

CARSON CITY BOARD OF SUPERVISORS
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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, September 15, 2005, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 8:30 a.m.

PRESENT:	Marv Teixeira	Mayor
	Robin Williamson	Supervisor, Ward 1
	Shelly Aldean	Supervisor, Ward 2
	Pete Livermore	Supervisor, Ward 3
	Richard S. Staub	Supervisor, Ward 4

STAFF PRESENT:	Linda Ritter	City Manager
	Melanie Bruketta	Chief Deputy District Attorney
	Cheryl Adams	Purchasing and Contracts Manager
	Katherine McLaughlin	Recording Secretary

(B.O.S. 9/15/05 Tape 1-0014.5)

NOTE: Unless otherwise indicated, each item was introduced by staff's reading/outlining/clarifying the Agenda Report and/or supporting documentation. Staff members making the presentation are listed following Department's heading. 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.

CALL TO ORDER, ROLL CALL, PLEDGE OF ALLEGIANCE, AND INVOCATION - Mayor Teixeira convened the meeting at 8:30 a.m. Roll call was taken. The entire Board was present, constituting a quorum. Chief Deputy District Attorney Melanie Bruketta led the Pledge of Allegiance. Rev. Bruce Henderson of the Airport Road Church of Christ gave the Invocation.

CITIZEN COMMENTS (1-0077.5) - Gil Yanuck reminded the Board of the photographs he had given to them in April regarding the dangerous road conditions in Lakeview. These conditions have been addressed, however, the Mayor's request for a timetable for replacement of the curbs and reflectors has not been provided. Mayor Teixeira directed City Manager Linda Ritter to work with Mr. Yanuck and to provide him with the timetable. Additional comments were solicited.

Joe Murphy explained that the City's website does not indicate the current meeting times and dates. The June and July schedules are still being shown. City Manager Linda Ritter explained that staff is working on updating the entire website. She also indicated that the schedule should be posted on CAT-10's bulletin board. Mr. Murphy explained that about a year ago the Nevada Commission to Reconstruct the V&T Railway had been on CAT-26. It was there for approximately six months. It is no longer carried on the schedule. It should be on CAT-10/26. Mayor Teixeira explained that the Commission is now meeting in NACO's conference room. The room is not wired for live television. The Sierra Room and the Legislative meeting rooms allow airing the meetings live. It could be video taped and aired later. He indicated that the Board understands his concern. Additional comments were solicited but none were given.

2. AGENDA MODIFICATIONS (1-0170.5) - None.

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1. **ACTION ON APPROVAL OF MINUTES - 12/16/04 AND 8/18/05 (1-0175.5)** - Supervisor Aldean moved to approve the Minutes from the meeting of the Carson City Board of Supervisors from December 16, 2004, together with the Minutes from the meeting of August 18, 2005; there were no corrections. Supervisor Livermore seconded the motion. The motion on the December 16 minutes carried 3-0-2 with Supervisor Williamson and Mayor Teixeira abstaining - Supervisor Williamson was absent and Mayor Teixeira was not yet sworn-in. The motion on the August 18 minutes carried 5-0.

3. **CONSENT AGENDA (1-0211.5)**

3-1. **PURCHASING AND CONTRACTS**

A. **ACTION TO APPROVE AMENDMENT NO. 1 FOR CONTRACT NO. 0405-076 AMBULANCE BILLING SERVICES WITH ADVANCED DATA PROCESSING, INC.**

B. **ACTION TO APPROVE CONTRACT NO. 0506-055 TO CONTRACT WITH MACHABEE OFFICE ENVIRONMENTS, HAWORTH, INC., AND KAHL COMMERCIAL INTERIORS, INC., BY JOINDER BID THROUGH NEVADA STATE PURCHASING TO PURCHASE SYSTEMS FURNITURE, FURNITURE CASE GOODS, SEATING, AND REFURBISHED FURNITURE THROUGH AUGUST 31, 2007, AND AUTHORIZE ALL CITY DEPARTMENTS TO BE ABLE TO PLACE ORDERS FROM THIS CONTRACT PROVIDED THEY HAVE APPROVED FUNDING AND FOLLOW APPROVED CARSON CITY PURCHASING PROCEDURES**

3-2. **DEVELOPMENT SERVICES - CONTRACTS - ACTION TO ACCEPT DEVELOPMENT SERVICES RECOMMENDATION ON PRODUCTION WELLS NO. 10B AND 55, PROJECT CONTRACT NO. 2004-111, AND INCREASE THE CONTINGENCY AMOUNT BY \$58,000.**

3-3. **CITY MANAGER - ACTION TO APPOINT ONE MEMBER TO THE SHADE TREE COUNCIL, TERM TO EXPIRE JANUARY 1, 2006** - Supervisor Williamson recognized and thanked Clinton Wertz for volunteering to serve on the Shade Tree Council. Supervisor Livermore moved to approve the Consent Agenda as posted, consisting of two items from Purchasing and Contracts, one item from Development Services, and one item from the City Manager with reference of the notation of the appointment to the Shade Tree Council. Supervisor Williamson seconded the motion. Motion carried 5-0.

4. **FINANCE - Director Tom Minton**

A. **PUBLIC HEARING ON THE INTENT OF CARSON CITY, NEVADA, TO ISSUE GENERAL OBLIGATION (LIMITED TAX) CAPITAL IMPROVEMENT BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES) (1-0239)** - John Wagner, Ron Orbas, Dave Oxoby - Comments indicated that the public hearing is part of the bond process for issuance of the capital improvement bonds for the Sheriff's Administration Building and the Health Services Building. Public comments were solicited.

Mr. Wagner expressed his concern and belief that Redevelopment items are being paid by the taxpayers. Two years ago it was explained to him during a Board meeting that Redevelopment funds are from the businesses within the Redevelopment area, therefore, the taxpayers do not pick up the tab. It now looks like the City is going to spend \$8 million for redevelopment of which \$3.6 million will be paid to Dick Campagni. Mayor Teixeira explained that this matter is not part of the bond proposal. Mr. Wagner explained that the newspaper article had indicated that it is part of the bond issuance and that it may be necessary to increase the property taxes to repay the bond. He advised that a protest will commence gathering signatures on October 1. This

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petition may force them to return the property tax assessment to the 2003-2004 tax base. Mayor Teixeira explained that the Board cannot raise the ad valorem tax without a vote by the electorate.

Mr. Orbas indicated his opposition to the entire idea. He had moved to Carson City to get away from the direction that the Board is taking. Dick Campagni should have been told to take a hike. The V&T Railroad should have existed, lived, or died on private capital. Government has no business whatsoever being involved with it. He felt that it is a scam and had been from the very beginning. He did not want to see any taxpayer money put into it. He vehemently opposed the purchase of the Hospital and turning it over to a so called nonprofit drug rehab group(s). He also felt that the Board should take a really hard look at buying the Sheriff a new building. The Board is ignoring the demographics of the community. It is becoming a haven for retired older individuals. They do not need a 300-acre site on the hill for recreation. In the future the jobs in the community will be jobs related to older people. They will be good paying jobs. He did not want to see the Board approve the Max Baer's monstrosity. The community will become "one of better, well-to-do, older people whether we like it or not". We need to move in a direction that will support that. Additional comments were solicited.

Mayor Teixeira clarified the purpose of the bonds. Mr. Oxoby supported the bonds for the Sheriff's Office due to his experiences working in it and touring it. The conditions there warrant a new building. The administrative function should have been part of Phase 1, the jail complex. Additional public comments were solicited but none were given. Mayor Teixeira closed the public hearing.

B. PUBLIC HEARING ON THE INTENT OF CARSON CITY, NEVADA, TO ISSUE GENERAL OBLIGATION (LIMITED TAX) V&T RECREATION BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES) (1-0446.5) - John Wagner felt that \$13 million was too much to spend on something the City will not own. He also questioned the ownership of the name "V&T". The City may be paying for a lawsuit over the name that will make lawyers rich. He did not believe that the railroad will be the money maker everyone seems to think it will be. He hoped that the taxpayers will not be burdened with raising the \$2 million that Mayor Teixeira had promised to raise. Increasing the sales tax will make the City less competitive with Douglas County. Carson City is already ½ of a percent higher than Douglas County. The proposal will add a tax on top of a tax which is another reason for people to shop in Douglas County. Additional comments were solicited but none were given. Mayor Teixeira closed the public hearing.

5. DEVELOPMENT SERVICES - ENGINEERING - City Engineer Larry Werner

A. ACTION TO ADOPT ON SECOND READING, BILL NO. 125, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 12 WATER, SEWERAGE, AND DRAINAGE, CHAPTER 12.09 FLOOD DAMAGE PREVENTION, SECTION 12.09.020 DEFINITIONS WHICH DELETES THE REFERENCE TO PUBLIC WORKS DIRECTOR AND ADDS "LOCAL FLOODPLAIN ADMINISTRATOR", ADDING SECTION 12.09.025 STATUTORY AUTHORIZATION WHICH DETAILS THE STATUTORY AUTHORITY FOR ADOPTING A FLOODPLAIN MANAGEMENT PROGRAM, AMENDING SECTION 12.09.060 GENERAL PROVISIONS WHICH DESCRIBES THE BASIS FOR ESTABLISHING THE AREAS OF THE SPECIAL FLOOD HAZARD, AMENDING SECTION 12.09.070 ADMINISTRATION, SECTION 12.09.080 PROVISIONS FOR FLOOD HAZARD REDUCTION, SECTION 12.09.090 VARIANCE

PROCEDURES, AND SECTION 12.09.100 LETTER OF MAP AMENDMENT BY CHANGING THE ADMINISTRATOR FROM THE PUBLIC WORKS DIRECTOR TO “LOCAL FLOODPLAIN ADMINISTRATOR” AND OTHER MATTERS PROPERLY RELATED THERETO (1-0495.5) -

Mr. Werner had not received any comments on the ordinance since the first reading. The ordinance was changed as suggested at the first reading. Supervisor Aldean moved to adopt on second reading Bill 125, Ordinance No. 2005-26, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 12 WATER, SEWERAGE, AND DRAINAGE, CHAPTER 12.09 FLOOD DAMAGE PREVENTION, SECTION 12.09.020 DEFINITIONS WHICH DELETES THE REFERENCE TO PUBLIC WORKS DIRECTOR AND ADDS “LOCAL FLOODPLAIN ADMINISTRATOR”, ADDING SECTION 12.09.025 STATUTORY AUTHORIZATION WHICH DETAILS THE STATUTORY AUTHORITY FOR ADOPTING A FLOODPLAIN MANAGEMENT PROGRAM, AMENDING SECTION 12.09.060 GENERAL PROVISIONS WHICH DESCRIBES THE BASIS FOR ESTABLISHING THE AREAS OF THE SPECIAL FLOOD HAZARD, AMENDING SECTION 12.09.070 ADMINISTRATION, SECTION 12.09.080 PROVISIONS FOR FLOOD HAZARD REDUCTION, SECTION 12.09.090 VARIANCE PROCEDURES, AND SECTION 12.09.100 LETTER OF MAP AMENDMENT BY CHANGING THE ADMINISTRATOR FROM THE PUBLIC WORKS DIRECTOR TO “LOCAL FLOODPLAIN ADMINISTRATOR” AND OTHER MATTERS PROPERLY RELATED THERETO; no fiscal impact. Supervisor Williamson seconded the motion. Motion carried 5-0. Discussion indicated that Senior Engineer Rob Fellows will be the Storm Water Manager under Mr. Werner.

B. ACTION TO ADOPT ON SECOND READING, BILL NO. 126, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 12 WATER, SEWERAGE, AND DRAINAGE BY ADDING CHAPTER 12.19 STORM WATER SYSTEM ILLICIT DISCHARGES AND CONNECTIONS, SECTION 12.19.010 PURPOSE/INTENT, WHICH DESCRIBES THE PURPOSE OF THIS ORDINANCE, SECTION 12.19.020 DEFINITIONS, WHICH ADDS A SECTION FOR DEFINING TERMS USED IN THIS ORDINANCE, SECTION 12.19.030 APPLICABILITY, WHICH STATES THAT ALL WATER ENTERING THE STORM DRAIN SYSTEM IS SUBJECT TO THIS ORDINANCE UNLESS SPECIFICALLY EXEMPTED, SECTION 12.19.040 RESPONSIBILITY FOR ADMINISTRATION, WHICH AUTHORIZES THE CARSON CITY DEVELOPMENT SERVICES DEPARTMENT TO ADMINISTER THIS ORDINANCE, SECTION 12.19.050 ULTIMATE RESPONSIBILITY, WHICH STATES THAT THIS ORDINANCE SETS MINIMUM STANDARDS, SECTION 12.19.060 WATERCOURSE PROTECTION, WHICH STATES THAT ADJACENT PROPERTY OWNERS MUST PROTECT WATERCOURSES, SECTION 12.19.070 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES, WHICH STATES THAT DISCHARGERS MUST COMPLY WITH THEIR NPDES PERMIT, SECTION 12.19.080 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES, WHICH STATES THAT THE CITY WILL ADOPT REQUIREMENTS IDENTIFYING BEST MANAGEMENT PRACTICES, SECTION 12.19.090 DISCHARGE PROHIBITIONS, WHICH DESCRIBES ILLEGAL DISCHARGES AND CONNECTION, SECTION 12.19.100 MONITORING OF DISCHARGES, WHICH STATES THAT CITY HAS REASONABLE ACCESS TO AND MAY MONITOR DISCHARGES, SECTION 12.19.110 SUSPENSION OF MS4 ACCESS, WHICH STATES THAT THE CITY MAY STOP A DISCHARGE DUE TO EMERGENCY SITUATIONS, SECTION 12.19.120 NOTIFICATION OF SPILLS, WHICH REQUIRES THAT FACILITIES THAT HAVE A SPILL OR ILLEGAL DISCHARGE MUST NOTIFY THE CITY,

SECTION 12.19.130 VIOLATIONS-- REMEDIES, WHICH STATES THAT CARSON CITY DEVELOPMENT SERVICES WILL HAVE ENFORCEMENT POWERS TO ENFORCE THIS ORDINANCE, SECTION 12.19.140 REQUEST FOR HEARING, WHICH DEFINES THE APPEAL PROCESS, SECTION 12.19.150 CORRECTIVE MEASURES AFTER APPEAL, WHICH DESCRIBES PROCEDURES AFTER AN APPEAL, SECTION 12.19.160 INJUNCTIVE RELIEF, WHICH DESCRIBES PROCEDURES IN OBTAINING INJUNCTIVE RELIEF TO PREVENT FURTHER ILLICIT DISCHARGES, SECTION 12.19.170 COMPENSATORY ACTION, WHICH DESCRIBES PROCEDURES OF COMPENSATORY ACTION IN LIEU OF OTHER ENFORCEMENT PROCEEDINGS, SECTION 12.19.180 VIOLATIONS DEEMED A PUBLIC NUISANCE, WHICH DEFINES THAT A VIOLATION IS ALSO A PUBLIC NUISANCE, SECTION 12.19.190 CRIMINAL PROSECUTION, DESCRIBES THE TERMS UNDER WHICH THE CITY MAY PURSUE CRIMINAL PROSECUTION, SECTION 12.19.200 REMEDIES NOT EXCLUSIVE, SECTION 12.19.210 SEVERABILITY, AND OTHER MATTERS PROPERLY RELATED THERETO (1-0595.5) - The reference numbers were corrected. Words were added that had been advertently left out of the original draft. Spelling/typographical errors were corrected. These changes were considered "cleanup". No substantial changes were made. Supervisor Aldean moved to adopt on second reading Bill No. 126, Ordinance No. 2005-27, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 12 as agenzed and publicized. Supervisors Livermore and Williamson seconded the motion. Motion carried 5-0.

C. HEARING TO CONSIDER THE WAIVER OF WATER CONNECTION FEES, PERMIT FEES AND METER SET FEES AND CHARGES AND TO PAY THE COSTS FOR ABANDONING A DOMESTIC WELL ON PROPERTIES ADDRESSED 1950 ASH CANYON ROAD (APN 008-072-37) AND 1954 ASH CANYON ROAD (APN 008-072-38) DUE TO THE NEGATIVE INFLUENCE ON THE DOMESTIC WELLS BY THE CITY'S NEW WELL LOCATED ON FOOTHILL ROAD NEAR WINNIE LANE PER CARSON CITY MUNICIPAL CODE SECTION 12.01.050 AND TO OBTAIN NECESSARY EASEMENTS AND AN ACTION TO DIRECT STAFF TO PREPARE AN AGREEMENT IN ACCORDANCE WITH THE BOARD'S DECISION (1-0675.5) - Community Development Director Walter Sullivan, Jenny Thomas - Mr. Werner advised that the residents will not be required to connect immediately unless they are impacted by the City's well. The Cowperthwaites have water rights for irrigation purposes. They intend to sever the two systems and continue to use the well to irrigate. The City's Code does not allow the Board to waive the monthly service charge. A code amendment must be adopted prior to waiving the monthly service fees. The estimated cost for the Thomases to irrigate with City water is \$150 to \$160 a month. A majority of the surrounding parcels are connected to the City's system. The undeveloped lots are the exception. A developer has discussed the potential of developing six or seven of the vacant lots. The developer expressed an intent to extend the water line into the area. The City may coordinate with the developer and extend the line for these applicants. Last summer's City impact on their wells was described. If the groundwater table drops again next summer, they may want to connect immediately. They are not able to deepen or extend their wells. The proposed agreement is valid for 10 years. They have asked that the agreement's life be extended for perpetuity. Justification for the ten-year period was provided.

Supervisor Staub disclosed that he had been contacted by the Cowperthwaites about the issue. He had Mr. Werner and Public Works Operations Manager Tom Hoffert contact them. He also disclosed that he had

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represented the Cowperthwaites as an attorney in a legal matter unrelated to this topic. He did not have a conflict of interest regarding this matter. Therefore, he will participate in it. He pointed out that there is a cost to pump water. The ability to use City water could be seen as an offset to that cost. Mr. Werner concurred and volunteered to calculate the estimated costs for pumping water. The timetable for extending the water line could be immediately if the developer begins work on his project or if their wells fail. An emergency temporary two inch line could be laid in two days. The State law requiring consideration of the impact to domestic wells was noted. Supervisor Livermore disclosed the cost he incurred to irrigate his one acre during July.

Ms. Thomas indicated that she had lived there and had the well since 1976. She had attended the meeting regarding the new City well. The City had monitored her well. It was her understanding that the City would run the main and provide everything necessary for her to hookup. She is not required to connect to the City's system if her well is functioning. She did not want to wait for future development to occur in the area. Mr. Werner explained the intent to coordinate with the developer if his project is undertaken in the next month or two. If his project does not occur in that time frame, the City will extend the line. If her well fails, the City will immediately extend it. The City will not make her wait for a long period without water. Ms. Thomas then explained her belief that the cost to use City water to irrigate her small areas of lawns and her 200 trees would be prohibitive. The cost for her mother and father-in-law to irrigate their one-third acre was used to illustrate her concern. She felt that the City had negatively impacted her by using her water and now wants to charge her for it. For this reason she wanted the rates waived and the main extended now. Mayor Teixeira explained that the Board could not waive the service charge today. The main will be extended. Additional comments were solicited but none were given.

Supervisor Livermore moved to direct staff to prepare an agreement in accordance with the Board's decision. Supervisors Staub and Williamson seconded the motion. Motion carried 5-0. Supervisor Staub suggested that Ms. Thomas discuss the costs with Mr. Yanuck.

**6. DEVELOPMENT SERVICES - PLANNING AND ZONING - Community Development Director
Walter Sullivan**

A. ACTION TO APPROVE AN ABANDONMENT OF PUBLIC RIGHT OF WAY APPLICATION FROM HELEN GARDNER-TREADWELL, SYMANTHA GARDNER-ZINK, BENJAMIN W. LEVY AND DONNA J. GEARHART-LEVY, TO ALLOW ABANDONMENT OF A PORTION OF PUBLIC RIGHT-OF-WAY KNOWN AS ARDEN WAY; EAST OF SOUTH EDMONDS DRIVE AND SOUTH OF KOONTZ LANE, LOCATED AT 4025 SOUTH EDMONDS DRIVE AND 3949 SOUTH EDMONDS DRIVE, APN'S 010-185-18 AND 010-185-17 SUBJECT TO THE CONDITIONS OF APPROVAL CONTAINED IN THE STAFF REPORT AND TO AUTHORIZE THE MAYOR TO SIGN THE ORDER OF ABANDONMENT (FILE AB-05-136) (1-1235.5) - City Engineer Larry Werner, Ferrel's Attorney Julian C. Smith, Chief Deputy District Attorney Melanie Bruketta, Helen Gardner-Treadwell, Benjamin Levy - Mr. Sullivan distributed to the Board and Clerk and explained the correspondence and map. (Copies are in the file.) He disagreed with Mr. Smith belief that he had admitted that there were damages done to the Ferrels. Staff needs additional time to complete the legals and the order of abandonment. The Board can approve the abandonment today without those documents. They will be recorded later.

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Supervisor Livermore disclosed his involvement with the proposal. As he has no personal or financial gain regarding the abandonment, he will participate in the discussion and vote. Supervisor Aldean disclosed her personal discussion with Mr. Treadwell regarding the application. She questioned who will be responsible for maintaining the area if the City abandons it. The City is retaining a public utility easement and will need access to it/them. Will the easement be open for the public's use or just the abutting property owners? Will it become a maintenance problem for the Street Department if grindings are used to abate the dust problem? Mr. Sullivan explained that Engineering had suggested the use of grindings. The easement will not be for public usage.

Mr. Werner explained the easement that will be granted to the two southern properties. The front property owners must be cognizant of the need for the rear property owners to have access to their property from Edmonds. The easement could be used in the future as a public access driveway should the area be rezoned and developed as half-acre residential lots. The roadway will be similar to a long driveway on a small parcel map. The City does not maintain it. Discussion explained Supervisor Livermore and Mr. Sullivan's discussion about the use of the grindings. Mr. Werner explained that surplus grindings are made available to the public. The public picks them up and places them. The City is not involved with their usage. Supervisor Livermore explained his discussion with Mr. Sullivan. Supervisor Livermore had suggested that someone grade the easement and the City could consider applying and/or supplying the grindings. An understanding on this process was not reached with any of the applicants. They understood that the direction would be provided by the Board today and staff would pursue that direction. Public comments were solicited.

Mr. Smith commended staff on their efforts to make the situation a win-win for all the parties. The Ferrel's need for an access from Edmonds was explained. It was felt that loss of the access from Edmonds will be detrimental to the property value. There are four abutting properties rather than just the two indicated. He believed that the City should be responsible for grading the easement and placing the grindings. This will prevent the wind from blowing dust. The City will need the easement in the future for a sewer line. He asked to see the deed before it is recorded. The easement is to be a public access. If the City retains the access, it will be a public way. They do not expect any more maintenance of the easement than the City has been providing. Justification for grading and paving was limned. Supervisor Aldean explained her reasons for feeling that future property owners may feel that the City has a responsibility for maintaining it as the City had graded it and placed the original grindings. She questioned the reasons for maintaining the roadway for public access. The normal practice is for the City to abandon the property to the adjacent property owners. In this case the City needs a utility easement and access for it. If the area is reserved for the public, the public should be able to use it. If the public is excluded from using it, the City should not be responsible for maintaining it. Mr. Smith felt that the City would not allow use of the remaining 25 feet as a public roadway. It may be possible for the City to abandon its ownership of the roadway to the four property owners. Discussion between Mr. Smith and Supervisor Aldean pointed out that there are City owned roads in the community which the City does not and has not maintained. Some of the residents on these roads want the City to maintain/grade and pave the roads. Supervisor Aldean reiterated her belief that the proposal will not benefit the public-at-large. It benefits four property owners.

Ms. Bruketta suggested that the City abandon the roadway and then obtain an easement from the two abutting property owners. The two property owners can grant easements to the City and anyone else they want to allow

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access. Mr. Smith indicated that he had no problem with this process and asked that he be allowed to review the document before recording occurs. Mayor Teixeira concurred.

Supervisor Livermore explained his understanding of the use of the roadway and its creation. He felt that the closure would benefit some and create a loss for others. The Planning Commission's recommended 25-foot easement meets the property owners' intent. The Applicants' proposed uses were noted. He felt that the Board should consider the loss closure of the access will have for the two property owners on Conte Drive. They have enjoyed the use of the roadway for years. The Commission's recommendation should be supported.

Ms. Gardner-Treadwell was unaware of the proposal to grade and pave the easement. The roadway was used by residents living behind her. Conte was allegedly developed in 1972. Arden was purportedly given to the residents behind her as there was no other street available to reach their property. She had put the sewer line in Edmonds. They had agreed to provide a 25-foot access. The deed should be written up that way. She had maintained the access. It allegedly had been a dump before she cleaned up the area. She had kept the weeds off of it. No one had used it until the Commission meeting when they took some hay to their property. They were attempting to be good neighbors. She questioned the impact on the wildlife if the grading and grindings are placed. Mr. Sullivan explained that the agreement had been reached late yesterday afternoon. He had not had a chance to contact them about the changes. Mayor Teixeira indicated that the Board understood her concerns. Ms. Gardner-Treadwell advised that her reading of the Statutes does not reflect what Mr. Smith had indicated. She questioned when the area will be zoned to allow half acre development. She believed that the access is needed for them to subdivide and sell the property. They do not have a dust problem today as the sagebrush is there. She explained the development of her property. Allegedly, the neighbor who had planted the trees had bladed the sage which was a point contention between the Ferrells and the Crowes.

Mr. Levy advised that he had acquired the property a year ago. His son lives there. There allegedly had been no activity on the abandonment until last week. There is a gated access to their backyard. They use his driveway and cut across to the easement. He believed that a 25-foot easement will serve their access needs. He questioned who will maintain it if the City doesn't. He questioned his liability if he continues to allow the neighbor to access his property from his driveway. Mayor Teixeira indicated that once the property is abandoned by the City, it is abandoned.

Discussion between Supervisor Aldean and Mr. Sullivan indicated that the Ferrells want the property graded but the Crowes do not want it graded. Mr. Sullivan indicated he received the letter at 4:35 p.m. yesterday. Mayor Teixeira indicated the need to continue the matter and allow the neighbors to resolve the issues. Supervisor Aldean also advised them that it is not in their interest to grant a public access which was the reason she had attempted to restrict it to the individuals who will benefit from the abandonment. Mayor Teixeira directed its continuation. All four parties should meet and resolve the issues. He also pointed out that it is unknown at this time as to when or if the City will ever use the easement. No formal action was taken.

RECESS: A recess was declared at 9:36 p.m. The entire Board was present when Mayor Teixeira reconvened the meeting at 9:43 a.m., constituting a quorum.

B. ACTION TO APPROVE A MASTER PLAN AMENDMENT APPLICATION FROM CARSON-TAHOE HOSPITAL TO CHANGE THE MASTER PLAN LAND USE DESIGNATION FROM PUBLIC REGIONAL TO OFFICE, ON PROPERTY LOCATED AT 1303 MOUNTAIN STREET, APN 001-141-01, BASED ON THE FINDINGS CONTAINED IN THE STAFF REPORT (FILE NO. MPA-05-141) AND C. ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE EFFECTING A ZONING MAP AMENDMENT TO CHANGE THE ZONING FROM PUBLIC COMMUNITY TO SINGLE FAMILY 6,000 (SF6) FOR TWO PARCELS LOCATED AT 1303 MOUNTAIN STREET AND 3 LANE CIRCLE, APN'S 001-141-01 AND 001-141-24, BASED ON THE FINDINGS CONTAINED IN THE STAFF REPORT (FILE NO. ZMA-05-140) (1-2558.5) - Principal Planner Lee Plemel - Supervisor Livermore read his prepared disclosure into the record. It explained his intent to recuse himself from these items due to the District Attorney's opinion of a conflict of interest created by the potential benefit approval of the applications will provide for the Hospital in addition to his being an active Hospital Trustee, for which he receives a monthly stipend, a member of the Hospital Finance Committee and the Treasurer of the originating nonprofit corporation. Supervisor Staub disclosed that he is a member of the Hospital Finance Committee. He is not paid for this service, therefore, he will participate in the discussion and decision.

Supervisor Williamson moved to approve a Master Plan Amendment application from Carson-Tahoe Hospital to change the Master Plan land use designation from Public Regional to Office on property located at 1303 Mountain Street, APN 001-141-01, based on the findings contained in the staff report. Supervisor Aldean seconded the motion. Motion carried 4-0-1 with Supervisor Livermore abstaining.

Supervisor Williamson moved to introduce on first reading Bill No. 127, AN ORDINANCE EFFECTING A ZONING MAP AMENDMENT TO CHANGE THE ZONING FROM PUBLIC COMMUNITY TO SINGLE FAMILY 6,000 FOR TWO PARCELS LOCATED AT 1303 MOUNTAIN STREET AND 3 LANE CIRCLE, APNS 001-141-01 AND 001-141-24, BASED ON THE FINDINGS CONTAINED IN THE STAFF REPORT. Supervisor Aldean seconded the motion. Motion carried 4-0-1 with Supervisor Livermore abstaining.

D. ACTION TO APPROVE A MASTER PLAN AMENDMENT APPLICATION FROM DWIGHT MILLARD (PROPERTY OWNER: FIRST CHRISTIAN CHURCH) TO CHANGE THE MASTER PLAN LAND USE DESIGNATION FROM RURAL INDUSTRIAL TO COMMERCIAL ON PROPERTY LOCATED ON THE NORTH SIDE OF HIGHWAY 50 EAST APPROXIMATELY 300 FEET WEST OF THE LYON COUNTY BORDER, APN'S 008-612-01, -03, -04, -05 AND -06, BASED ON THE FINDINGS CONTAINED IN THE STAFF REPORT (FILE NO. MPA-04-005) AND E. ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE EFFECTING A ZONING MAP AMENDMENT TO CHANGE THE ZONING FROM GENERAL INDUSTRIAL (GI) TO GENERAL COMMERCIAL (GC) FOR APPROXIMATELY 39 ACRES LOCATED ON THE NORTH SIDE OF HIGHWAY 50 EAST AT THE LYON COUNTY BORDER, APN'S 008-612-01, -03, -04, -05 AND -06, BASED ON THE FINDINGS CONTAINED IN THE STAFF REPORT (FILE NO. ZMA-04-004) (1-2905.5) - Principal Planner Lee Plemel, Rev. Ken Haskins - Discussion between Supervisor Aldean and Mr. Plemel indicated that the area will be included within the special planning area when it is presented. It will provide more compatible uses along Highway 50 and protection for the V&T Railroad. Mr. Plemel explained the reasons the Church wanted to proceed with its plans rather than wait until after the

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master plan update is completed. The water tank has been completed and delivery lines are now in the vicinity. The sewer extension along Highway 50 is now being planned. It should be completed by the end of the year. The application must be considered now. The area's design standards are part of the master plan update. The building is not being considered at this time. The V&T route may touch a portion of the property in the vicinity of the Lyon County line.

Rev. Haskins explained that the two acres needed by the V&T Railway was not part of the Church's property. It is possible that the V&T Railway may touch the rear of the Church's 39 acres. This should not create an impact on the Church or its plans. They have listened to Mr. Plemel's advice and are working with James Parker on a theme that will be conducive to the City's plans and the V&T. He also indicated that residential usage is not desired along the Highway. Residential uses will require a special use permit. Commercial uses will prevent industrial uses from occurring.

Supervisor Aldean explained that she is not opposed to the change of zoning. She does want it to be coordinated with the surrounding uses and is concerned about the timing. Rev. Haskins explained the need to sell the excess property. Supervisor Aldean stressed the need for sewer service to the area. Rev. Haskins understood the need for sewer service. Public comments were solicited but none were given.

Supervisor Staub moved to approve a Master Plan Amendment application from Dwight Millard, property owner: First Christian Church, to change the Master Plan land use designation from Rural Industrial to Commercial on property located on the north side of Highway 50 East approximately 300 feet west of the Lyon County border, APN 008-612-01, 03, 04, 05, and 06, based on the findings contained in the staff report. Supervisor Livermore seconded the motion. Motion carried 5-0.

Supervisor Aldean moved to introduce Bill No. 128 on first reading, AN ORDINANCE EFFECTING A ZONING MAP AMENDMENT TO CHANGE THE ZONING FROM GENERAL INDUSTRIAL, GI, TO GENERAL COMMERCIAL, GC, FOR APPROXIMATELY 39 ACRES LOCATED ON THE NORTH SIDE OF HIGHWAY 50 EAST AT THE LYON COUNTY BORDER, APNS 008-612-01, -03, -04, -05, AND -06 based on the findings in the staff report. Supervisor Livermore seconded the motion. Motion carried 5-0.

Discussion ensued between Supervisor Aldean, Mr. Sullivan and Ms. Bruketta concerning an ordinance revision which restricted the submittal periods for master plan amendments to four per year. There is no limit on the number of applications for master plan amendments. The ordinance is based on a Statute.

F. ACTION TO APPROVE A MASTER PLAN AMENDMENT APPLICATION FROM WESTERN ENGINEERING (PROPERTY OWNER: JANET BALDWIN) TO CHANGE THE MASTER PLAN LAND USE DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL/MOBILE HOME TO COMMERCIAL, ON PROPERTY LOCATED AT 1851 MERCURY WAY, APN 008-161-18, BASED ON THE FINDINGS CONTAINED IN THE STAFF REPORT (FILE NO. MPA-05-116) AND G. ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE EFFECTING A ZONING MAP AMENDMENT TO CHANGE THE ZONING FROM MOBILE HOME 12,000 (MH12) TO GENERAL COMMERCIAL (GC) FOR APPROXIMATELY 2.1 ACRES LOCATED AT 1851 MERCURY WAY, APN 008-161-18, BASED ON THE FINDINGS CONTAINED IN THE STAFF REPORT (FILE NO. ZMA-05-117) (2-0265.5) - Principal Planner Lee Plemel, City Engineer Larry Werner,

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Dennis Smith, Jan Baldwin - Mr. Sullivan's introduction included noting that access will be through the cul-de-sac from the adjacent northern property if some issues regarding this use are worked out. There is an emergency access from the south. Mr. Plemel's review of the staff report included stressing that both residential and commercial uses were considered for this parcel. Comments noted that a special use permit is required to allow the residential uses. Supervisor Livermore reminded the Board that they had discussed the access issue when Janice Shaffer had presented the adjacent project. Mr. Plemel pointed out that development of the western parcel will provide an access to this subdivision which had not been provided before its development. Justification for the Commission's decision to deny the application was explained. The "late material" had purportedly included information from the property owner, Ms. Baldwin, supporting the application. (A copy was not given to the Clerk.)

Supervisor Aldean disclosed her discussions with Ms. Baldwin and Mr. Sullivan. She believed that general commercial development of the parcel should not occur. There are some challenges facing the development of the area. She supported residential uses. Mr. Werner agreed that the adjacent residential developer was not required to provide a second access as there are only 15 units in his subdivision. The Code requirement and justification for this number were explained. He also explained that allowing 15 units without a secondary access has created some problems for the City and that staff has been reviewing the Code and attempting to establish additional criteria and/or number of units that would not need the secondary access. Clarification indicated that residential development is the main concern. Supervisor Aldean stressed her belief that flexibility in the Code needs to be found. Commercial development in this area is inappropriate. Mr. Werner explained staff's efforts to get the two property owners to work together. He stressed an intent to bring a Code/policy on when waivers should be granted to the Board. Mayor Teixeira pointed out that the Board has the ability to overturn staff's policy regarding the 15 units. Mr. Werner explained that the Board could change the ordinance. The Code allows him to waive the requirement. He also indicated that it is necessary to have more flexibility in the Code. Mayor Teixeira indicated that infill requires them to be more flexible. Mr. Werner agreed and noted the public safety issues which need to be considered including blocking streets to lay/repair long sewer and water lines. Staff's review of the Code has purportedly begun.

Mr. Smith explained that Ms. Baldwin had dropped out of the other subdivision due to the 15 unit limitation. There is a 24-foot wide access from Mercury Way that can be used for emergencies. The Fire Department is "comfortable" with it. Ms. Baldwin's property is "landlocked" or must be developed with the current zoning due to the access requirement. Justification for commercial development of the site was limned. If they can work with staff, they were willing to bring back a residential project for the site. Mayor Teixeira pointed out that the property is zoned for 12,000 square foot lots. A residential development may pencil if the lots are reduced to 6,000 square feet. Mr. Sullivan advised that discussions with Mr. Smith has indicated that the correct zoning may be Mobile Home 6,000 (MH6).

Ms. Baldwin explained her need for additional time to consider the MH6 and the 25-foot wide roadway. Additional information is also needed regarding the requirements, costs, etc. She did not want to make a decision at this moment. Mayor Teixeira asked her if she wanted to continue the item. She reiterated the need for additional time. She agreed to continue the item. Mayor Teixeira directed that the items be continued. Discussion indicated that Ms. Baldwin had acquired the property in September 2001. The Board then indicated that it had received the "pictures and her letter". No formal action was taken.

H. ACTION FOR A MOTION TO RECONSIDER THE BOARD OF SUPERVISORS DECISION OF FEBRUARY 17, 2005, DENYING AN APPEAL OF THE PLANNING COMMISSION'S DECISION OF DENIAL OF A SPECIAL USE PERMIT APPLICATION FROM THE ROBERT POLICHIO FAMILY TRUST TO ALLOW THE INSTALLATION OF A 400 SQUARE FOOT BILLBOARD ON PROPERTY ZONED GENERAL COMMERCIAL (GC), LOCATED AT 2794 HIGHWAY 50 EAST, APN 008-161-07 (FILE SUP-04-041) (2-0850) - Supervisor Livermore concurred with Mr. Sullivan's introduction. Supervisor Livermore moved to reconsider the Board of Supervisors decision of February 17, 2005, denying an appeal of the Planning Commission's decision of denial of a Special Use Permit application from Robert Polichio Family Trust to allow the installation of a 400 square foot billboard on property zoned General Commercial located at 2794 Highway 50 East, APN 008-161-07. Mayor Teixeira seconded the motion. Motion was voted by roll call with the following result: Supervisor Williamson - Yes; Supervisor Staub - Yes; Supervisor Aldean - Yes; Supervisor Livermore - Yes; and Mayor Teixeira - Yes. Motion carried 5-0.

I. ACTION REGARDING AN APPEAL OF THE PLANNING COMMISSION'S DECISION OF DENIAL OF A SPECIAL USE PERMIT APPLICATION FROM THE ROBERT POLICHIO FAMILY TRUST TO ALLOW THE INSTALLATION OF A 400 SQUARE FOOT BILLBOARD, ON PROPERTY ZONED GENERAL COMMERCIAL (GC), LOCATED AT 2794 HIGHWAY 50 EAST, APN 008-161-07 (FILE SUP-04-041) (1-0954) - Applicant's Attorney Jason Woodbury, Doug Bourgeois - Mr. Woodbury gave some photographs to the Board and Clerk. (A copy is in the file.) He briefly noted the neighbors' concerns. They have met with Jim Benson of Benson's Feed to see if there is some common ground which they could undertake to make him more comfortable with the project. They appreciated his willingness to meet with them. Allegedly, Mr. Benson's main concern had been that the billboard would overwhelm his signage. The photographs that Mr. Woodbury had given to the Board purportedly illustrated the size and location of the sign. The bottom of the billboard will be above Mr. Benson's building. Allegedly, Mr. Benson is now comfortable with the proposed sign and no longer opposes it. Supervisor Livermore disclosed that he was at the meeting where Mr. Benson had stated his comfort with the proposed billboard. Mr. Woodbury also advised that the billboard will be as close to the Highway as possible as that is where the market value is. Mr. Benson had allegedly agreed with that location. Mr. Polichio and Mr. Woodbury felt that if they had approached the Board with that location, there would have been problems with the other neighbor—the Truck Stop. Therefore, Mr. Polichio had directed that the billboard be moved away from the Highway to avoid impacting its signage. The location of the billboard was moved and now has a reduced market value. They felt that at the revised location it would meet with the Board's approval. The photographs purportedly illustrated that the billboard will not obstruct either the west bound or the east bound traffic's line of sight. The sign complies with the Code requirements. Mr. Woodbury vocalized his belief that the City's Code requirements were the strictest he had seen, specifically, the distance between billboards and the prohibition against offensive signage.

Discussion between the Board and Mr. Sullivan explained that an August 29 letter from Peter and Barbara Stankevich was late material for the September 1 meeting. The Item was continued at the September 1 meeting. Mayor Teixeira indicated to Peter and Barbara Stankevich that the Board has a copy of their letter. They were both present. (A copy of the letter is in the file.)

Supervisor Livermore reiterated his meeting with Mr. Benson and Mr. Polichio. He explained his original

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support for the denial due to the impact the billboard would have on Mr. Benson. He felt that the meeting was professional and had resulted in a compromise.

Board comments explained that Mr. Polichio leases the property to Dick Campagni. Once the billboard is constructed, the ability to remove it is limited to failure to maintain it and/or failure to renew the special use permit. Mayor Teixeira recalled the last time the Billboard Ordinance was revised. The billboard impact fee was limned. The proposed billboard's impact fee will be \$800. When the Billboard Ordinance was revised, signs failing to meet the Code requirements were removed. A new special use permit was issued for the remaining signs. Billboards in the RC zone were removed. Failure to comply with the conditions of approval is considered cause for revocation of the special use permit. Signs can be removed for cause. Mayor Teixeira also pointed out that there is a height limit on the billboards.

Discussion among Supervisor Williamson, Mr. Sullivan and Mr. Woodbury indicated that the weeds will be cleaned up. There are conditions dictating landscaping. The sign will be professionally managed. Mr. Woodbury was uncertain whether there is anyone waiting for the sign to be constructed. He indicated that Mr. Polichio will solicit and contract use of the billboard.

Mr. Sullivan then explained that another billboard application will be going to the Planning Commission this month. Its location will eliminate two other billboard locations. There will be three potential billboard locations left along Highway 50. The master plan update is considering billboard signage along the freeway. Mayor Teixeira disclosed his desire to have a billboard advertising the V&T Railroad near the Highway 50 exits. Discussions with NDOT should begin regarding it. Mr. Sullivan concurred and explained discussions regarding other directional signage for the downtown area, the Railroad Museum, and the Historic District. Supervisor Williamson explained that Redevelopment had contracted with Bob Elwood for unique City signage for the Hospital, Courthouse, and tourist attractions. Billboards may be challenged by the sound walls.

Mr. Bourgeois opposed the billboard as he felt it would further blight an already blighted lot. A description of the lot was provided. The Sign Ordinance does not allow him to have a larger sign. The billboard will be a setback to the efforts to clean up Highway 50. He felt that the only reason the Applicant was pushing the billboard was to enrich his coffers. The lot does not at this time have any landscaping and never has had any. Any new construction project must meet landscaping requirements. The only thing that will improve the appearance of the lot is the use of a bulldozer. He urged the Board to deny the request. Additional comments were solicited but none were given.

Supervisor Livermore moved to approve the appeal and reverse the Planning Commission's decision of denial of 12/15/04 and the Board of Supervisors decision of denial on 2/17/05 of a Special Use Permit application from the Robert Polichio Family Trust to allow the installation of a 400 square foot billboard on property zoned General Commercial located at 2794 Highway 50 East, APN 008-161-07, subject to the findings and conditions of approval contained in the staff report. Mayor Teixeira seconded the motion. Supervisor Aldean indicated a feeling that she knew how the vote would go. Mayor Teixeira was not so sure about the vote. Supervisor Aldean expressed her appreciation that the Applicant had been consist, persistent, and diligent with good legal representation. He had made five trips to the Planning Commission and two trips to the Board. The lesson to be learned from that is that it is better to engage the neighbors early in the process rather than go through that ordeal. She believed staff when they say that all of the requirements of the ordinances have

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been met; however, she believed that the community has to raise the bar. The advertising illustrated on the billboard was complimented. It advertised the V&T Railroad. The District Attorney has advised the Board that it cannot address the free speech issues. We cannot interfere with the ads unless they are offensive in some manner which is prohibited by law. The Board cannot influence what is actually advertised on the billboard. The comment had been made that the City is attempting to “dress up” Highway 50 and other areas along the major through fares. This just does not add to the quality of those through fares. This is the comment she wanted to make before the vote. Additional comments were solicited but none were given. The motion to grant the special use permit was voted by roll call with the following result: Supervisor Staub - Yes; Supervisor Williamson - No; Supervisor Aldean - No; Supervisor Livermore - Yes; and Mayor Teixeira - It is fun when there is a 2-2 vote. The gentleman brings up an excellent point. I will vote in favor. I will vote yes but will be in this town. I have been here for 45 years. I feel that the Applicant could do a better job of maintenance and appearance of the lot than has been done in the past. I hope that they get a win-win here. He will get a better-looking neighborhood and something that generates revenue and the City may be able to get down the road. I am asking you to spend some money as you will have money coming in and make it look a little bit better. I mean make it look a lot better. Will you—you can’t as it is not part of the motion but—I will drive there and know how to reach the Applicant. I know his attorneys. His response may impact future applications if the place is not cleaned up. I vote in favor. The motion carried 3-2 with Supervisors Aldean and Williamson voting Naye.

7. CITY MANAGER - Linda Ritter - ACTION TO UPHOLD THE FINDINGS OF FACT AND PROPOSED CONCLUSIONS AND RECOMMENDATIONS OF THE HEARING OFFICER WHICH ARE TO UPHOLD THE SHERIFF'S DECISION TO DENY THE WORK PERMIT OF DAVID EPLING (2-1801.5) - Chief Deputy District Attorney Melanie Bruketta - Discussion stressed that the applicant had not attended the hearing. The original charge was not known. The charge had been negotiated through the plea bargaining process to a gross misdemeanor. It was felt that the individual would not have had to make restitution unless something had been taken. Failure to appear was felt to be a disservice to all those involved including the employer as he/she could not hire the individual even if he/she is aware of the individual’s past. The Board has no alternative but to uphold the findings. Supervisor Williamson moved to uphold the findings of fact and proposed conclusions and recommendations of the Hearing Officer which are to uphold the Sheriff’s decision to deny the work permit of David Epling. Supervisor Livermore seconded the motion. Supervisor Williamson pointed out that the process provides a notification. If you appeal, you should show up as a lot of time, money, and effort goes into the process by a lot of individuals. It is unfortunate that the individual did not show up. Discussion indicated that in recent years only two individuals have failed to show up for their hearings. The motion was voted and carried 5-0.

8. BOARD OF SUPERVISORS - NON-ACTION ITEMS

A. INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (2-1925.5)

- Supervisor Livermore announced the Salsa y Salsa activities scheduled for Saturday from 10 a.m. to 5 p.m. Supervisor Williamson announced the charrettes being held on the Downtown District and urged the public to attend and participate.

B. STAFF COMMENTS AND STATUS REPORT - None.

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9. **ACTION TO ADJOURN** - Supervisor Aldean moved to adjourn. Mayor Teixeira seconded the motion. Motion carried 5-0. Mayor Teixeira adjourned the meeting at 11 a.m.

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ARE SO APPROVED ON October 6, 2005.

/s/

Marv Teixeira, Mayor

ATTEST:

/s/

Alan Glover, Clerk-Recorder