

CARSON CITY CHARTER REVIEW COMMITTEE

Minutes of the May 25, 2004 Meeting

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A regular meeting of the Carson City Charter Review Committee was scheduled for 5:00 p.m. on Tuesday, May 25, 2004 in the City Hall Capitol Conference Room, 201 North Carson Street, Carson City, Nevada.

PRESENT: Chairperson Donna DePauw
Vice Chairperson Dave Cook
Ernie Adler
Ron Allen
Ron Bowman
Don Campbell
Stephen Lincoln
Steve Suwe
Fred Uptergrove

STAFF: Melanie Bruketta, Supervising Deputy District Attorney
Kathleen King, Recording Secretary

NOTE: A tape recording of these proceedings is on file in the Clerk-Recorder's Office and is available for review during regular business hours.

A. CALL TO ORDER AND ROLL CALL (1-0009) - Chairperson DePauw called the meeting to order at 5:02 p.m. Roll was called; a quorum was present. Member Adler arrived at 5:06 p.m.

B. ACTION ON APPROVAL OF MINUTES - April 27, 2004 (1-0018) - Member Allen moved to accept the minutes. Member Uptergrove seconded the motion. Motion carried 8-0.

C. PUBLIC COMMENT ON NON-AGENDIZED ITEMS (1-0023) - None.

D. MODIFICATIONS TO THE AGENDA (1-0025) - None.

E. PRESENTATION AND DISCUSSION OF NEVADA OPEN MEETING LAW (Supervising Deputy District Attorney Melanie Bruketta) (1-0028) - Ms. Bruketta displayed the Open Meeting Law compliance checklist and advised that it is available on the Attorney General's website. She reviewed those portions of the Open Meeting Law most pertinent to the Committee, including that the Committee is defined as a public body, and that a quorum of the Committee is required to conduct an official meeting. She reviewed the requirements for publishing and posting a Committee agenda. She advised the Committee members of the availability of the Nevada Open Meeting Law Manual on the Attorney General's website or through the District Attorney's Office.

F. DISCUSSION AND POSSIBLE ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF BYLAWS FOR THE CHARTER REVIEW COMMITTEE (1-0197) - Chairperson DePauw referred to the draft bylaws included in the agenda materials and solicited input from the Committee members. When none was forthcoming, Ms. Bruketta reviewed, and discussion took place regarding, recommended revisions to the draft bylaws. **Member Adler moved to recommend that the Board of Supervisors adopt the bylaws, as amended, for the Charter Review Committee. Member Allen seconded the motion.** Vice Chairperson Cook questioned the necessity of submitting the bylaws for approval by the Board of Supervisors. Ms. Bruketta advised that since the Committee is

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established by the Board of Supervisors, the bylaws should be submitted for approval. She noted her previously stated opinion that bylaws are not necessary because the Committee's operation is already covered by the Charter and State law. Chairperson DePauw called for a vote on the pending motion; **motion carried 5-4.**

G. DISCUSSION AND POSSIBLE ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS A CHARTER AMENDMENT TO ESTABLISH A PROCESS BY WHICH BOARD OF SUPERVISORS AGENDAS ARE CREATED TO ENSURE THAT ANY BOARD MEMBER IS ALLOWED TO ADD ITEMS (1-0905) - Chairperson DePauw referred to the e-mail to, and response from, City Manager Linda Ritter which was included in the agenda materials. She advised of having invited Supervisors Williamson and Aldean, who were present at the meeting. Supervisor Livermore has indicated an interest in attending the June Committee meeting, and Chairperson DePauw advised she would be inviting Supervisor Richard Staub.

Chairperson DePauw welcomed Supervisors Aldean and Williamson. Supervisor Aldean advised that she had never personally experienced a problem getting items on the Board of Supervisors agenda. She referred to Westlaw citations, which were distributed prior to the start of the meeting, and read two opposing views into the record. She noted that the agenda setting process is not addressed in statute and suggested that, as such, it has been mandated by custom. She advised of having spoken with former Mayor Marv Teixeira, and explained his practice for establishing the agenda. She commented that the agenda-setting procedure is, to an extent, a matter of expediency, and provided a brief overview of the same. She noted that there is no item on the standard Board of Supervisors agenda which would provide for the Supervisors to request future agenda items. She commented that although there has been no real issue with the current administration, the same may not be true of future administrations. She advised that the District Attorney's staff has been unable to provide specific direction because the matter is not addressed in the statute or in the Charter. She requested the Committee to consider amending the Charter to specify how Board of Supervisors agendas are to be established.

Supervisor Williamson echoed Supervisor Aldean's comments in that this issue is not personally or specifically directed, but more of a procedural item. She reiterated that the District Attorney's staff has been unable to determine a legal definition with regard to the final authority for establishing the Board of Supervisors agendas. She reviewed the procedure, required documentation, and time table for department heads to submit agenda items for Board of Supervisors meetings, and for agenda packets to be compiled and distributed. She discussed the importance of clarifying the subject issue.

In response to a question, Ms. Bruketta explained the reason for excluding "Future Agenda Items" from the Committee's agendas. She discussed her general recommendation to submit all future agenda items through the chair. Supervisor Aldean expressed the opinion that it is better to be anticipatory than reactionary, and reiterated that this issue has the potential to be problematic in the future. In response to a question, Ms. Bruketta confirmed that there is nothing in state law which addresses this issue.

Member Allen related details of a conversation with Reno Mayor Bob Cashell regarding the method by which the Reno City Council handles future agenda items proposed by City Council members. Discussion took place regarding instances which would require the Supervisors to have the authority to place items on the agenda. Ms. Bruketta advised that the Board of Supervisors does not have bylaws. Vice Chairperson Cook suggested that the Board of Supervisors should establish bylaws for themselves; that this Committee

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has no jurisdiction in this matter. **He moved to discontinue further discussion of this item. Member Allen seconded the motion.** Chairperson DePauw expressed the opinion that the Committee should not make a decision without having heard from the other two Supervisors. Member Adler read into the record portions of section 3.130, and expressed concerns with regard to the subject issue in light of this section ever applying to a mayor.

Vice Chairperson Cook reiterated his opinion that the Committee has no jurisdiction over this matter, and that the Board of Supervisors should establish a set of bylaws. He expressed the opinion that the Charter is not the appropriate place for Board of Supervisors bylaws. Supervisor Aldean noted that the Charter provides governmental structure, and suggested adding language to the Charter acknowledging the duty of the mayor to establish the Board of Supervisors agendas, but providing for other members of the Board of Supervisors to agendize items if the mayor refuses. She expressed the opinion that every member of the Board of Supervisors should have access to establishing the agenda. She reiterated that access is not being deliberately denied; Mayor Masayko is simply following custom. She noted that the suggestion would accomplish a simple clarification to avoid unresolvable conflict with future Boards of Supervisors. Discussion took place regarding the mechanism behind section 3.130, and Supervisor Williamson reviewed the differences in operational procedure between the Carson City Board of Supervisors and governing bodies in other jurisdictions.

In response to a question, Ms. Bruketta expressed the opinion that there would be no problem with the Board of Supervisors establishing bylaws as long as they were consistent with State law and the City Charter. Discussion took place with regard to agendizing discussion and action to establish bylaws, and Supervisor Aldean read into the record a sample Board of Supervisors agenda. Vice Chairperson Cook reiterated his position that the Board of Supervisors should establish bylaws, and that this issue is outside the purview of this Committee. Supervisor Aldean expressed the opinion that the subject issue is not associated with bylaws. [Member Lincoln left the meeting at 6:18 p.m.; a quorum was still present.] Supervisor Aldean read into the record portions of Section 3.010, Duties of the mayor. She reiterated an earlier suggestion to add language to this section indicating an additional duty of the mayor to establish the agenda, and qualifying it by indicating that two Board members can also request an agenda item even if the mayor disagrees.

Additional discussion took place regarding the role of the Charter in City government. Member Suwe referred to Section 2.040, and read paragraph 2 into the record. He suggested adding a third paragraph to this section that meetings will be agendized by the mayor and/or two or more supervisors. He expressed an interest in hearing from Supervisors Livermore and Staub prior to taking action. Chairperson DePauw called for additional comments and Vice Chairperson Cook inquired as to why the Board of Supervisors had never pursued developing bylaws as authorized by paragraph 2 of Section 2.040. Supervisor Aldean reiterated that in order for the Board of Supervisors to adopt rules or bylaws, there would have to be an agenda item for discussion and action. Chairperson DePauw called for additional comments and questions and, when none were forthcoming, a vote on the pending motion. **Motion failed 2-6.**

Member Bowman referred to Section 2.040 and inquired as to how the Board of Supervisors would develop bylaws. Supervisor Aldean explained that the Board members would most likely work with the City Manager to develop rules and regulations, and request that the same be agendized for consideration by the Board. In response to a question, Ms. Bruketta advised that, to her knowledge, this had never been suggested. Member Suwe suggested deferring action on this item until the next meeting in order to provide

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Supervisors Livermore and Staub the opportunity to provide input. He agreed with an earlier comment that the Board of Supervisors should empower themselves with bylaws, but suggested that “they need the tools to do it.” Member Bowman expressed respect for Mayor Masayko, and the opinion that one person should not have the power to accept or reject agenda items. He agreed that the issue needs to be addressed, but suggested that the question is whether to change the Charter or to have the Board of Supervisors address the issue internally. Member Adler referred to Section 2.040, and suggested that a reasonable interpretation of paragraph 2 is that the mayor is not empowered to frustrate the ability of the Board of Supervisors to adopt rules. Member Suwe discussed this issue in light of the Open Meeting Law, and suggested that its provisions frustrate resolution. Member Adler agreed, and suggested that the language of the Charter may have been different if the Open Meeting Law had been enacted first.

Ms. Bruketta suggested that the interested Supervisors could work on a possible agenda item for the June 17th Board of Supervisors meeting which would occur prior to the next Committee meeting. Chairperson DePauw requested the Committee members to consider language for a charter amendment, if necessary. Chairperson DePauw and the Committee members thanked Supervisors Aldean and Williamson for their attendance and participation. **Member Adler moved to continue this item. Commissioner Suwe seconded the motion. Motion carried 8-0.**

H. REVIEW AND POSSIBLE ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS CHANGES TO THE FOLLOWING SECTIONS OF THE CHARTER: Section 1.030 Description of territory; Section 1.040 Seal; property; eminent domain; gifts; Section 2.110 Ordinances; Enactment procedure; emergency ordinances; Section 5.010 Primary election; Section 7.010 Debt limit; Section 7.050 Bonded indebtedness of Ormsby County and Carson City; Section 7.060 Bonds of Ormsby County and Carson City declared valid; and Section 9.020 Effective date (1-2015) - Chairperson DePauw provided background information on this item. In response to a question, Ms. King offered to review the City’s legal description in order to determine whether a typo exists in the language of Section 1.030. [Member Adler left the meeting at 6:47 p.m.; a quorum was still present.] Member Uptergrove reviewed questions and discussion took place regarding the remaining agendized sections. **Member Allen moved to clean up the language of Section 2.110. Member Bowman seconded the motion. Motion carried 7-0.**

I. ACTION ON ADJOURNMENT (1-2583) - Member Uptergrove moved to adjourn the meeting at 7:03 p.m. Member Allen seconded the motion. Motion carried 7-0.

The Minutes of the May 25, 2004 meeting of the Carson City Charter Review Committee are so approved this 29th day of June, 2004.

DONNA DePAUW, Chair