

CARSON CITY BOARD OF SUPERVISORS
Minutes of the September 6, 2001, Meeting
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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, September 6, 2001, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 8:30 a.m.

PRESENT: Ray Masayko Mayor
 Jon Plank Supervisor, Ward 2
 Robin Williamson Supervisor, Ward 1
 Pete Livermore Supervisor, Ward 3
 Richard S. Staub Supervisor, Ward 4

STAFF PRESENT: John Berkich City Manager
 Alan Glover Clerk-Recorder
 Al Kramer Treasurer
 Judie Fisher Personnel Manager
 Mark Forsberg Chief Deputy District Attorney
 Cheryl Adams Deputy Purchasing Director
 John Flansberg Street Operations Manager
 Ray Saylo Lieutenant
 Katherine McLaughlin Recording Secretary
 (B.O.S. 9/6/01 tape 1-0001)

NOTE: Unless otherwise indicated, each item was introduced by staff's reading/outlining/clarifying the Board Action Request and/or supporting documentation. Staff members present for each Department are listed under that 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, AND INVOCATION - Mayor Masayko convened the meeting at 8:30 a.m. Roll call was taken. The entire Board was present constituting a quorum. Rev. Patrick Propster of the Carson City Christian Fellowship gave the Invocation. Mayor Masayko lead the Pledge of Allegiance.

CITIZEN COMMENTS (1-0025) - John Nowlin, a Carson City resident and a member of the Concerned Citizens for Fuji Park Fairgrounds, noted the Board's decision to split the Fairgrounds and Fuji Park. He complimented the Parks and Recreation Commission on its decorum during its public hearing on this difficult issue. It had been a very open meeting. The Commission had done an excellent job during its meeting.

John Wagner explained that the CC&Rs for his area are recorded with the City and require an architectural review committee to comment on any home construction project. An individual can, however, obtain a building permit for an addition even though the committee denies the project. The City Departments do not "police" the CC&Rs to ensure compliance. Although he agreed that the City should not police all of the CC&R requirements, he felt that something should be done to verify that the architectural review committee has approved a project before a permit can be obtained. This allows the City to undermine the homeowners association's control over their subdivision. He urged the City to adopt a process which would require the architectural review committee to sign the application before the permit can be issued. Areas which do not have architectural review committees can be handled by merely stating that one does not exist. This statement would be made under the penalties of perjury. He then explained his residential community to illustrate his reasons for wanting the CC&Rs enforced. It would be unnecessary for lawyers and the court to be involved in the process when his suggested process could resolve the issue at the beginning. He also felt that other communities require the surrounding neighbors to sign off on the plans before construction commences. Carson City does not have such a requirement but should have one.

Tom Quigley expressed his disappointment in staff's decision to allow heavy trucks to use Deer Run Road and the Board's failure to allow public discussion on the topic before it occurred. Mayor Masayko felt that they had an honest disagreement. Mr. Quigley felt that the resolution prohibiting the use was very clear and should be adhered

to. Heavy trucks are not to use Deer Run Road. Additional comments were solicited but none given.

1. APPROVAL OF MINUTES - JULY 19, 2001 (1-0122) - Supervisor Plank moved for approval of the Minutes for the July 19, 2001, Carson City Board of Supervisors meeting. Supervisor Williamson seconded the motion. Motion carried 5-0.

2. AGENDA MODIFICATIONS (1-0136) - Item 3, the Special Presentation to Elizabeth "Bobbe" Perry, was rescheduled to the next Board meeting. Item 5-5 G. on the Consent Agenda, the Camel 200 machine was deferred. Item 9 C, Cricket Communication's appeal, will be the last item heard under Item 9.

3. SPECIAL PRESENTATION - ACTION TO APPROVE A RETIREMENT RESOLUTION COMMENDING ELIZABETH "BOBBE" PERRY, ACCOUNTING CLERK I (1-0136) - Deferred.

LIQUOR AND ENTERTAINMENT BOARD (1-0160) - Mayor Masayko then recessed the Board of Supervisors session and immediately convened the Liquor and Entertainment Board. The entire Board was present, including Sheriff's Representative Ray Saylo, constituting a quorum.

4. TREASURER - Al Kramer

A. ACTION ON A SIX MONTH REVIEW OF THE CONDITIONAL FULL BAR LIQUOR LICENSE

HELD BY DON AND SHARON SLATER, DOING BUSINESS AS DADDY DICK'S TAVERN, LOCATED AT 1305 SOUTH CARSON STREET (1-0164) - Don and Sharon Slater were present. An investigation had indicated that there were no problems with either the Slaters or at the establishment. Chairperson Masayko complimented them on their efforts. The name change was noted. He also thanked them for attending the meeting and reminded them to not serve minors and to appropriately train their employees. Member Williamson moved to approve a full bar Liquor License for Don and Sharon Slater, doing business as Daddy Dick's Tavern, located at 1305 South Carson Street, under Carson City Municipal Code 4.13. Member Plank seconded the motion. Motion carried 6-0.

B. ACTION ON CHANGE OF LIQUOR LICENSE MANAGER FOR ADSI/ALBERTSON'S, DOING BUSINESS AS SAVON LOCATED AT 220 FAIRVIEW, WITH NEW MANAGER WILFRIED STOEGER (1-0232) - Chairperson Masayko complimented Mr. Stoeger on the new store's opening. He reminded Mr. Stoeger to abide by the Liquor Laws and Regulations. Will Stoeger explained the store's stringent liquor policies and procedures. The store had passed several recent sting operations including several conducted by the firm. Member Saylo noted the favorable Sheriff's Investigative Report. Member Plank moved to approve a change of Liquor License Manager for ADSI/Albertsons, doing business as Savon, located at 220 Fairview, the new manager will be Wilfred Stoeger, under Carson City Municipal Code 4.13.120; fiscal impact is \$75 investigation motion. Motion carried 6-0.

C. ACTION TO APPROVE A REQUEST FROM SEAN AND RENEE BLOCKER (FORMERLY DOING BUSINESS AS CARSON CITY GROCERY OUTLET, LOCATED AT 1831 NORTH CARSON STREET) TO UPGRADE FROM A PACKAGED LIQUOR LICENSE TO A FULL BAR LIQUOR LICENSE AND TO CHANGE THE LOCATION FROM 1831 NORTH CARSON STREET TO 1914 NORTH CARSON STREET USING A NEW BUSINESS NAME OF RUMOR'S (1-0290) - Discussion explained that the Grocery Outlet had been purchased and was operating under a different license and name. The Sheriff's Investigative Report and recommendation that a six month conditional license be issued was discussed. The Blockers explained that they had held a liquor license for two years without any problems. They had also passed a sting test. There will not be any employees as they planned to operate the bar themselves. Chairperson Masayko reminded them of the need to adhere to the Liquor Laws. Clarification indicated that they

had held the liquor license for the Grocery Outlet since 1999 which was before the incidents had occurred. Member Plank explained his support of the recommended conditional license. Member Plank moved to approve a request from Sean and Renee Blocker, formerly doing business as Carson City Grocery Outlet located at 1831 North Carson Street, to upgrade from a packaged liquor license to a conditional full bar liquor license with a six month review and to change the location from 1831 North Carson Street to 1914 North Carson Street using a new business name of Rumor's under Carson City Municipal Code 4.13.120, fiscal impact is \$25 change of location fee and \$200 quarterly fee. Member Livermore seconded the motion. Chairperson Masayko questioned for the record the fee assessed for the six month review. Mr. Kramer indicated that there would not be fee assessed for the review. An investigation will be conducted and they will return to the Board in March 2002. Member Williamson thanked them for continuing to invest in Carson City and wished them success in the new business. She acknowledged the problems they may have encountered with a new business and new baby. She suggested the seek assistance from one of the numerous counseling programs which are available in the community. She also volunteered her assistance. The motion to grant a conditional license was voted and carried 6-0.

BOARD OF SUPERVISORS (1-0465) - There being no other matters for consideration as the Liquor and Entertainment Board, Chairperson Masayko adjourned the Liquor and Entertainment Board and immediately reconvened the session as the Board of Supervisors. The entire Board was present, constituting a quorum.

5. CONSENT AGENDA (1-0465)

5-1. TREASURER

A. ACTION ON TREASURER'S REPORT FOR JULY 2001

B. ACTION ON REMOVAL OF TAXES TO THE 2001-2002 REAL PROPERTY TAX ROLL ON PARCEL 2-122-14, 920 CORBETT STREET, DUE TO ASSESSOR'S OFFICE CORRECTION

C. ACTION ON PARTIAL REMOVAL OF TAXES TO THE 2001-2002 REAL PROPERTY TAX ROLL ON PARCEL 2-381-50 DUE TO ASSESSOR'S OFFICE CORRECTION ADDING VETERAN'S EXEMPTION TO THIS PARCEL

D. ACTION ON REMOVAL OF TAXES TO THE 2001-2002 REAL PROPERTY TAX ROLL ON PARCELS 10-072-09, 10-631-01 THROUGH 10-631-14, 10-632-01 THROUGH 10-632-20 DUE TO ACQUISITION OF THE PROPERTY BY CARSON CITY

E. ACTION ON DIRECTION AND ORDER TO SELL REAL PROPERTY FOR TAX DELINQUENCIES WHERE CARSON CITY HAS TAKEN A DEED

5-2. CLERK-RECORDER

A. INFORMATIONAL NOTICE REGARDING IMPLEMENTATION OF A \$3 RECORDER'S TECHNOLOGY FEE EFFECTIVE OCTOBER 2, 2001

B. ACTION SETTING FEE FOR MAPS UNDER NRS 278.4725, DIVISION OF LAND INTO LARGE PARCELS, AT \$50 FOR THE FIRST SHEET OF THE MAP PLUS \$10 FOR EACH ADDITIONAL SHEET

5-3. FINANCE - ACTION ON RATIFICATION OF THE EXPENDITURE APPROVAL LISTINGS FOR JULY 2001

5-4. DEVELOPMENT SERVICES - CONTRACTS - ACTION ON CONTRACT NO. 9900-062, EAGLE CREEK FLOOD CONTROL STRUCTURAL DESIGN TO APPROVE AND AUTHORIZE DEVELOPMENT SERVICES TO ISSUE CLAIM FORMS TO RESOURCE CONCEPTS, INC., FOR AMENDMENT NO. 3 WHICH INCLUDES FEES TO PROVIDE A ROUGH GRADING PLAN, EARTHWORK QUANTITY CALCULATIONS, PROJECT MANAGEMENT AND COORDINATION FOR A NOT TO EXCEED INCREASE IN THE CONTRACT OF \$9,850

5-5. PURCHASING AND CONTRACTS

A. ACTION ON AMENDMENT NO. 4 FOR CONTRACT 9798-040, JUNIOR SKI PROGRAM RESORT WITH DIAMOND PEAK AT SKI INCLINE TO BE THE SITE FOR THE 2002 JUNIOR SKI PROGRAM AND TO ACCEPT THE \$1 INCREASE IN THE DAILY RATES

B. ACTION TO RENEW CONTRACT NO. 0001-020 WITH SIERRA NEVADA

STAGE LINES TO PROVIDE TRANSPORTATION FOR THE 2002 JUNIOR SKI PROGRAM WITH THE SAME PRICES, TERMS, AND CONDITIONS AS ORIGINALLY BID ON AUGUST 15, 2000

C. ACTION TO RENEW CONTRACT NO. 0001-050 WITH L. N. CURTIS AND SONS FOR THE FIRE DEPARTMENT TO PURCHASE GLOBE FIREFIGHTERS SUITS MODEL GX7 FOR THE FIRE DEPARTMENT AT \$1,026.60 PER SET OF PROTECTIVE JACKET AND TROUSER THROUGH NOVEMBER 15, 2002, WITH THE SAME TERMS AND CONDITIONS AS ORIGINALLY BID ON OCTOBER 31, 2000

D. ACTION ON THE AWARD OF CONTRACT 0102-015 TO PARAGON ASSOCIATES INC. AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO NRS 332 TO PROVIDE TYPE II CLASS B AGGREGATE BASE MATERIAL AT \$6.25 PER TON DELIVERED THROUGH AUGUST 15, 2003 FOR THE STREET OPERATIONS DEPARTMENT

E. ACTION ON CONTRACT 0102-038, A REQUEST FOR PROFESSIONAL SERVICES TO BE PROVIDED BY TECHNO METHODS FOR THE CARSON CITY TELECOMMUNICATIONS STRATEGIC PLAN AND THE REGIONAL TELECOMMUNICATIONS STRATEGIC PLAN THROUGH JUNE 30, 2002, FOR A NOT TO EXCEED COST OF \$50,000

F. ACTION ON A REQUEST BY THE CARSON CITY MUNICIPAL GOLF CORPORATION TO ENTER INTO A LEASE WITH CLUB CAR, INC.'S PRIMARY FUNDING SOURCE, ASSOCIATES LEASING, INC., FOR 135 (NEW) CLUB CAR DS GAS POWERED GOLF CARS FOR 60 MONTHS AT A COST OF \$10,008.90 PER MONTH

G. ACTION ON CONTRACT ON. 0102-043, A REQUEST FOR THE PURCHASE OF ONE (1) SUPER PRODUCTS CAMEL 200 WITH EJECTOR BODY AND 10 YARD CAPACITY WHICH WILL BE USED AS A DEMONSTRATION UNIT FROM PACIFIC UTILITY EQUIPMENT COMPANY FOR A NOT TO EXCEED \$220,955.88

H. ACTION ON CONTRACT 0102-047, A REQUEST TO HAVE THE BOARD OF SUPERVISORS DETERMINE THAT THE LISTED CITY PROPERTY IS NO LONGER REQUIRED FOR PUBLIC USE AND DEEM ITS SALE BY PUBLIC AUCTION DESIRABLE AND IN THE BEST INTEREST OF CARSON CITY

I. ACTION ON CONTRACT 0102-048, A REQUEST TO ENTER INTO A SOFTWARE AND SERVICES AGREEMENT FROM ELECTION SYSTEMS AND SOFTWARE FOR A NOT TO EXCEED COST OF \$26,294 EXEMPT FROM COMPETITIVE BIDDING

5-6. PERSONNEL - ACTION TO REAPPOINT KIM PAIGE AND SALLY ROGERS TO THE BOARD OF MESSAGE EXAMINERS - Item 5-5 G. was deferred to a future meeting. Items 5-5 E and F were pulled for discussion. Supervisor Livermore moved to approve the Consent Agenda with the noted exception items removed, that being 5-5 E, F, and G, which leaves 16 remaining items which encompasses the Treasurer's Department, the Clerk-Recorder's Department, Development Service contract, Purchasing contracts, and Personnel appointment issues as presented. Supervisor Staub seconded the motion. Motion carried 5-0.

5-5 E. (1-0510) - City Manager John Berkich highlighted the purpose of the contract. It includes cellular phone towers. His comments also noted the increasing demand for telecommunication services and the range in technology used to meet that demand. The study will position Carson City so that the City can participate from an economic standpoint as well as from an internal communications while taking advantage of all of the new technologies including both wire and wireless programs. The study will be conducted regionally and funded by a CDBG grant. The region includes Lyon, Douglas, Storey, and Washoe, the Cities of Reno and Sparks, NDOT, the U.S. Forest Service and BLM. It will allow the communities to manage the rights-of-ways beneficially and appropriately. Funding had not been requested from the other entities. Advantages of a regional approach were noted including the ability to have a united front when discussing telecommunication issues. Reasons for selecting the firm were explained. The study is to be completed by June as required by the grant. Supervisor Plank also cautioned against having the streets torn up after RTC has just paved them. He asked that ordinances to this effect be included in the discussions. Mr. Berkich described how other communities have addressed this problem and agreed that this is a major issue. Another issue is the concern about franchise fees and whether they are legally permissible. Nevada uses a business license structure rather than a franchise fee. Supervisor Livermore

encouraged Mr. Berkich to include medical services in the study. The reason for this request was explained. Mr. Berkich indicated that this issue had been discussed by the team and would require the fiber optical trunk line to be located near the hospital. Comments described the medical need for access to this service. Mr. Berkich reiterated the belief that this is a unique opportunity for regional development of the plan. Public comments were solicited but none given. Supervisor Plank moved to approve Contract No. 0102-038, a request for professional services to be provided by Techno Methods for the Carson City Telecommunications Strategic Plan and the Regional Telecommunications Strategic Plan through June 30, 2002, for a not to exceed cost of \$50,000; fiscal impact is \$50,000, and the funding source is the CDBG Grant as provided in Fiscal Year 0102. Supervisor Livermore seconded the motion. Motion carried 5-0.

5-5 F. (1-0740) - Municipal Golf Corporation Chairperson Mark Sattler, Golf Course General Manager Michael McGehee - Discussion questioned the value of the carts which were being turned in and whether this value had been recognized in the contract. The contract indicated that the firm would assume the remaining balance on those vehicles. The value of this lease was felt to be \$13,000 per month. That lease had one year remaining on its term. The lease also contained a term which would allow the Corporation to buyout the lease at \$260,000 or roll them over into new carts. The proposed lease contains the same terms. Board comments pointed out the need for a better analysis of the intent and questioned how the \$25,000 savings in maintenance had been developed. Mr. McGehee felt that the savings would occur. Chairperson Sattler explained that the new fleet would not require maintenance, refurbishing, etc. Supervisor Williamson pointed out the need to include the maintenance costs as costs if it is used as a savings. Clarification indicated that this would be a one time savings. Depreciation costs were not included in the analysis. Chairperson Sattler explained that roll over leases are historically used throughout the industry. The average fleet replacement period is three years. Supervisor Williamson questioned whether consideration had been given to purchasing the fleet at an eight percent interest rate over a four year period. Mr. McGehee explained the \$260,000 purchase requirements mandated for the existing carts. Customers do not like to use old carts. The maintenance costs to refurbish these vehicles are very expensive. Supervisor Williamson expressed her feeling that new carts should be purchased, not the old ones. Mr. McGehee indicated this would cost \$440,000. Mr. Berkich pointed out that this is not financially feasible for the Corporation at this time. The lease will not tie up all of the Corporation's cash while providing new carts. He agreed that it would cost more over the long run due to the financing costs. Chairperson Sattler also pointed out that the lease payments are only made for nine months. No payments are made for the other three months. Supervisor Williamson noted that this clause is not in the agreement. Supervisor Livermore pointed out the assumption that the vehicles would depreciate at a rate of \$150 each the first year. The new lease contains a guaranteed trade-in value. He questioned whether the old lease contained a similar clause. A copy of that lease was not available for review. He also asked if a fair trade-in value was being given for the old carts. Comments indicated that a trade value was not included in the new lease. Chairperson Sattler felt that the problem with the first lease had been the age of the fleet which was traded in. They were eight to nine years old. The former policy had been to purchase 20 carts a year and trade out the older vehicles. Supervisor Livermore acknowledged that the original fleet was old. He reiterated his request for information regarding the value of the vehicles which were being traded for the new lease. Mr. Berkich agreed to provide this information and bring the lease back. Mayor Masayko also asked what the firm's position is regarding a successor as the Corporation's contract expires before the end of the lease term. Comments also questioned what the penalty would be if the successor or Corporation walked away from the lease. Discussion indicated that the normal practice is to replace the carts before the end of the lease term and for the entire region to do it at the same time. Mayor Masayko summarized the questions which the Board wanted answered. This included a financial analysis supporting the lease option. He also asked for assurance that the roll over did not defer and increase the buyout amount which mandates continual roll over of the lease. He questioned whether the process would amass a large unfunded mandate for the future. Mr. Berkich noted an article from a golf magazine indicating that the trend is to lease rather than purchase. Chairperson Sattler explained that Finance had analyzed having the City purchase the carts and for the Corporation to repay the City over time. Finance had decided against this option. Mayor Masayko and Supervisor Williamson asked to see this information. Mayor Masayko also indicated that the item would not be on the Consent Agenda so that discussion could occur. It is to be reconsidered at the next meeting. No formal action was taken.

6. BOARD OF SUPERVISORS

A. UPDATE ON THE ACTIVITIES OF THE NEVADA-TAHOE CONSERVATION DISTRICT ACT FOR FISCAL YEAR 2001-2002 (1-1140) - District Program/Project Manager Jason Drew explained that the activities were occurring on the Nevada side of Lake Tahoe and thanked the Board for its funding. The importance of this funding was limited. He proposed to give similar reports biannually. The District works with the Nevada Division of State Lands to implement large soil erosion projects. The District is the technical and field representative for State Lands. Applications will be accepted this fall from GIDs and other entities for next year's projects. The Nevada Environmental Improvement Program is well under way. This program had been developed by TRPA. The Backyard Conservation Program works with property owners to meet the mandated five year timeframe for controlling all runoff from each parcel. The District develops the plan for meeting the obligation for the property owner. This service is free. Grants from the Nevada Department of Environmental Protection, the U.S. Forest Service, and State Lands provides funding for free labor which helps the property owner implement this plan. Providing these services will stop all runoff and meet the mandated requirements of the Act and assist with the program of retaining or improving the Lake's clarity. The District is also monitoring the water quality under a Nevada Forest Service grant. This program evaluates the water and soil erosion control projects in addition to the best management practices installed on private parcels in the vicinity of the Round Hill GID. The Forest Service had also provided a \$100,000 grant to study the bio-fuels in the area. It is hoped that this will improve the health of the forest and eliminate some of the fire danger currently found at the Lake. It will study using bio-mass to produce energy on a local scale, develop potential wood products, and/or produce fuel with the excess bio-mass. A sanitary survey is being conducted for water purveyors which is required of anyone receiving surface water. It must be conducted every five years and show that the water is clean. This survey is being performed under a contract with Douglas County and Incline Village General Improvement District. Mayor Masayko complimented him on the informative, concise and direct report. Mr. Drew invited the Board to tour the projects. Mr. Drew gave the Board and Clerk his business card. Public comments were solicited but none given.

B. ACTION ON CARSON CITY'S 2001-02 INTERNAL AUDIT PLANS AND DIRECTION TO STAFF TO BEGIN ADVERTISING AND RECRUITMENT FOR INTERNAL AUDITOR/INTERNAL AUDIT RESOURCES (1-1300) - Mayor Masayko announced former Internal Auditor Gary Kulikowski's resignation. He wished him success at the Legislative Council Bureau. The Charter mandates that the Board appoint an internal auditor and affix his/her compensation. Discussion indicated that now may be the time to conduct operational analysis and efficiency audits in addition to the policy, procedural and accounting audits that had been conducted in the past.

Supervisor Staub also explained his feeling that it is not necessary for the City hire a "line staff member" to conduct these audits. He suggested an RFQ or RFP be used to hire an outside auditor to provide an audit plan and conduct annual performance audits. This would eliminate any potential conflicts between staff members/functions.

Mayor Masayko felt that this position could be handled on a temporary basis and handle the management of internal performance audits. He was willing to try it on a one time basis. RFP/RFQs will tell the Board where the areas of greatest success could be. The resources are available for this individual or firm from the salary savings created by the vacant internal auditor's position. Management audits are expensive. The person should be hired and then work with the Board to determine the level and types of audits which should be performed. If the individual is unable to conduct the management audit, an outside contractor could be considered.

Supervisor Livermore expressed his support for Supervisor Staub's proposal and to annually look at one or two departments. He also pointed out that both the 1996 Grand Jury and the Charter require the City to hire a full-time internal auditor. He suggested that the Board review that report in order to avoid any violation of it. It may also be time for the Board to analyze the budget and allocate funding for additional audit functions. He pointed to the golf cart discussion to illustrate the need for the Board to ferret out information on the proposal as an internal

auditor was not available to do it for the Board. Mayor Masayko felt that an external auditor could also perform this function.

Supervisor Plank felt that Supervisor Staub's proposal would require more than a CPA. The individual would need to be a management analyst. He was unsure whether these skills could be found in one person. This may make it necessary to contract with two firms or individuals. It is necessary, however, that someone be available to assist the Board as needed. Mayor Masayko felt that a contracted firm could provide this service. Both he and Supervisor Plank were willing to try the program on a temporary basis.

Supervisor Williamson complimented Mr. Kulikowski on his service and wished him success in his new job. A review of the budget needs to be conducted and a cost estimate developed. She suggested that a Board subcommittee be established to work with staff and provide a report in two weeks. Mayor Masayko and Supervisor Livermore supported her suggestion. Mayor Masayko suggested two Board members be assigned to the committee and that a report be provided within 30 days. The committee should discuss the concept with the service providers and other communities.

Supervisor Staub explained his contact with other individuals regarding the possibility of having a "coordinator" whom the Board could call on for assistance in developing the RFP. His experience with outside auditors in preparation of mandatory State insurance reports was limited to illustrate how he felt the service could be provided. He also felt that the resources should be analyzed before requesting RFPs. It may not require a CPA but could require an MBA or management firm.

Mayor Masayko reiterated the desire to have the report at the next Board meeting or two. Supervisor Staub had purportedly volunteered to serve on the committee. Supervisor Livermore volunteered to be the other member. Mayor Masayko then indicated that he would be at a NACO meeting when the next Board meeting is held. He then suggested that the report be provided within 30 days. The report should also consider whether the previous model is the correct program. Supervisor Staub indicated that he had contacted three different entities who would be submitting a presentation. He also thanked Mr. Kulikowski for his service to the City. His discussions on the management analysis with Mr. Kulikowski had indicated that he would not be able to perform the function as a one man department. He wished Mr. Kulikowski well in his future endeavors. Mayor Masayko felt that the funding level which had been provided had been appropriate for the one man department and that the service level had been appropriate for that funding level. He agreed that the opportunity is here and that it should be taken advantage of. He also felt that the Board would not violate the City Charter by allowing the position to remain open for the next 30 days. The position will be filled with either a full time person or a consultant who will report to the Board. Mayor Masayko then scheduled the item for the October 4th meeting. No formal action was taken.

C. NON-ACTION ITEMS - INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (1-1745) - Mayor Masayko reiterated his intent to be absent at the next meeting due to the NACO conference. He intended to develop a portion of the agenda before leaving. He also noted the need to have at least three Board members voting for any motion. Other reports were deferred until later in the meeting.

BREAK: A recess was declared at 10:15 a.m. The entire Board was present when Mayor Masayko reconvened the meeting at 10:25 a.m., constituting a quorum.

7. TREASURER - Al Kramer - STATUS REPORT ON THE DEBT RECOVERY UNIT OF THE TREASURER'S OFFICE (1-1764) - Mr. Kramer explained the three month period that the unit had been in operation and his disappointment in its recovery rate. Progress is being made and payment plans are being created which includes an assessment fee. Approximately \$6,000 has been collected from the assessment fee. A good response to the plans has been occurring although some individuals have failed to follow through. These individuals have been returned to the courts and warrants were issued. Unfortunately the historical information for collections by the previous contractor is not available for review. The current information is being used as a

starting point for comparison in the future. He asked for another reporting period. At that time the number of citations issued last year will be compared with this year's in addition to the amount of money collected for both periods. Purportedly, there are variables in the collection rates due to the economy, the weather, a grant for an additional deputy, neighborhood requests for patrol officers, etc.

Mayor Masayko suggested a six month window may provide a better report period than two or three more months. Assumptions concerning the previous collections could be used to illustrate the program's status. He also pointed out the efficiencies which have been provided at the Justice Court level by transferring the collection duties and the additional Justice Court employee. They should also be included in the comparison. If it cannot be proven, then it may be necessary to return the collection program to the Justice Court.

Mr. Kramer agreed that there had been efficiencies, however, he could not show that he is collecting more money than before. He felt the reason for this is due to the lag between creating the monthly payment schedule and final payments. Mayor Masayko reiterated his suggestion that the report be provided in 3 to 5 months or before the next budget session. Mr. Kramer agreed to provide a report in March. If the Board wanted one in the interim, a request should be made. Mayor Masayko expressed his preference that the report be in six to nine months and not as part of the budget. Mr. Kramer felt this would be in February. Supervisor Williamson agreed. Mayor Masayko thanked him for taking on the program.

Sharon Murphy explained Justices of the Peace Willis and Tatro's support for the unit. They had spent a great deal of energy ensuring that it would work and were certain that it is. It has been most beneficial to the Courts. They were pleased with the unit.

Mayor Masayko noted the stake that the Courts had in the unit as the alternative is to return the duties to the Court Clerks. No formal action was required or taken.

REDEVELOPMENT AUTHORITY (1-1979) - Mayor Masayko then recessed the Board of Supervisors session and passed the gavel to Chairperson Williamson. Chairperson Williamson immediately convened the Redevelopment Authority and noted that a quorum was present. For Minutes of the Redevelopment Authority, see its folder.

BOARD OF SUPERVISORS (1-21- Following adjournment of the Redevelopment Authority, Mayor Masayko reconvened the Board of Supervisors session. A quorum was present as noted.

8. REDEVELOPMENT MANAGER - Rob Joiner - ACTION ON REDEVELOPMENT INCENTIVE 01/02-02 - A REQUEST FROM CUBIX ORMSBY, INC., FOR REDEVELOPMENT AUTHORITY INCENTIVE PROGRAM FUNDING IN THE AMOUNT OF \$100,000 FOR PROPERTY LOCATED AT 600 SOUTH CARSON STREET, APN 3-092-02; 3-093-05; 3-096-04; AND 4-061-02 (ORMSBY HOUSE) (1-2202) - Supervisor Williamson moved that the Board of Supervisors approve Redevelopment Incentive 01/02-02, a request from Cubix Ormsby, Inc., for Redevelopment Authority incentive program funding in the amount of \$100,000 for property located at 600 South Carson Street, APN 3-092-02; 3-093-05; 3-096-04; and 4-061-02; fiscal impact is \$100,000, none from the General Fund; and the Redevelopment Authority Incentive Fund is the funding source. Supervisor Livermore seconded the motion. Comments indicated that the same funding conditions discussed by the Redevelopment Authority applied. Supervisor Williamson amended her motion to be subject to the street abandonment payment. Supervisor Livermore concurred. Motion carried 5-0.

9. COMMUNITY DEVELOPMENT - Director Walter Sullivan

A. ACTION ON AB-01/02-3 - A REQUEST FROM LARRY TILLER, REPRESENTING CUBIX ORMSBY, LLC, PROPERTY OWNER, TO ABANDON A PORTION OF THE RIGHT-OF-WAY OF WEST SEVENTH STREET BETWEEN SOUTH CURRY STREET AND SOUTH CARSON STREET (APPROXIMATELY 66 FEET WIDE BY 170.57 FEET LONG), ON PROPERTY ZONED DOWNTOWN

COMMERCIAL (DC), ADJACENT TO APN 3-092-02; 3-093-02; AND 3-096-04 (1-2253) - Mayor Masayko noted that the packet did not contain the description of one of the streets being abandoned. Applicant's Representative Carol Dotson described the project with the use of two "working" site designs. The improvements, including revisions to the access/egress to the Arco Station, were described. Arco had purportedly signed off on the plan. This statement had not been included in the packet. Crosswalk revisions had been suggested to staff and were explained to the Board. Ms. Dotson indicated that they agreed with the revised conditions as approved by the Planning Commission and the stipulations. They also agreed with the proposed plan for handling the Supreme Court ruling.

Mayor Masayko disclosed his discussion with Ms. Dotson during the break about the lack of a signed document from Arco supporting the application. He urged her to obtain one for staff's files. Reasons for this requirement were explained. The benefits he saw in the proposal were also noted including the public benefit provided by improved safety features. He then voiced his concerns about having another unsignalized pedestrian crossing. He acknowledged that this issue would not be resolved until the freeway is a reality. He also congratulated the owners of the Ormsby House on their efforts to refurbish it and utilize adjacent parcels in a beneficial manner.

Discussion between Ms. Dotson and the Board explained the new location on the property for the taxicabs and tour buses. Supervisor Williamson noted that there had been requests for additional crosswalks submitted by the businesses along Carson Street. She complimented the Ormsby House on the improvements proposed for the Arco Station due to the safety benefits which would be derived from the revision. Public comments were solicited but none given.

Supervisor Williamson moved that the Board of Supervisors approve AB-01/02-3, a request from Larry Tiller, representing Cubix Ormsby, LLC, property owner, to abandon a portion of the right-of-way of West Seventh Street between South Curry Street and South Carson Street, approximately 66 feet wide by 170.57 feet long, on property zoned Downtown Commercial adjacent to APN 3-092-02, 3-096-02, and 3-096-04; the Planning Commission further stipulated that Carson City would be paid the fair market price for the right-of-way by the applicant if the Nevada Supreme Court's decision determines the street was not dedicated. Supervisor Livermore seconded the motion. Motion carried 5-0.

B. ACTION ON A RESOLUTION REPEALING RESOLUTION NO. 2001-R-39 AND TRANSFERRING \$2,408,367 IN STATE PRIVATE ACTIVITY BOND VOLUME CAP TO THE DIRECTOR OF THE STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY FOR USE BY AFFORDABLE HOUSING ASSOCIATES LLC (BROADLEAF/SAGEWOOD MANOR) FOR AN AFFORDABLE HOUSING PROJECT (1-2662) - Senior Planner Lee Plemel - Discussion indicated the commitment to the Broadleaf/Sagewood Manor project would reserve this year's funds. The applicant must compete for additional funding next year or find another funding source. Supervisor Williamson moved to adopt Resolution No. 2001-R-47 repealing Resolution No. 2001-R-39 and transfer \$2,408,367 in State Private Activity Bond Volume Cap to the Director of the State of Nevada Department of Business and Industry for use by Affordable Housing Associates LLC, Broadleaf/Sagewood Manor, for an affordable housing project. Supervisor Plank seconded the motion. Mayor Masayko asked Mr. Plemel to contact the applicants for the other project and get them to continue making the improvements that had been discussed when their application was considered. Additional comments were solicited but none given. The motion was voted and carried 5-0.

D. ACTION ON AB-01/02-2 - A REQUEST FROM CLARK RUSSELL, PROPERTY OWNER: CLARK AND JEAN RUSSELL FAMILY TRUST, TO ABANDON APPROXIMATELY 66 FEET WIDE BY 170 FEET LONG, 11,220 SQUARE FEET, OF PUBLIC RIGHT-OF-WAY ON WEST NINTH STREET BETWEEN CURRY STREET AND NEVADA STREET, ADJACENT TO APN 3-081-14, ON PROPERTY ZONED DOWNTOWN COMMERCIAL (DC); E. ACTION ON AB-01/02-4 - A REQUEST FROM CLARK RUSSELL (PROPERTY OWNER: CLARK AND JEAN RUSSELL FAMILY TRUST)

TO ABANDON A PORTION OF THE RIGHT-OF-WAY OF WEST EIGHTH STREET BETWEEN SOUTH NEVADA STREET AND SOUTH CURRY STREET (APPROXIMATELY EIGHT FEET WIDE BY 170 FEET LONG) ON PROPERTY ZONED DOWNTOWN COMMERCIAL (DC), ADJACENT TO APN 3-081-14; AND F. ACTION ON AB-01/02-5 - A REQUEST FROM CLARK RUSSELL (PROPERTY OWNER: CLARK AND JEAN RUSSELL FAMILY TRUST) TO ABANDON A PORTION OF THE RIGHT-OF-WAY OF SOUTH CURRY STREET BETWEEN WEST EIGHTH STREET AND WEST NINTH STREET (APPROXIMATELY THREE FEET WIDE BY 246 FEET LONG) ON PROPERTY ZONED DOWNTOWN COMMERCIAL (DC), ADJACENT TO APN 3-081-14 (1-2785) - Applicant's Representatives Mark Palmer, Contractor Tom Metcalf, and C.E.O. Steve Bilyeu - Mr. Sullivan corrected the distances for the Curry Street abandonment to be 179.87 square feet long and three feet wide. The stipulation regarding the Supreme Court ruling also applied to these abandonments. Mr. Palmer used site drawings to describe the project and the public benefits which the parking garage would provide. He also explained items which are part of the new design standards which the Board will consider in the near future. Mr. Metcalf described the garage design. It will have 361 parking stalls and three elevated decks. Mr. Palmer agreed that public parking would be allowed. Mayor Masayko indicated for the record that Mr. Bilyeu had also agreed with this statement. Mayor Masayko also noted that the garage will allow for future expansion of the Station. He felt that it was a well designed and good looking project that will benefit Redevelopment in the future. Discussion between Mr. Sullivan and Supervisor Staub indicated that the issue relating to the Bicycle Plan had been resolved. Supervisor Livermore indicated that the garage would not be visible from Carson Street. Mr. Bilyeu indicated that the garage would be the first stage of its long range plans which includes an additional structure on the lot between Curry and Carson Streets. It may be possible to see the garage for two years from Carson Street. Supervisor Livermore complimented them on the investment they were making. Mr. Bilyeu indicated that discussions are going on with Sierra Pacific concerning Ninth Street. These discussions will not be finalized until the Supreme Court issue is resolved. Clarification by Mr. Bilyeu indicated that their projects needs half of Ninth Street. City staff had suggested that the entire street be abandoned. If the project needs more of the street, it will be able to use it. Public comments were solicited but none given. Supervisor Williamson thanked them for their creative ideas and support for the community. Supervisor Williamson moved that the Board of Supervisors approve AD-01/02-2, a request from Clark Russell, property owner: Clark and Jean Russell Family Trust, to abandon approximately 66 feet wide by 170 feet long, 11,220 square feet, of public right-of-way on West Ninth Street between Curry Street and Nevada Street, adjacent to APN 3-081-14, on property zoned Downtown Commercial. Supervisor Plank seconded the motion. Following a request for an amendment, Supervisor Williamson amended her motion to include that this action is subject to the proposed Nevada Supreme Court decision on payment of the right-of-way. Supervisor Plank concurred. Mayor Masayko also indicated that the agreements needed to be tightened up regarding the descriptions. The motion was voted and carried 5-0.

Supervisor Williamson moved that the Board of Supervisors approve AB-01/02-4, a request from Clark Russell, property owner: Clark and Jean Russell Family Trust, to abandon a portion of the right-of-way of West Eighth Street between South Nevada Street and South Curry Street, eight feet wide by 170 feet long, on property zoned Downtown Commercial, adjacent to APN 003-081-14; the Planning Commission further stipulated that Carson City would be paid the fair market price for the right-of-way by the applicant if the Nevada Supreme Court's decision determines the street was not dedicated. Supervisor Plank seconded the motion. Motion carried 5-0.

Supervisor Williamson moved that the Board of Supervisors approve AB-01/02-5, a request from Clark Russell, property owner: Clark and Jean Russell Family Trust, to abandon a portion of the right-of-way on south Curry Street between West Eight Street and West Ninth Street, three feet wide by 179.87 feet long, on property zoned Downtown Commercial adjacent to APN 003-081-14; the Planning Commission further stipulated that Carson City would be paid the fair market price for the right-of-way by the applicant if the Nevada Supreme Court's decision determines the street was not dedicated. Supervisor Plank seconded the motion. Motion carried 5-0.

C. ACTION REGARDING AN APPEAL OF THE PLANNING COMMISSION'S DECISION TO DENY A SPECIAL USE PERMIT APPLICATION (U-00/01-31) FROM CRICKET COMMUNICATIONS (PROPERTY OWNERS: WILLIAM KUGLER AND COLLEEN COFFEY) TO ALLOW AN

INCREASE IN THE PERMITTED STRUCTURE HEIGHT WITHIN THE GENERAL INDUSTRIAL (GI) ZONING DISTRICT FROM 45 FEET TO 80 FEET FOR THE PLACEMENT OF A MONOPOLE STRUCTURE AND WIRELESS COMMUNICATION FACILITY ANTENNAS LOCATED AT 4024 LEPIRE DRIVE, APN 10-351-05, BASED ON THE PLANNING COMMISSION'S FINDINGS AND THE EVIDENCE PRESENTED IN SUPPORT OF THE DENIAL (1-3343) - Senior Planner Lee Plemel, Community Development Director Walter Sullivan, Cricket's Legal Counsel Gary Duhon, Cricket Representative Rick Cardoza, Joan Buchanan, Pat Barker, Open Space Manager Juan Guzman, Property Owners William Kugler and Colleen Coffey's Legal Counsellor Mike Pavlakis, Chief Deputy District Attorney Mark Forsberg - Mayor Masayko explained the appeal procedures and that new evidence would not be considered. The Board's role is to determine whether the Planning Commission's findings should be sustained or denied. The Board could sustain, overturn, or return the item to the Commission. Mr. Plemel's introduction included a statement that a 45 foot tower had been constructed on the site. The request is for an increase in that height to 80 feet. The issues regarding this item include differences of opinion on who is responsible for proving his/her case for the special Use Permit and on the interpretation of Telecommunications Act (TCA). Mr. Sullivan read CCMC 18.02.062 Subsections 4 and 5 which require the applicant to provide facts supporting the findings necessary for the Board to approve the application. All seven findings must be made in order to approve the application. Two of the Planning Commissioners had felt that the applicant had met the burden of proof. They had voted against the denial. One Commissioner was out of the country.

Mayor Masayko disclosed his personal friendship with the property owner and their May telephone discussion regarding the application. He did not have any additional knowledge beyond that which had been given to the Planning Commission and the public.

Mr. Plemel explained that the applicant's letter had not included an appeal to Findings 3, 4 and 5; therefore, staff had only responded to his Findings for 1, 2, 6, and 7. The staff report to the Commission had included the other three findings. They dealt with traffic and pedestrians. There are no detrimental impacts regarding these items. The parcel is north of the Moffat property. Two radio towers are to the west off of Edmonds. They were felt to be between 100 and 150 feet in height. They had been located at that site more than 20 years ago. The proposed site can be seen from a majority of the community. Supervisor Plank indicated that he had been contacted by quite a few people from Riverview objecting to the aesthetic impact created by the two towers. Mr. Sullivan explained that the towers are on property leased from the City. It may be the lowest point in the basin. The proposed site is on top of a hill to the east. Supervisor Livermore suggested that a map illustrating the elevations be provided with such requests. He had met with the neighbors last night and had driven and looked at the site from different angles during the last two weeks. He also suggested that a elevation cap on towers be considered which would include the height of a hill. He questioned the height of the proposed tower and the 45 foot tower which had been constructed and their relationship to the two radio towers on Edmonds. Elevation heights should have been included in the discussion/report as well as their relationship to the other towers and the role elevations plan in telecommunications. Mr. Sullivan explained that the Commission had had this information including two maps illustrating the area covered by the 50 and 80 foot towers. He distributed to the Board and Clerk photographs of existing 45 foot tower. This tower is allowed under the General Industrial ordinance at 45 feet. The Special Use Permit (SPU), if approved, will increase the height to 80 feet. He also gave the Board and Clerk a map delineating the surrounding zoning. (Copies of both are in the file.) A map illustrating the tower locations was displayed. (2-0146) Mr. Sullivan explained the reasons a 45 foot height restriction had been placed on structures in GI districts. The other land use districts do not allow heights over 45 feet as a permitted use. Public districts require a SPU for all projects including for lighting on baseball fields. This included the High School, Edmonds, and Governors Fields. The proposed design standards does not increase the height restriction. The Retail Commercial and GI districts allow structures to 45 feet. Any height over that requires a SPU. This ordinance was effective in April 1978. The Ormsby House had requested a SPU for its structure. It is obviously taller than 45 feet.

Supervisor Staub explained that his residence on South Lompa Lane has a view of the tower at Capital Beverage. Discussion indicated that this tower had also required a SPU. Noticing requirements for this SPU were to anyone living within 300 feet. Noticing has been a source of discussion by the Planning Commission due to the impact

such projects have beyond the 300 foot radius. Notifications in the Single Family 1 Acre district were cited to illustrate that few people may be noticed in certain districts. Mr. Sullivan felt that the Commission may submit a recommendation to the Board to extend the notification distance for similar projects. Supervisor Staub supported this suggestion.

Supervisor Livermore pointed out the discussions which have been held concerning hillside ordinances, buildable lots, and vistas. These are elevation issues. He challenged the Commission to continue these discussions and, specifically, those relating to what is acceptable in the basin. He acknowledged his dependence on cellular telephones. Technology is changing. The need for a decision regarding the community standards and elevation issues was stressed. Mr. Sullivan indicated that he would take the remarks back to the Commission. Supervisor Plank felt that these issues should be included in the contract for strategic telecommunications planning approved by the Board earlier in the meeting.

Mayor Masayko asked Cricket Communications representatives to stick to the findings made by the Planning Commission as the first issue is one of land use. Mr. Duhon indicated he understood that.

Mr. Duhon felt that his comments would be based in the evidence presented at the Commission hearing and that which should be discussed on the appeal. The TCA requirements mandate that these issues be raised after a denial has occurred. He also indicated that the case cited by the District Attorney's office was appropriate and would be included in his remarks. TCA regulations prohibiting discrimination or prohibition of cellular services was quoted. He then indicated that they were seeking 35 or "perhaps" a 25 foot extension. He agreed that the matter is not the normal zoning case. The matter is controlled by the TCA. The applicant must present evidence which will prove by a preponderance of evidence that the findings have been met. TCA also requires that the denial be substantiated by a preponderance amount of evidence. He felt that there had been three violations to the TCA which require issuance of the SPU although the most practical reason is that it is right for the community. The Southwest Bell case indicates that it is sometimes right for the community to authorize the taller towers for cellular telephones. The proposed site is unique due to its zoning, its mixed uses which he listed, its location on the outskirts of the community, and its location adjacent to US Highways 50 and 395. There are few areas in the community without residential uses within the vicinity. TCA provides alternative service programs if a tower is not allowed. He alleged to have evidence which indicates there are no other better sites in the vicinity for the tower. Tab E of his packet purportedly supported this contention. The other alternatives allegedly created gaps in the service. Gaps are considered prohibitions on service and not allowed by TCA. Two alternatives had been identified but would not provide service without a gap. One alternative is a 150 foot red and white tower adjacent to the existing radio tower. It would be a hazard to aircraft and would have interference from the radio transmissions and vice versa. Federal Communications Commission (FCC) opposes any interference of this nature. The second alternative requires at least three towers with a minimum of 50 to 60 feet in height. An aesthetic comparison with the one 80 foot tower was made. An 80 foot tower would allow three or four other carriers to co-located on it. This would reduce the impact to the community by reducing the need for nine other towers. He then displayed a map which was purported to illustrate the industry standard for finding sites. The criteria which had been used to develop the map was then limned. This analysis had purportedly required over 600 manhours to complete and is substantiated by eight to ten pages of evidence within his report. He then reread the ruling from the Southwest Bell case indicating that the towers must be located on hills or in prominent positions. He reiterated his feeling that the 6 to 9 towers that would be replaced by the one 80 foot tower would be less of an impact on the community and the site's uniqueness. He explained that TCA prohibits communities from discriminating, which he described as approving one cellular tower and denying a substantially similar tower. TCA also prohibits any effort to prohibit cellular services. Gaps in transmission are defined as effective prohibited service under case law. The Planning Commission's need to have had substantial evidence in order to make a decision denying the application was stressed. He believed that the wrong standards had been applied by

the Commission. Staff's report had not discussed this issue. By using the map he then explained how he felt that discrimination had occurred as AT&T's tower at the Airport and the tower Supervisor Staub had referenced are in similarly zoned districts as the proposed site for Cricket's tower. The elevations; tower heights for AT&T, Air Touch, and the radio towers; and the zoning height restrictions were compared to Cricket's request. All were felt to be equal. Southwest Bell's case was cited to support his contention that the denial was discriminatory. He reiterated his contention that the denial would prohibit cellular service as it created gaps in the service as indicated under Tab E. The Southwest Bell case was again quoted indicating the need to provide substantial evidence indicating there are no other alternatives. The map detailing the analysis of available property and the manhours spent on the investigation were also cited. The standard for substantial evidence was then defined. The Southwest Bell case was cited to further describe the amount of evidence required and how the Commission or Board must evaluate that evidence. Unsupported evidence is not to be considered. Reliable and justifiable evidence is accepted. Generalized concerns which are not substantiated are not to be accepted. He acknowledged that the impact is a valid concern but the "Federal Law" prohibits its use. This includes generalized concerns regarding views and aesthetics.

The Southwest Bell case does allow consideration of the aesthetics but they must be restricted to the specifics of the case and not generalized. Generalized concerns were applied without regard for the testimony on the height, elevations, comparison to other towers, etc. (2-0780) He again summarized his remarks including the Southwest Bell case and compared its tower to the proposed request. The monopole had been proposed as an attempt to mitigate the impact. The choice is up to the Board. Based on the alternatives, he was certain that the monopole/monopine were the best for the community. The Board must also determine what is best for the commun-

ity. The findings required for the SPU exemplify this role. He then read and detailed how each finding had been met by the proposal. The need for the refuting evidence to be creditable, relevant, and supported with facts was reiterated. He agreed that the tower would impact the views but the regional benefits outweigh the impact particularly when the TCA requirements are included in the considerations. He reminded the Board that it must deal with the TCA even though it is very complicated. He urged the Board to deal with its requirements by recognizing and identifying the standards as Washoe County had.

(2-0968) Mr. Duhon responded to Supervisor Staub's question by explaining his feeling that it had not been stated at the Planning Commission that there were other alternatives for the tower(s). The statement was that there were other alternatives which would provide service along the Highway 50 corridor. The alternative would not provide suitable service everywhere without gaps. He again cited the two letters in the record indicating that this is the only site that will provide the service. He then explained for Supervisor Livermore the reasons Cricket felt that there were portions of the community which are not be served by other cellular providers. He felt that the Cricket program would serve individuals who are unable to economically afford the other providers. The Planning Commission's decision should be overturned based on its discrimination rather than this stipulation. Supervisor Livermore pointed out that there are at least half a dozen cellular services available in the community. Mr. Duhon was unsure how the other firms had missed potential clients but was certain it was based on the companies' business plans. He also stressed that under the TCA rules the Board could not deny the SPU based on the lack of supporting information indicating there is a need for the service. Supervisor Plank pointed out that the other providers have gaps. Therefore, if Cricket had a gap, it was not being discriminated against. Mr. Duhon responded that these providers' towers are apparently adequate to provide the amount of service desired. Cricket is merely telling the Board that it wants to provide service and there is a gap in the service already here. The proposed tower will eliminate that gap.

Discussion between Mayor Masayko and Mr. Sullivan indicated that 40 to 80 foot monopoles are allowed in GI and commercial zones with an SPU. The Code does not address telecommunication uses. Mr. Duhon felt that towers were only allowed in GI and Public zones. He had not intended to say that they would not be allowed elsewhere. He had stated that they were more compatible with the heavier general industrial uses. Mayor Masayko responded by explaining that he understood the comments and that he was talking about sites which were

not designated as potential sites on the map.

Mr. Cardoza then explained the need for line of sight tower locations. Other structures generally interfere with transmission at 45 feet. It is "highly unlikely" that co-location on a 45 foot pole is possible as line of sight issues do not allow co-location below 45 feet. He then clarified the need to have ten feet of separation between antennas to eliminate interference. An antenna at 35 feet would barely clear structures.

Discussion between Mayor Masayko and Mr. Sullivan explained the testimony heard at the Commission meeting. The TCA issues were felt to be new information that had not been explored at the Commission meeting. The policy regarding the need for the same information to be provided at both meetings was limned.

Supervisor Williamson read from a transcript of the Commission's minutes statements made by John Weinberg expressing his intent to be a good neighbor and to do the right thing for the community. She did not feel that today.

Public testimony was then solicited. Ms. Buchanan supported the Commission's decision as she felt there had been a preponderance of evidence presented at that hearing. There had been seven individuals speaking in opposition in addition to the petition that was submitted. The Open Space Initiative had been supported by the community and should be considered as part of the opposition. The prison, Wastewater Treatment Plant, and the Animal Shelter are attempting to make themselves more aesthetically pleasing as a good neighbor in the community. There are neighborhoods, schools, golf courses, farms and ranches located in the vicinity. She took exception to the comments that they were located among prisons, paint stores, etc. "They" did not object to the 45 feet as it is allowed by Code. She then referenced Mr. Duhon's statement that they had done their homework and that the neighbors had not objected. She had not been contacted nor, to her knowledge, had any of her neighbors regarding the proposal. Aesthetic views and values have been supported over-ruling cellular telephone towers elsewhere. She felt that the TCA required the use of existing entities' equipment. The AT&T tower, and others, were cited and should be used. She acknowledged that her residential area is underserved, but she, personally, did not wish to have the service. She did not economically need to take advantage of the service. The statement that there is an underserved area was a poorly researched assumption. A basis of need for the service had not been established by Cricket at the Commission meeting. TCA allows the communities to review each entity's request on a case-by-case basis. Discrimination had not been shown in the Commission's review.

Mr. Barker supported a change in the 300 foot notification policy as he resides outside of that area but would be impacted by the proposal. He urged consideration of the view shed in the notification process. He had been at the Commission hearing and had submitted a letter of opposition. A 45 foot tower has been constructed, therefore, the site is usable. The property owners are receiving revenue from this use. The firm had failed to indicate whether they would allow co-location on the tower or would use other towers for co-location of their equipment. Their comments appear to indicate that it is an economic decision for Cricket as more money can be made from co-location and ownership of a single tower. The tower will have a large impact on the community. The 45 foot tower would not extend above the ultimate skyline but it is very visible from his residence. The prison and Wastewater Treatment Plant, etc., are on low lands and not visible in the skyline. The tower will greatly impact his appreciation of the area. He urged the Board to uphold the Commission decision.

Mr. Guzman acknowledged that the presentation at the Commission meeting had been based on "more simple facts" than that heard today. Neither the Parks and Recreation Department nor his program have any concerns regarding a 45 foot structure, which is allowed by Code. The SPU process allows them to express their concerns regarding a height of 80 feet. Towers which were allowed in the past should not be used to justify the proposal as it overlooks the purpose of the Open Space program and its community support. The master Plan and the Open Space program are new and conflict with items approved in the past. The monopine concept is an attempt to "mask" the tower and make it more aesthetically compatible to the community. The radio towers are considered less objectionable due to the ability to see through them. This makes them disappear into the background. A tower on a hilltop stands out. He had supported the monopole until the specifications were provided. He thanked

the applicant for the photographs. The information presented today was not available for Commission consideration.

Mr. Pavlakis indicated their support for the applicant. Additional economic benefits would not be provided by their support nor for a change to the taller tower. They believed that the following "benefits" were being provided to the community in return for the taller tower: better screening and landscaping which improved the property value, improved camouflaging, and a reduced proliferation of towers. The incremental height is the only issue for consideration. The property owners propose to develop an adjacent site with commercial 45 foot, "tilt-up, concrete" buildings. These buildings will also be very visible. The proposed landscaping will enhance the site as well as the neighboring properties. Mr. Pavlakis was uncertain whether the Commission had been informed that there were plans to develop the concrete buildings on the adjacent sites. He was certain that the Commission had been advised that the alternative to the tower would be for building development to occur on the subject site. Additional comments were solicited but none provided.

Mayor Masayko felt that the testimony was substantially different from that presented to the Commission. He acknowledged that returning it to the Commission would take more time, however, it would provide for a better record.

Mr. Forsberg felt that Mr. Duhon had requested the facts be weighed differently than normal. The evaluation of facts is a Board domain and not Mr. Duhon's. Their findings of important evidence is up to the Board. The standard for substantial evidence is as Mr. Duhon had stated - evidence which a reasonable mind might accept as adequate to support a conclusion. It is not a preponderance of evidence. While aesthetics can be discounted where you have a disgruntled neighbor, it can also be considered in other cases. The City's Municipal Code makes aesthetics, view shed, and vista considerations which are to be evaluated. Therefore, aesthetics should be considered as part of the evidence factors. Legal cases regarding gaps in service clearly indicate this is an issue belonging to the cellular service users and not the provider. No particular cellular provider has the right to provide gap free service and, therefore, could tell municipalities to allow them to do things providing gap free service. There has been no evidence presented, as far as he was aware, that there is any part of Carson City that is completely unserved by any cellular provider. There is no legal entitlement under the Act to promote economic opportunities on a site. There are technical, construction, and cost issues that make other sites less attractive than the proposed site. This is okay as long as there are alternatives. The alternatives also indicate there will not be a finding of a prohibition. He felt that there is sufficient information to uphold the Commission's decision and a lack of evidence supporting a claim of discrimination or prohibition on provisional cellular service in Carson City.

Mayor Masayko reiterated that there had been a significant amount of information provided which is different from that provided at the Commission hearing.

Supervisor Livermore indicated that he had not attended nor viewed the tapes of the Planning Commission's meeting. The information provided by the property owner is new information which is important to the Commission. He, too, felt that the Board should return the item to the Commission.

Mayor Masayko pointed out that both Ms. Buchanan and Mr. Barker had stated that they were not aware of several items. He encouraged them to have their names added to the mailing lists so that they will be given notice of all meetings. This is another advantage of starting the process over.

Supervisor Staub expressed his feeling that the noticing process should be expanded. He supported Mayor Masayko's recommendation to return the item to the Commission. The TCA appeared to indicate that the Board could not do anything which would unreasonably discriminate. The Board should realize that it could make a different decision than that which had been taken based on public input. The applicant had also indicated that by building three towers, it would be possible to provide the same service. If the Board denied the appeal, it would not prohibit/inhibit Cricket's ability to provide service. It could cost them more to provide the service. There is adequate information for the Board to make a decision as Mr. Forsberg had indicated. A learned decision should, however, be made based upon a record which was properly laid down by both staff and the applicant. There is a

good chance that the matter will find its way into the court setting regardless of the decision made today. Therefore, the record, which is created, should be a perfected one. The issue should be returned to the Commission with the arguments and information that had been presented to the Board.

Supervisor Williamson expressed a willingness to return the matter to the Commission although she was prepared to make a decision today. The applicant had had an opportunity to present the same case to the Commission but had chosen not to do so. There had been a comprehensive review of the TCA.

Supervisor Plank supported her comments, however, to be consistent with the Board's policy, it is appropriate to return the matter to the Commission. He did not feel that the new information would change the Commissioners' minds. He, too, could make a decision today; however, to do so may create a legal tangle for the City. Mayor Masayko indicated that is his concern. He was not telling the Commission what decision it should make. He did, however, want the findings when the decision is forward to be as tight as is possible. Every issue discussed here should be on the Commission's agenda. He also urged the staff and Commission to expedite the process as much as is possible. He acknowledged that the matter may be headed to other arenas. Supervisor Williamson then explained that appeals require filing a fee unless the appeal is requested by a Supervisor. She was willing sponsor any appeal.

Ms. Buchanan stated for the record that she would submit a written request for notification, however, she lives within 300 feet of the property and had not been noticed. Mayor Masayko assured her that she would be noticed.

Mr. Duhon stated for the record that a "public roll out of Cricket's services" will occur in mid-October. The TCA precludes any unreasonable delay in decisions based on the scope and nature of the application and circumstances. He, therefore, objected on that basis and on the basis that if matters are not properly considered "below" in regards to the TCA, he did not believe that under the law that it is Cricket's responsibility to advise the governmental agency about the law. Mayor Masayko stated he understood his concern. He was entitled to that position. Additional comments were solicited but none given.

Supervisor Livermore moved that the Board of Supervisors redirect a Special Use Permit application, U-01/02-31 from Cricket Communications, property owners William Kugler and Colleen Coffey, back to the Planning Commission for further review and (based on the) finding of additional evidence that was presented here today. Supervisor Plank seconded the motion. Mayor Masayko indicated that the motion would return the application to the Planning Commission for additional hearings and evidence. Additional comments were solicited but none given. The motion was voted and carried 5-0. Mayor Masayko reiterated his direction to Mr. Sullivan that the process be expedited as much as is possible.

BREAK: A recess was declared at 1:20 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 2:35 p.m., constituting a quorum.

11. CARSON CITY AIRPORT AUTHORITY - Legal Counsel Steve Tackes - ACTION ON APPROVAL OF A REPLACEMENT LEASE BETWEEN AT&T, CARSON CITY AIRPORT AUTHORITY, AND CARSON CITY REGARDING PLACEMENT OF A CELLULAR TELEPHONE ANTENNA, EQUIPMENT, AND EQUIPMENT BUILDING ON THE CARSON CITY AIRPORT (2-1910) - The run-way improvements mandate the relocation of the tower and equipment. The terms of the proposed lease were limned. Mayor Masayko disclosed his knowledge of the negotiations as he had been the Board's liaison to the Airport Authority. Discussion indicated that the tower would have a beacon light on it. There is a plan to lease/co-locate tower space to other telecommunication companies. Discussion is currently underway with Cricket regarding a co-location lease. Mr. Tackes was unaware of any potential frequency problems which Cricket would encounter. Co-location is a common practice for wireless companies. The AT&T agreement places it in first place. Interference with their transmission/reception will not be allowed and vice versa. Mayor Masayko reiterated his understanding of the reasons for relocating the tower and beacon which dealt with FAA requirements. The new site had purportedly

been approved by the Planning Commission. Discussion indicated that the lease is for \$1,000 per year for the rental option. The monthly rent is \$800. Public comments were solicited but none made. Supervisor Plank moved that the Board of Supervisors approve the replacement lease between AT&T, Carson City Airport Authority, and Carson City as approved by the Airport Authority on July 12, 2001; fiscal impact will be \$800 per month and a \$1,000 a year annual fee. Mayor Masayko suggested an amendment. Supervisor Plank amended his motion to include Cell Site Number Hot Springs (N-062), address: 2600 East Graves Lane #6, Carson City, Nevada, 89706. Supervisor Livermore seconded the motion. Motion carried 5-0.

12. DISTRICT ATTORNEY - Chief Deputy District Attorney Mark Forsberg

A. CLOSED SESSION - ACTION TO RECESS INTO CLOSED SESSION PURSUANT TO NRS 288.220 TO MEET WITH MANAGEMENT REPRESENTATIVES (2-2115) - Supervisor Livermore moved that the Board of Supervisors recess into Closed Session pursuant to NRS 288.220 to meet with management representatives. Supervisors Williamson and Plank seconded the motion. Motion carried 5-0. Mayor Masayko recessed the open session at 2:47 p.m.

B. RECESS INTO OPEN SESSION - ACTION TO APPROVE ADDENDUM A TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN CARSON CITY AND THE CARSON CITY SHERIFF'S PROTECTIVE ASSOCIATION FOR THE PERIOD BEGINNING JULY 1, 1999, AND ENDING JUNE 30, 2003 (2-2177) - The open session was reconvened at 3:37 p.m. (The entire Board was present, constituting a quorum.) Mayor Masayko highlighted the closed session. The Board had agreed with the parity figures. The COLAs are built-in. The Board wanted an opportunity to look at the comparable departments before 2003. The longevity was increased. The Board wants to keep trained, long-term officers. The Board is satisfied with the contract although budgets will be tight going forward. The parity increases always have a cumulative impact. The Board must balance the budget. The money is there to pay the salaries this year. The budget will address next year's. He thanked the long-term officers for their service to Carson City. The Board wanted to pay the long-term officers fairly and to treat them fairly. Comments were solicited but none given. Supervisor Plank moved to approve Addendum A to the collective bargaining agreement between Carson City and the Carson City Sheriff's Protective Association for the period beginning July 1, 1999, and ending June 30, 2003; fiscal impact is on the attached memo (which was not attached to the Clerk's Board Action Request) and the funding source is the General Fund Ending Fund Balance. Mayor Masayko indicated that the total impact is approximately \$187,000. Supervisors Williamson and Livermore seconded the motion. Supervisor Williamson stated that they need to remember that wages go up with overhead and revenue considerations. She also pointed out that an officer had been killed in the line of duty during the last two weeks. She preferred to be nice to them while they were alive and to keep them working for the community. Both she and Supervisor Plank encouraged the officers to stay in Carson City, where it may be safer. The motion to adopt Addendum A was voted and carried 5-0. Mayor Masayko thanked the team for successfully concluding the negotiations.

6. D. STAFF REPORTS (2-2275) - None.

6. C. AND 10. NON-ACTION ITEMS - INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (2-2264) - Supervisor reports included the following meetings or activities: Supervisor Plank - Fallon Naval Air Station Change of Command; Senior Center Advisory Council; Lake Tahoe Summit at Zepher Cove; TRPA Governing Board; Builders Association of Western Nevada picnic; Century Club Dinner at the Governor's Mansion; Legislative Appreciation Luncheon; and Parks and Recreation Commission. Supervisor Staub - the Marlette-Hobart tour; the Kafoury Armstrong Open House; Builders Association of Western Nevada picnic; a meeting with Doreen Mack and one with Mayor Masayko; and a tour of the golf course. Mayor Masayko - Northern Nevada Adoption and Foster Home Advocates and his plans to participate in a public announcement seeking volunteers; Salt Lake Olympic Organizing Committee; Nevada State Fair opening; Honduras and Guatemala State Legislators welcoming; Reno-Tahoe Opening ceremony; the senior citizen computer training graduation activities; and Secret Witness.

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Supervisor Plank announced the Meals on Wheels fundraiser on September 15 from 5 p.m. to 8 p.m. called "Blue Grass in the Park". Tickets are available at the Senior Center. He also announced his wife's retirement and his plans to attend tomorrow's TRPA meeting. The Planes, Trains, and Automobile fundraiser was reduced to one day. Tickets can be obtained by calling 887-3333. The plane crash in his neighborhood was noted. Efforts are underway to have the Airport General Manager become more aggressive about ensuring that the airport users comply with Title 19. Supervisor Williamson announced the Boys and Girls Club Barbeque Fundraiser scheduled for Saturday, the Sunday Chili Cookoff at Copper Point, the National Public Lands Day and Carson River Clean-Up Day on the 15th, and the local Walk Your Child to School Day on October 2. Supervisor Plank explained his inability to participate in the Chili Cookoff. Supervisor Staub provided additional details on the Chili Cookoff and explained to whom an individual wishing to be a judge could volunteer. Mayor Masayko reminded the Board that he would be at the NACO meeting on September 20. Supervisor Plank had indicated that he would be present at that Board meeting and, as Mayor Pro-Tem, would run the meeting. Mayor Masayko indicated that he planned to attend the Senior Citizens Center expansion's ground-breaking ceremony on the 21st at 11 a.m.

There being no other matters for consideration, Supervisor Plank moved to adjourn. Supervisor Williamson seconded the motion. Motion carried 5-0. Mayor Masayko adjourned the meeting at 4 p.m.

The Minutes of the September 6, 2001, Carson City Board of Supervisors meeting

ATTEST:

ARE SO APPROVED ON ___October_18, 2001.

_____/s/_____
Ray Masayko, Mayor

_____/s/_____
Alan Glover, Clerk-Recorder