

CARSON CITY BOARD OF SUPERVISORS

Minutes of the March 4, 2010 Meeting

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A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, March 4, 2010 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Mayor Robert Crowell
Supervisor Robin Williamson, Ward 1
Supervisor Shelly Aldean, Ward 2
Supervisor Pete Livermore, Ward 3
Supervisor Molly Walt, Ward 4

STAFF: Larry Werner, City Manager
Alan Glover, Clerk - Recorder
Melanie Bruketta, Chief Deputy District Attorney
Kathleen King, 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

(8:30:00) - Mayor Crowell called the meeting to order at 8:30 a.m. Roll was called; a quorum was present. Dave Goodale, of Capital Christian Center, provided the invocation. Finance Department Director Nick Providenti led the pledge of allegiance.

5. ACTION ON APPROVAL OF MINUTES - March 6, 2009, February 4, 2010, and February 16, 2010 (8:30:38) - Supervisor Aldean moved to approve the minutes of March 6, 2009, as presented. Supervisor Livermore seconded the motion. Motion carried 5-0. Supervisor Aldean noted corrections to the February 4, 2010 minutes, and moved to approve them as amended. Supervisor Williamson seconded the motion. Motion carried 5-0. Supervisor Aldean moved to approve the minutes of February 16, 2010, as presented. Supervisor Livermore seconded the motion. Motion carried 5-0.

6. ADOPTION OF AGENDA (8:32:46) - Mayor Crowell entertained requests to modify the agenda and, when none were forthcoming, deemed the agenda adopted.

7. PUBLIC COMMENTS AND DISCUSSION (8:33:05) - Mayor Crowell entertained public comments. (8:33:) Attorney Jim Beasley distributed to the Board members and the Clerk copies of SB 144 and Carson City Municipal Code Section 18.05.080. He expressed the opinion there are portions of the Carson City Municipal Code which are in conflict with the Nevada Revised Statutes and, as a result, unenforceable. He referred to Section 18.05.080(2), Standards, and read into the record a portion of subparagraph b. He reiterated "this is in direct conflict with the provisions of SB 144," and read into the record SB 144 Section 2.5(2)(b). He noted "three specific exceptions," and stated, "If a City ordinance is directed to regulation of the height, noise, or safety of the system, ... then it's possible that a limitation could be placed on a system which is ... unreasonably restricted." In reference to the Carson City Ordinance, enacted July 2, 2009, and SB 144, enacted May 2, 2009, Mr. Beasley stated, "It's apparent from reading the sections that probably the Carson City Ordinance was, in fact, prepared prior to the adoption of the State statute because it incorporates certain measures which are in conflict with the State statute." Mr. Beasley expressed a particular interest in CCMC Section 18.05.080(2) (b), and suggested it "is in no way related to the requirement or the regulation affecting the noise. It is in no way related to the regulation affecting the height of a wind turbine. The only argument that Carson City could make is that somehow

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it's related to a safety concern; that is, we're only going to put one wind turbine on a parcel because it might pose a danger to somebody. However, the language of the Carson City ordinance itself shows that this is not the case." Mr. Beasley read into the record a portion of CCMC Section 18.05.080(2)(a), and reviewed an enlarged plat map.

In reference to SB 144, Mr. Beasley stated, "... a city ordinance can impose a reasonable restriction or requirement and the only reasonable restrictions or requirements are those relating to height, noise, or safety of a system." In reference to the Carson City ordinance, he stated, it "does address those issues. As far as safety is concerned, it talks about setbacks. It talks about access. It provides for ... rotor safety. It also addresses the issue of noise. It also addresses the issue of height. There's no problem with those specific provisions. Where the problem lies is that it attempts to address the issue of location and the only basis upon which it could conceivably do so is not on the basis of noise, not on the basis of height, possibly safety, but the fact that you can set up a turbine, a vertical axial turbine on any size parcel ... shows that it's not a safety concern that the Carson City ordinance is directed to where it says that you can only put up one wind turbine per acre."

(8:42:15) Anchorage Construction Management, Inc. President Fred Kessler advised of having provided written comments to the Board members and the Clerk, portions of which he read into the record. He introduced Moriah Power Engineer Dennis Montgomery, and offered his expertise to answer questions.

Mayor Crowell advised that extensive discussion of the ordinance, including an extensive public process, took place last year prior to enacting the ordinance. He requested Ms. Bruketta to review the information presented. Ms. Bruketta expressed a willingness to review the information, talk with the interested parties, and provide a memorandum to the Board. Mayor Crowell thanked Mr. Beasley and Mr. Kessler for their attendance and participation. He called for additional public comment; however, none was forthcoming.

ORDINANCES, RESOLUTIONS, AND OTHER ITEMS

8. FINANCE

8(A) ACTION TO ADOPT A RESOLUTION OF INTENT, PROPOSING THE ISSUANCE OF, AND AUTHORIZING THE PUBLICATION OF NOTICES RELATING TO GENERAL OBLIGATION (LIMITED TAX) BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES) FOR THE PURPOSE OF FINANCING WATER PROJECTS FOR THE CITY; PROVIDING THE MANNER, FORM, AND CONTENTS OF THE NOTICE; AUTHORIZING THE CITY MANAGER OR THE CITY FINANCE DIRECTOR TO ARRANGE FOR THE SALE OF BONDS; PROVIDING OTHER MATTERS PROPERLY RELATED THERETO; AND PROVIDING THE EFFECTIVE DATE HEREOF (8:47:44) - Mayor Crowell introduced this item, and Finance Department Director Nick Providenti reviewed the agenda materials. Mayor Crowell entertained Board member and public comments.

(8:49:33) John Wagner expressed resentment regarding the federal government's influence over the water projects. He inquired as to the federal government's authority to mandate "that we do certain things." He expressed the belief that local governments should not necessarily "just go along with everything they do," and the opinion "it would be a very gutsy move ... for you to tell the federal government to stuff it." He inquired again as to the federal government's authority over local government.

Supervisor Williamson explained that the subject item is relative to the Clean Water Act, and that the subject project will provide for an intertie with Douglas County's water system in order to meet Carson

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City's water quality standards, as enacted by the federal government. The intertie project will help Carson City meet federal water quality standards in lieu of building a treatment facility that's much more expensive to construct and operate on a long-term basis. Another benefit is that additional water capacity will be available during the summer months and fire seasons.

(8:52:07) Mr. Wagner expressed the understanding that Congress has the ability to enact laws, "but they're supposed to make laws in reference to the Constitution. The Constitution says what Congress can do and what they cannot do."

Mayor Crowell expressed understanding for Mr. Wagner's concerns, and discussed the importance of the Board considering the community's safety. Supervisor Aldean expressed understanding for the desire to be as autonomous as possible. She explained that, of the \$32 million, \$10 million is to acquire additional water rights in Minden. "This water is arsenic free." Supervisor Aldean noted the possibility that increased arsenic and uranium could ultimately lead to health implications for which the City would be liable. She explained \$6 million is for the intertie with Douglas County, \$10 million is for the additional water rights, and the balance of the \$16 million is for improving our infrastructure within the City to more efficient delivery of water.

(8:54:19) Mr. Wagner suggested that the water quality standards could be changed at any time, and inquired as to what would happen. "We go through this whole process all over again. They make these standards so rigid. No one's died from any of this stuff that I can remember and they keep making the standards higher and higher and higher and harder and harder to meet. And, of course, the harder they make it to meet, the more money you have to spend to make it work."

In addition to the issues of public safety and health, Supervisor Livermore discussed the increasing demand for water resources. (8:56:35) Mr. Wagner suggested breaking up the resolution into "several different bills." He expressed understanding for the necessity of ensuring sufficient water supply and the agreement with Douglas County. He reiterated objection to building additional facilities as mandated by the federal government. Mayor Crowell encouraged Mr. Wagner to monitor the home rule argument during the next legislative session.

Mayor Crowell entertained additional public comment and, when none was forthcoming, a motion. **Supervisor Williamson moved to adopt Resolution No. 2010-R-9, a resolution of intent proposing the issuance of, and authorizing the publication of notices relating to, general obligation (limited tax) bonds, additionally secured by pledged revenues, for the purpose of financing water projects for the City; providing the manner, form, and contents of the notice; authorizing the City Manager or City Finance Director to arrange for the sale of the bonds; providing other matters properly related thereto; and providing the effective date hereof; fiscal impact in the water fund estimate is \$60,402,239, including principle and interest. Supervisor Walt seconded the motion. Motion carried 5-0.**

8(B) ACTION TO ADOPT A RESOLUTION OF INTENT, PROPOSING THE ISSUANCE OF, AND AUTHORIZING THE PUBLICATION OF NOTICES RELATING TO, GENERAL OBLIGATION (LIMITED TAX) BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES) FOR THE PURPOSE OF FINANCING SEWER PROJECTS FOR THE CITY; PROVIDING THE MANNER, FORM, AND CONTENTS OF THE NOTICE; AUTHORIZING THE CITY MANAGER OR CITY FINANCE DIRECTOR TO ARRANGE FOR THE SALE OF THE BONDS; PROVIDING OTHER MATTERS PROPERLY RELATED THERETO; AND

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PROVIDING THE EFFECTIVE DATE HEREOF (8:58:23) - Mayor Crowell introduced this item, and Mr. Providenti reviewed the agenda materials. Mayor Crowell entertained public comment. Mr. Wagner acknowledged a desire to incorporate his previous comments. Mayor Crowell entertained additional public or Board member comments and, when none were forthcoming, a motion. **Supervisor Aldean moved to adopt Resolution No. 2010-R-10, a resolution of intent, proposing the issuance of and authorizing the publication of notices relating to, general obligation (limited tax) bonds, additionally secured by pledged revenues, for the purpose of financing sewer projects for the City; providing the manner, form, and contents of the notice; authorizing the City Manager or City Finance Director to arrange for the sale of the bonds; providing other matters properly related thereto; and providing the effective date hereof. Supervisor Livermore seconded the motion. Motion carried 5-0.**

In response to a question, Mr. Werner advised of having been informed by Public Works Department Director Andrew Burnham of an estimated 1,500 construction jobs to be created by the water and sewer projects, "by the time you look at ... direct construction, the secondary impacts, and ... as it filters down into the local services." In response to a further question, he advised that portions of the project have started in the Riverview Terrace area of Fifth Street. Completion of design for a major portion of the project is anticipated to be accomplished in November. The bid process will likely take place next fall, with construction to begin the following spring or summer.

8(C) DISCUSSION AND POSSIBLE ACTION TO DIRECT STAFF TO USE THE "ALLOWED" PROPERTY TAX RATE AS DETERMINED BY THE DEPARTMENT OF TAXATION FOR USE IN PREPARING THE CARSON CITY FY 2011 BUDGET (9:01:17) - Mayor Crowell introduced this item, and Mr. Providenti reviewed the agenda materials. He and Mr. Werner responded to questions of clarification. Mayor Crowell expressed concern over placing the tax burden on properties which have declined in value relatively more than other properties in our community. In acknowledgment of the need for revenue, he inquired as to the rationale. Assessor Dave Dawley explained there are approximately 700 parcels which will be affected. "There's not one area that's actually receiving more or lowered values than the rest of Carson City. What's happening is the majority of these properties were not in existence as of 2005 so, whether they were subdivided after that, whether they were built after that, they were added to the roll outside of the tax. They went on at a higher value and so they were taxed at the higher value. Now that the values are falling, their actual tax amount that they would be paying is falling and so it's that difference." Mr. Dawley provided an example, and reiterated "it's on new construction primarily ..., raw land when it's subdivided to the very final point goes on the roll at full value. Those are the parcels that are being affected." Discussion took place to clarify the example provided and the effect of using the allowed property tax rate.

Supervisor Walt expressed concern over the City's revenue shortfall "riding on the shoulders ... of those 700" property owners. Mr. Dawley acknowledged having discussed this matter with Supervisor Walt yesterday and advised of having discussed the matter with Builders Association of Western Nevada representatives on other occasions. "With the property taxes for the new properties that are outside, they're going to be hit now. If you add the proposed allowable tax rate, then everybody else will be paying that tax. It's just going to be spread out for a longer time period. They're going to be receiving their 3 percent and their 8 percent tax cap for a much longer time period than if they were hit immediately which is what the new construction ... is going to be hit with." Mr. Providenti added, "There's basically just going to be more abatement ... and it would just spread out that abatement over a longer period of time." Mr. Dawley explained there are two components: the assessed valuation and the tax rate. Increasing the tax rate results in a decrease in the assessed valuation. "The cap will remain the same but one of them is going to either go up or down depending upon what the other does."

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In response to question, Mr. Providenti explained that the allowed tax rate would increase to 1.7946 percent. He acknowledged that the make-up revenue cannot be added to next year's tax base, and responded to additional questions of clarification regarding the revenues allocated to the regional juvenile facility. Supervisor Aldean thanked Mr. Dawley for providing the example to the Board members, and expressed concern over public perception that the tax cap implemented by the legislature is being circumvented. She expressed concern over philosophical difficulties. Mr. Dawley reiterated the explanation regarding assessed valuation and the tax cap. Supervisor Aldean expressed understanding and reiterated concern over public perception.

Supervisor Williamson thanked staff for the explanations provided, and acknowledged "no one gets the same tax bill. Depending upon where you live, ... the age of your home, there's depreciation that's thrown in here also in addition to the cap, and whether or not it's a rental property or an owner-occupied property." In response to a question, Mr. Dawley expressed the belief that there will be no decline in property tax revenues resulting from the Board not taking the recommended action. He explained that "the majority of Carson City is still under that cap." He provided background information on valuations used at the time the tax cap was enacted. Mr. Providenti further explained that the City was not levying the maximum allowed tax rate at that time. "We were probably \$0.10 below the allowed tax rate. So, if the cap had not gone into place, we could have increased our tax rate two or three cents and got that money. ... But, when they capped it, we basically lost the ability to levy that \$0.10. So when they raised the tax rate in 2006, ... that just gave us more abatement basically. We're almost abating as much tax as we're generating."

Supervisor Aldean noted the irony of enacting the tax cap "that communities which are fiscally conservative with respect to raising their tax rate were ultimately penalized." She expressed understanding and sympathy, but concern over impacts to new construction. In response to a comment, Mr. Werner advised that the proposed action is "about a \$500 per year impact compared to abating thousands of dollars in sewer and water connection fees." Supervisor Aldean reiterated concern over the philosophical perception. "On the one hand, we giveth and the other hand we taketh away." She expressed understanding of the "huge difference" in actual dollars. Mr. Dawley provided background information on the method of appraising property in consideration of assessed valuations. Discussion followed, and Mr. Providenti responded to questions of clarification regarding the recommended action.

In response to a question, Mr. Werner advised of having reviewed all the single-family properties. The single highest increase would be \$726. "The majority of them are in the \$240 to \$250 per year range. The total tax that comes with this off of residential properties is about \$30,000." Mr. Providenti responded to additional questions of clarification with regard to the effect of the recommended action, and discussion followed. At Supervisor Williamson's request, Mr. Dawley reviewed this year's Board of Equalization process.

Mayor Crowell entertained public comment. (9:32:37) James Bagwell, a resident of Jarrard Court, inquired as to the requirement to levy the 3 percent tax. Mr. Dawley explained the method by which property taxes are calculated. Mr. Bagwell expressed opposition to any increase in property taxes or any other taxes or fees. He reviewed the purview of the Board of Supervisors to levy taxes, and expressed the opinion that "government should have no more in their treasury than the amount necessary to do the business of the people. The most dangerous power entrusted to man is that of collecting and disbursing revenues." He discussed the struggling economy, and expressed the opinion "it won't be healed unless the private sector heals." He emphasized that "government must show ... great fiscal restraint. The money that circulates through government doesn't have the same impact [as] money that circulates in the private sector." He expressed concern over any additional taxes on property "decreas[ing] the economic activity" in the

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housing and construction industry. He suggested that “now’s the time for Carson City to tighten its belt.” He expressed the opinion that “every family ... is fearful financially in trying to survive on less than they had last year.” He expressed the hope that “recovery is on the horizon,” and the opinion “that would be speculative at best.” He expressed the fear that “the light at the end of the tunnel is the V&T that’s going to run over us.”

(9:36:50) Fred Brown suggested the Board is well aware of the problems faced by the business community, and expressed concern over any tax increase impacting people with “very low incomes. They can barely make their rent. They can barely make their medicine. They can barely make food costs.” “Any tax increase that you initiate will filter down to the people who rent spaces to the individuals that live in these homes and it just creates a greater burden on them.” He expressed a preference for a “tax holiday,” by not “even tak[ing] your three percent next year and let the community try to level out, find out what’s going to happen with the economy in this next year. The whole of Northern Nevada is suffering quite badly and they need every bit of relief that they can possibly get.” Mr. Brown acknowledged, “... it’ll hurt the City, ... but in the long run, we’ll all come out ahead of the game ...”

(9:38:39) Sierra Nevada Association of Realtors President Dan Smith expressed opposition to staff’s proposal to base the 2011 budget on a \$0.33 increase in the property tax rate. He read a prepared statement into the record. He expressed confusion over the process in that cutbacks will be presented to the Board at its March 18th meeting. “Aren’t those two discussions related to each other?” On behalf of the 600 members of the Sierra Nevada Association of Realtors, Mr. Smith urged the Board to maintain the current property tax rate and not rely on increasing property taxes as the basis for the City’s budget.

Mayor Crowell clarified that staff is not “pitching one position or another. ... They’re asking for direction.” In addition, the Board “does this drill every year because the State law requires us to either say yes or no ...” Mr. Providenti explained the purpose for presenting this item to the Board in March was to provide sufficient time to prepare the annual budget. He further explained that increasing the tax rate will not “solve all of our budget problems. ... We’re \$8 million in the hole and this will probably provide about \$300,000 extra money.” He emphasized, “There’s going to be cuts no matter what you do,” and that the City will be tightening its belt. “There’s no question that we’re going to have to reduce expenses no matter what we do and it’s going to probably affect public safety and ... everything that we do ...”

Supervisor Williamson noted that the City has been “continually cutting for the last five years and we have continued to live within our means. It’s just been this precipitous sales tax drop that’s just overwhelmed us.” Mr. Smith acknowledged that homes are being purchased and there is an increase in real estate transactions. “However, the value of the individual real estate transactions has dropped significantly.” He provided statistical information.

(9:44:48) Mark Turner “echoed the sentiments” of previous testimony, and expressed opposition to the tax increase. He stated, “Carson City real estate values for residential are at their lowest point right now during this recession.” He discussed an example in the Silver Oak subdivision. In terms of “belt-tightening,” he referred to the recent cuts to the Building Division. “Staffing levels there are as low as I can remember.” Mr. Turner advised that, in spite of those cuts, the service “... is as good as it’s been in recent memory.” He commended Chief Building Official Kevin Gattis and his staff, and expressed appreciation for the reduction in water and sewer connection fees. He reiterated opposition to any change in the tax rate. Mr. Werner thanked Mr. Turner for his comments regarding the Building Division.

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(9:48:28) John Wagner expressed the understanding that the “Supreme Court has ruled the tax rate has got to be uniform.”

(9:50:19) Builders Association of Western Nevada Chief Executive Officer Rick DeMar expressed appreciation for the Board’s previous actions catalyzing construction jobs in the community. He noted the “pervasive” sentiment that “we’re kind of unhappy with government and the course it’s taking with regard to our individual lives.” He suggested considering that the individual homeowners, whose property values are declining, “expect to see their property tax decline by the assessed value.” In response to a question, he expressed the opinion that the tax cap was “a bad idea,” and expressed support for removing it.

Mayor Crowell entertained additional public comment; however, none was forthcoming. In response to a question, Mr. Providenti advised that the revenues for the regional juvenile facility would have to be allocated from a different source. Mr. Werner explained the provisions of the City’s contract with the regional juvenile facility. In response to a question, he advised that use of the facility has decreased over the past several years, and that an evaluation is being conducted with regard to use and funding. In response to a previous question, Supervisor Aldean advised that commercial real estate is “not faring well,” and noted the number of current vacancies in the community. She expressed the opinion that an increase in property taxes will have a “chilling effect” on the commercial sector.

Mayor Crowell entertained a motion. **Supervisor Livermore moved to direct staff to develop the 2011 budget with the current tax rate and not use the new allowed rate, as presented today. Supervisor Walt seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote. **Motion carried 5-0.** Mayor Crowell commended the discussion and the citizens for their attendance and participation.

9. BOARD OF SUPERVISORS NON-ACTION ITEMS:

INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (9:57:16) - Mr. Werner provided an overview of the March 18th Board of Supervisors agenda. Discussion followed.

CORRESPONDENCE TO THE BOARD OF SUPERVISORS

STATUS REPORTS AND COMMENTS FROM THE BOARD MEMBERS (10:00:04) - Supervisor Aldean distributed copies, to the Board members, of the Small Business Permit Process Overview, developed by Chief Building Official Kevin Gattis in cooperation with various community representatives, to help people navigate through the permitting process. Supervisor Aldean invited the Board members to provide input. Supervisor Williamson announced that Greg Mortenson, the author of *Three Cups of Tea* and *Stones Into Schools* will be making a presentation at the Carson Nugget on Tuesday, March 9th.

STAFF COMMENTS AND STATUS REPORT

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10. ACTION TO ADJOURN (10:01:37) - Supervisor Aldean moved to adjourn the meeting at 10:01 a.m. Supervisor Williamson seconded the motion. Motion carried 5-0.

The Minutes of the March 4, 2010 Carson City Board of Supervisors meeting are so approved this _____ day of April, 2010.

ROBERT L. CROWELL, Mayor

ATTEST:

ALAN GLOVER, Clerk - Recorder