

Item # 30

**Carson City  
Agenda Report**

**Date Submitted:** November 23, 2009

**Agenda Date Requested:** December 3, 2009

**Time Requested:** 10 Minutes

**To:** Mayor and Supervisors

**From:** Jennifer Schultz, Human Resources Director

**Subject Title:** Action to approve an employment contract for Lawrence A. Werner.

**Staff Summary:** Pursuant to Carson City Charter Sec. 3.020 The Board may appoint a manager who is the chief administrative officer of the City. He is responsible for carrying out the policy of the board. His duties and salary must be fixed by the board.

**Type of Action Requested:** (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

**Does this action require a Business Impact Statement:** ( ) Yes (X) No

**Recommended Board Action:** I move to approve an employment contract for Lawrence A. Werner.

**Explanation for Recommended Board Action:** See staff summary.

**Applicable Statute, Code, Policy, Rule or Regulation:** Carson City Charter Sec. 3.020 and NRS 244.125.

**Fiscal Impact:** Potential savings of \$11,360 per year.

**Explanation of Impact:** When Mr. Werner accepted the City Manager position on February 7, 2008, he agreed to do so under the same compensation as the previous City Manager Linda Ritter. One of the elements of compensation was a bonus based system where the City Manager could receive 20% of the mid-range of the City Manager's Compensation Range. The full 20% would be \$22,640 based on the current range. If the full bonus amount was paid, the total salary would be \$151,528.88. In the proposed contract with Mr. Werner, the bonus pay system is eliminated and a basic salary of \$140,168.68 is established with the same cost of living adjustments and merit increase as offered to the other unclassified employees. The basis for setting the salary at \$140,168.68 is to be 5% higher than the current salary received by any appointed department director.

**Funding Source:** General Fund

**Alternatives:** Modify or do not approve.

**Supporting Material:** Employment Contract, minutes of February 7, 2008 Board of Supervisors meeting.

**Prepared By:** Jennifer Schultz

**Reviewed By:** *Jay Schultz* Date: 11-24-09  
(City Manager)

*Melanie Pusketta* Date: 11-24-09  
(District Attorney)

*Nancy Paulson* Date: 11/24/09  
(Finance Director)

**Board Action Taken:**

Motion: \_\_\_\_\_ 1) \_\_\_\_\_ Aye/Nay  
2) \_\_\_\_\_ \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

## EMPLOYMENT CONTRACT

THIS EMPLOYMENT CONTRACT, made and entered into this \_\_\_\_ of \_\_\_\_ 2009, by and between **CARSON CITY**, a consolidated municipality of the State of Nevada, hereinafter called "**Employer**" or "**City**", and **LAWRENCE A WERNER**, hereinafter called the "Employee", or "**City Manager**" both of whom understand and agree to the following provisions:

### **1. EMPLOYMENT**

Employer hereby agrees to employ LAWRENCE A. WERNER as Carson City Manager to report to the Board of Supervisors and to perform the duties specified herein and other duties, as the Board of Supervisors shall from time to time assign.

### **2. POWERS AND DUTIES**

The City Manager is the Chief Administrative Officer of the Consolidated Municipality of Carson City. The City Manager is responsible for the efficient administration of all affairs of the City which are under his control. In addition to his general powers as administrative head and not as a limitation thereon, it shall be his duty and he shall have the power and duty to perform the following:

a. **Enforcement**

To see that the laws of the State of Nevada and all laws, ordinances and policies of Carson City are duly enforced and that all franchises, permits, leases, agreements, contracts, and privileges granted or entered into by the City are faithfully observed.

b. **Departments and Employees**

To control, order, give direction to, appoint, promote, discipline, and demote or remove all heads of departments and/or subordinate officers and employees of the City. To organize, reorganize, consolidate or combine offices, positions, departments or other units under his jurisdiction as permitted by the Carson City Charter, the municipal code and Nevada state law. .

c. **Control and Supervision**

To exercise control over and to supervise, in general, all departments and divisions of City government and all appointed officers and employees within those departments and divisions under his jurisdiction.

d. **Agenda Preparation**

To prepare agendas for all Board of Supervisors meetings, and compile appropriate reports and recommendations as deemed necessary.

e. **Attend Meetings**

To attend all meetings of the Board of Supervisors unless excused by the Mayor or the Mayor pro tem.

f. **Recommendations**

To recommend to the Board of Supervisors for adoption such actions, , resolutions and ordinances as deemed necessary.

g. **Inform and Advise**

To keep the Board of Supervisors at all times fully advised as to the operational, financial and general condition and needs of the City.

h. Annual Budget

To timely prepare and submit to the Board of Supervisors and State of Nevada the annual budget and to administer it after adoption.

i. Salary Plan

To prepare and recommend to the Board of Supervisors, a salary plan for classified and unclassified employees and appropriate revisions to the personnel ordinance.

j. Investigation of Affairs

To make investigations into the affairs of the City and any department or division thereof and any contract, or the proper performance of any obligation running to the City.

k. Investigation of Complaints

To investigate all complaints in relation to matters concerning the administration of the government of the City and in regard to the service maintained by public utilities in the City.

l. Supervision of Public Property

To exercise general supervision over all public buildings, public parks, streets and other public property (personal and real) which are under the control and jurisdiction of the Board of Supervisors.

m. Full Time Duties

To be in the exclusive employment of the City and to devote his entire time to the duties set forth in this Contract and the interests of the city.

n. Reports and Recommendations

To make reports and recommendations as may be desirable or requested by the Board of Supervisors.

o. Other Powers and Duties

To perform such other duties and exercise such other powers as may be delegated to him from time to time by the Board of Supervisors.

### **3. ABSENCE**

In the case of absence of the City Manager, he has the authority to appoint, and shall appoint, some duly qualified person to perform his duties during the period of absence.

### **4. TERM OF CONTRACT**

The City Manager is an at-will employee and shall serve at the pleasure of the Board of Supervisors in accordance with Nevada law. The term of this Contract is two (2) years, fourteen (14) days, from December 17, 2009 to December 31, 2012, unless the Contract is terminated by the Employer or the Employee resigns. Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the Board of Supervisors to terminate the services of the Employee at any time for any reason or for no reason at all, subject to the provisions set forth in this Contract. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of the Employee to resign at any time from his position with Employer, subject only to the provisions set forth in this Contract. Not more than six months before the end of this Contract, Employee may submit a written proposal to Employer for the extension of the provisions of this Contract and / or revision of the provisions of this Contract and in that event, the Board of Supervisors shall decide whether or not to enter into negotiations with respect to such proposal. Employer shall advise Employee within thirty (30) days after receipt of a written proposal for extension of the Contract whether or not the Board of Supervisors is interested in extending the Contract. Nothing contained herein shall be construed to require Employer to revise or extend this Contract.

## **5. TERMINATION AND SEVERANCE PAY**

- a. In the event Employee is terminated by the Employer during the term of this Contract and the Employee is willing and able to perform his duties under this Contract, Employer agrees to pay Employee a lump sum cash payment equal to six months base salary, less applicable withholdings, as of the date of termination. Employer shall also continue to pay for Employee's COBRA health insurance benefit payments for six months following termination or until Employee secures other health insurance, whichever period is shorter. Employee shall also be paid for any accrued vacation up to 300 hours and management leave up to 40 hours at his current base salary rate as of the date of termination.
- b. In the event the Employee is terminated for cause or for conviction of a felony or gross misdemeanor, Employer shall have no obligation to pay the lump sum cash payment as designated in paragraph 5(a) above or the COBRA health insurance benefit. Employer will be required to pay the accrued vacation hours up to 300 hours and any management leave up to 40 hours prorated from July 1<sup>st</sup> to June 30<sup>th</sup>.
- c. In the event Employer at any time during the term of this Contract reduces the salary or other financial benefits of Employee, without Employee's concurrence, in a greater percentage than applicable for across-the-board reductions for all employees of Employer, or in the event Employer refuses, following written notice, to comply with any provision benefitting Employee herein, the Employee is deemed to be "terminated" and the Employer is required to comply with the provisions of paragraph 5(a) above.
- d. In the event Employee voluntarily resigns his position with Employer before the expiration of the aforesaid term of his employment, then Employee shall give Employer at least 60 days notice in advance, unless the parties agree otherwise. If the Employee voluntarily resigns his position, the provisions of 5(a) will not apply except for the provisions for payment of accrued annual and management leave.
- e. Upon termination of this Contract, Employee shall immediately return all keys and City property to Employer. If all property is not returned within 5 days of termination of the Contract, Employer may institute a legal action against Employee for conversion.
- f. If Employee is permanently and totally disabled or otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health for a period of four successive weeks beyond any accrued sick leave, Employer shall have the option to terminate this Contract. In the event of such termination, the provisions of paragraph 5(a) will apply.

## **6. SALARY. COMPENSATION, PERFORMANCE EVALUATION AND BENEFITS**

Beginning the effective date of this Contract, Employer shall compensate Employee for services rendered pursuant to this agreement as set forth below.

- a. The Employee shall be paid a bi-weekly salary of \$5,391.10. Upon approval of the Board of Supervisors, the Employer's Director of Human Resources may conduct a total compensation comparison of similar Chief Administrative Officers in the region and the Board may consider and approve changes in the existing salary range for the Employee. If the salary is adjusted downward due to the compensation study, paragraph 5(c) will not apply to that reduction. In January of each year, during the annual performance evaluation of the Employee, the Employer may adjust the Employee's base salary within the City Manager salary range after the review and evaluation of the Employee's performance related to the established core success factors for City Manager.
- b. Employee will be paid a \$3,900 per year automobile allowance in bi-weekly installments.

- c. Employer paid health and related life, disability and similar insurance benefits at the same level and type of coverage as applied to other unclassified appointed department heads.
- d. Employer will pay cost of living adjustments (COLA) as applied to other unclassified appointed department heads.
- e. Public Employees Retirement System shall be paid 100% by the Employer.
- f. Medicare payments shall be paid by Employer as applied to other unclassified employees.
- g. Workers compensation insurance premiums will be paid by the Employer at the required level.

#### **7. HOURS OF WORK**

It is recognized that Employee must devote a great deal of time outside the normal office hours to business of the Employer, and to that end Employee will be allowed to take time off as he shall deem appropriate during said normal office hours.

#### **8. LEAVE BENEFITS**

Employee shall accrue, and have credited to his personal account annual leave at the rate of fourteen (14) hours per month (21 days/year) and sick leave shall accrue at the rate of ten (10) hours per month (15 days/year). Accrued sick leave balances shall be carried forward from leave year to subsequent leave year without limitation. Only three hundred (300) hours of annual leave may be carried forward from leave year to subsequent leave year. Employee shall receive eighty (80) hours of management leave per year on each July 1. Except as set by resolution for the use and compensation of management leave as applies to unclassified employees, unused management leave is lost if not used by the end of the fiscal year in which it is granted and Employee will not be compensated for unused management leave.

#### **9. DUES AND CONTRIBUTIONS**

Employer agrees to budget and to pay for reasonable professional dues and subscriptions of the Employee necessary for the continuation in associations and organizations necessary and desirable for continued professional growth and advancement. Employer reserves the right to review these expenses on a periodic basis to assure reasonableness.

#### **10. PROFESSIONAL DEVELOPMENT**

Employer agrees to budget for and to pay for reasonable travel and subsistence for Employee for professional and official travel to meetings and occasions to continue professional development of Employee. Employer reserves the right to review these expenses on a periodic basis to assure reasonableness.

#### **11. GENERAL EXPENSES**

Employer recognizes that certain expenses of a non-personal and job-affiliated nature are incurred by Employee in conjunction with his responsibilities herein described, and shall continue to reimburse or to pay said general expenses in accordance with existing city policy for city employees. Employer reserves the right to review these expenses on a periodic basis to assure reasonableness.

#### **12. DUTY TO DEFEND**

The District Attorney shall provide for the defense, including the defense of cross-claims and counterclaims, in any civil action brought against the City Manager based on any alleged act or omission relating to his public duties or employment if:

1. Within 15 days after service of a copy of the summons and complaint or other legal document commencing the action, he submits a written request for defense to the District Attorney; and
2. The District Attorney determines that the act or omission on which the action is based appears to be within the course and scope of public duty or employment and appears to have been performed or omitted

in good faith.

**13. MERIT SALARY INCREASE**

In January of each year, the Employer shall review and evaluate the performance of the Employee. The criteria to be used will be developed jointly by the Employer and Employee upon initial appointment under this agreement and each January thereafter. The criteria, goals, and objectives will be reduced to writing and reviewed by the Employer and Employee each subsequent June for possible additions, deletions or modifications. The Employer defines the desired outcomes (goals) it deems necessary for the proper operation of the City and the attainment of the Employer's policy objectives. The Board of Supervisors shall prioritize the desired outcomes (goals). These goals and objectives shall be generally obtainable within time limits specified. Based on the Employee's achievement of the goals, the Employer may grant a merit increase to the Employee up to, but not exceeding the current salary range for City Manager. If such a merit is approved by the Employer, it will be granted at the time of the annual performance evaluation in January as referenced in Section 6.

**14. ATTORNEY'S FEES AND COURT COSTS: APPLICABLE LAW**

If either the Employee or Employer is required to go to court to enforce the provisions of this Contract then the prevailing party shall be entitled to reimbursement from the non-prevailing party for attorney's fees, litigation expenses and court costs. In the event of litigation, Nevada law shall control the interpretation and application of this Contract.

**15. GENERAL PROVISION**

The text herein shall constitute the entire Contract between the parties.

This Contract shall be binding upon and inure to the benefit of the heirs at law and executors of Employee. This Contract shall be interpreted under Nevada law.

If any provision, or any portion thereof, contained in this Contract is held unconstitutional, invalid, or unenforceable, the remainder of this Contract, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

**IN WITNESS WHEREOF**, the consolidated municipality of Carson City has caused this Contract to be signed and executed in its behalf by its Mayor and duly attested by its Clerk, and the Employee has signed and executed this Agreement, both in duplicate, the day and year this Agreement is executed by the Mayor on behalf of the City.

EMPLOYEE

CITY

201 N. Carson Street  
Carson City, Nevada

201 N. Carson Street  
Carson City, NV 89701

Lawrence A. Werner

Robert L. Crowell, Mayor

Dated this \_\_\_\_ day of \_\_\_\_, 2009

Dated this \_\_\_\_ day of \_\_\_\_, 2009

Attest:

Approved as to form:

Alan Glover, Clerk/Recorder

Neil Rombardo, District Attorney

Dated this \_\_\_\_ day of \_\_\_\_, 2009

Dated this \_\_\_\_ day of \_\_\_\_, 2009

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**the phased-in retirement of Linda P. Ritter, pursuant to NRS 286.477; and to approve the signing of the Mutual Release of all Claims by and between Carson City and Linda P. Ritter, as amended on the record today. Supervisor Livermore seconded the motion. Mayor Teixeira requested a roll call vote. Supervisors Staub, Livermore, Aldean, and Mayor Teixeira - yes; Supervisor Williamson - no. Motion carried 4-1.**

**5. MAYOR - DISCUSSION ON THE APPOINTMENT OF A CITY MANAGER AND POSSIBLE ACTION TO APPOINT A CITY MANAGER AND SET THE SALARY OR DIRECT HUMAN RESOURCES TO ADVERTISE AN OPENING FOR THE CITY MANAGER POSITION (8:47:35) -** At Mayor Teixeira's request, Mr. Werner stepped to the podium. Mayor Teixeira advised of Mr. Werner's expression of interest in the position of City Manager. Mr. Werner acknowledged having served as a city manager in the State of Washington. Mayor Teixeira acknowledged Mr. Werner's qualifications, and advised he is well respected by the City's management team. He advised that various department heads had encouraged Mr. Werner's appointment to the position of City Manager. He expressed the opinion that it would be in the best interests of the community "to take [Mr. Werner's] expertise and his knowledge and the support he has from the other managers within our City organization and go forward at this time." Mr. Werner acknowledged a willingness to move into the position at its current salary.

Supervisor Livermore expressed support for working with Mr. Werner in the capacity of City Manager. He advised of having known Mr. Werner for many years, and congratulated him on his willingness to step forward. He expressed the opinion that the City organization will be supportive as well. Supervisor Aldean reiterated misgivings over Ms. Ritter's resignation, but expressed the opinion that Mr. Werner has the expertise, the knowledge, and the confidence from other department managers and employees to do an exemplary job.

Mr. Werner thanked the Board members for their comments, and discussed the opportunity to step in and assist the City through its struggles. He advised of having enjoyed working with Ms. Ritter. He noted that his management style is different, and discussed the work Ms. Ritter will be doing for the City.

Mayor Teixeira called for additional Board member comments and for public comments. (8:52:20) John Wagner expressed support for Mr. Werner's appointment. He noted that "engineers are people who solve problems," and expressed the opinion that someone who could "work with other people and solve problems" is a "big plus for our community."

(8:52:55) Sam Dehne commended the selection of Mr. Werner, and requested more background information on Mr. Werner's current position for the benefit of the viewing public. He recommended that Mr. Werner contact the Reno City Manager, Charles "the Wizard" McNeely, and Financial Director Annie "the Magician" Green as "they always seem to find a bottomless pit of money somewhere ... no matter how bad things might look."

At Mayor Teixeira's request, Mr. Werner provided background information on his residence in Nevada, as a native born in Smith Valley and raised in Lincoln County. He advised of having moved to Carson City in the late 1950s / early 1960s, and of having graduated from Carson High School. He earned his engineering degree from the University of Nevada. His first job was to establish the Lyon County Public Works Department, which included adopting ordinances for land development, subdivisions, zoning codes, etc. as well as assisting Lyon County in developing its first land use master plan and associated regulations. He discussed his experience as a Public Health Engineer for the State of Nevada, and as an engineer for



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the State Environmental Commission and the Legislature to develop water pollution control regulations. He was subsequently hired as the Carson City Deputy Utilities Director to address problems with the wastewater treatment plant, which was ultimately expanded. Mr. Werner advised of having served as the City's Public Works Director until 1984, when he resigned to take a position as the Deputy Public Works Director in Puyallup, Washington. Due to a situation involving "a changing of the guard," he served as the Puyallup Interim City Manager for approximately a year. He subsequently served in Douglas County for a period of time, owned a private engineering firm for approximately ten years, and came back to Carson as the City Engineer in 2000. Following a reorganization, he was appointed to the position of Development Services Director to work with the Building, Planning, Engineering, and Business License Divisions. The Board members, City staff, and citizens present applauded Mr. Werner.

Mayor Teixeira entertained a motion. **Supervisor Livermore moved to appoint Larry A. Werner as City Manager and set his salary at the current compensation of the retired city manager. Supervisor Staub seconded the motion.** Mayor Teixeira requested a roll call vote. **Supervisors Williamson, Aldean, Livermore, Staub, and Mayor Teixeira - yes. Motion carried 5-0.** The Board members, City staff, and citizens present applauded Mr. Werner's appointment.

**6. NEVADA DIVISION OF FORESTRY - PRESENTATION AND REPORT ON THE SIERRA FOREST FIRE PROTECTION DISTRICT ACTIVITIES IN CARSON CITY (8:59:33)** - Nevada Division of Forestry ("NDF") Fire Management Officer Michael Klug provided an overview of his presentation. He noted that last year was "another bad fire season" with approximately 900,000 acres lost primarily in the northeastern part of the state between Winnemucca and Wells. He advised that NDF crews spent over a million hours fighting fires. He noted there were very few fires in Carson City. He discussed trends in fire occurrence and severity in conjunction with the state's fire history. He advised that over 6 million acres of rangeland have been burned throughout the state in the last nine years. He noted the serious impact to the environment and to the rural economies, particularly in the ranching communities. He discussed causes of the "dramatic change in fire severity," including climate change, with the long-term drought across western states, less snow pack in the winter and warmer springs; the loss of native sagebrush communities and subsequent spread of invasive species such as cheatgrass; and population growth.

To reduce the wild land fire problem, Officer Klug advised that NDF has recognized the importance of "not just putting fires out." "Our firefighters spend a lot of time doing fire prevention, trying to reduce the occurrence of fires." Officer Klug discussed the past NDF focus on educational programs for children and other areas, such as construction activities, in which fire occurrences have increased. He discussed the importance of public education programs, defensible space inspections, and increasing fire safety awareness. "The more people can do on their own, ... makes it a lot easier for us because then we can concentrate our efforts on actually putting out the fire." Officer Klug discussed fire preparedness, including NDF hand crews, helicopters, and a close working relationship with all the fire departments in the state; fuels management projects, rehabilitation and erosion control; and NDF involvement in the Governor's War on Cheatgrass, a multi-state effort between Nevada, Utah, Idaho, and Wyoming.

Officer Klug explained that the frequency, intensity, and size of fires is rapidly increasing and will continue to do so in the foreseeable future. NDF has developed "a whole range of forest and fire management programs," while recognizing that the wild land fire threat is a multi-faceted problem which no one agency can combat alone. NDF has many partners, including the Carson City Fire Department, the Cooperative Extension, fire departments throughout the state, federal and state agencies, fire safe councils, and The Nature Conservancy.