuance had been requested/indicated by other parties. No one is happy with having to make the decision. He hoped that the solution could be done in a fashion which would minimize the impact to the injured party/ies.

Commissioner Mally explained his concern about the original business license application. Letters indicate the firm is a stamping/fabricating company as contained in the letter to John Serpa during his attempt to mitigate the situation. A second letter indicates Cygnet is looking for another site. Another letter indicates they are "on their way out". He felt that the firm was in the wrong place for the type of business it conducts now. The original operation had been a "dime store operation" and is now a "Sears". It is too large and too noisy.

(2-0185.5) Commissioner Rogers reiterated his feeling that it is uncomfortable to make a motion against a staff recommendation, however, this is only one step in the process. Commissioner Rogers then moved that the Commission overturn the administrative decision from the Community Development Department and withdraw the complaint to Cygnet. Following clarification, Commissioner Rogers amended his motion to withdraw the order rather than the complaint. He then emphasized that the Commission was not against anyone. He preferred a decision which would help everyone. Such a motion would be to mitigate the situation. When a second was not made, Chairperson Horton indicated it had died for lack of a second.

Commissioner Mally then moved to uphold staff's notice of violation/order to comply issued to Cygnet Stamping and Fabricating, Inc., V-97/98-43, and to cease all stamping activities immediately based on the findings that stamping activities have exceeded the business license limitations and that the amount of present day operations in terms of stamping activities are only allowed in the General Industrial zoning district. This motion also died for lack of a second.

Commissioner Wipfli urged consideration of either a timeframe for mitigation or limitation of the damages although he was certain the order would not be enforced immediately. Discussion among the staff and Commissioner Rogers indicated either party could appeal the Commission's decisions and that this process must commence within 15 days. The Board meeting would be agendized after that which could be another seven to 15 days. This could also allow the parties an opportunity to work together and perhaps resolve the issue. The Board could then return the issue to the Commission for reconsideration.

(2-0269.5) Commissioner Rogers moved to withdraw the order of the Community Development Department. When a second was not forthcoming, Chairperson Horton passed the gavel to Vice Chairperson Uhart and seconded the motion. Discussion indicated that a yes vote would rescind the order. The gavel was returned to Chairperson Horton. A voice vote was request but unclear as to how the vote was made; therefore, the motion was voted by roll call with the following result: Rogers - Aye; Christianson - Naye; Mally - No; Wipfli - No; Sedway - Yes; Uhart - No; and Chairperson Horton - Yes. Motion failed on a 3-4 vote. Discussion ensued concerning the vote with Mr. Lipparelli indicating that the roll call vote is to be used to determine the motion's success/failure. Mr. Sullivan reiterated the appeal process.

Mr. Lipparelli and Chairperson Horton discussed the action which had just occurred which indicated that, as a motion was not adopted changing the Community Development Director's administrative decision, Cygnet's appeal failed and the Department's decision stands. Appeals should be made by individuals opposed to this decision. Mr. Lipparelli indicated that the roll call vote resolves any conflict in the vote and determines the action which is taken.

E. NON-ACTION ITEMS (2-0352.5)

1. COMMISSIONER COMMENTS - Discussion indicated the desire to evaluate the latitude of Title 18, mitigate as many of the conflict areas as possible, reconsider the decision to use LI as a buffer, and establish the uses within that district. Concern was expressed about the process which would determine when it would be necessary for the firm to be relocated and the procedure under which this is to occur. Mr. Lipparelli urged the Commission to return to the agenda and not rediscuss the previous item. Discussion ensued on the criteria used for performance zoning and its use in such cases. Mr. Sullivan agreed that the process could be included in the Code, however, the points must be carefully evaluated and substantiated. The Chamber of Commerce's manufacturers association had provided him with a draft of its ordinance modifications which included some additional definitions. It may need to include additional definitions. This evening's session supported the need for a noise ordinance. Mr. Sullivan expressed a desire to meet with Mr. Bacon and follow-up on his comments. His assistance on the committee would help with industrial standards and terminology as well as with staff's education. Chairperson Horton felt that staff's efforts had not been in question on the previous item. Staff had done everything possible with the information and tools available. Situations/technology change and, in this case, everyone was caught in an awkward situation. Staff was commended on its efforts. Mr. Sullivan noted that both he and Mr. Guzman had agonized over the decision and the desire to keep Cygnet in the community. He agreed that the ordinances needed to be improved and that different sources would be used to do so including the manufacturers. Chairperson Horton welcomed new Commissioner Sedway to Commission.

2. STAFF COMMENTS (2-0515.5) - None.

F. ADJOURNMENT - Commissioner Sedway moved to adjourn. Commissioners Uhart and Wipfli seconded the motion. Motion carried 7-0. Chairperson Horton adjourned the meeting at 10:10 p.m.

The Minutes of the Special July 20, 1998, Carson City Regional Planning Commission meeting

ARE SO APPROVED ON _____, 1999.

Verne Horton, Chairperson