

YEAR 1996-97) - Treasurer Al Kramer distributed a listing of businesses requesting reinstatement of their licenses to the Board and Clerk. None of the items were pulled for discussion. Supervisor Tatro moved that the Board approve the Consent Agenda as presented. Supervisor Smith seconded the motion. Motion carried 5-0.

3. EAGLE VALLEY GOLF COURSE - City Manager John Berkich

A. DISCUSSION AND DIRECTION TO STAFF TO EXPEDITE THE TRANSFER OF THE MANAGEMENT AND CONTROL OF EAGLE VALLEY GOLF COURSE TO THE CARSON CITY MUNICIPAL GOLF CORPORATION (1-0062.5) - Mr. Berkich distributed a memo to the Board and Clerk recommending expediting the transfer. He indicated for the record that none of the current employees would be terminated at this time. The September 30th termination date will be maintained. No change will be made to the employees' salaries. Staff is working on the lease agreement. Corporation Board Chairperson Wes Meyers supported the transfer as soon as possible. Discussion noted the time it would take to obtain both BLM's approval and the 501(c)(3). Mr. Berkich noted the preliminary approval obtained from BLM on the conceptual agreement. BLM's Solicitor General is located in Sacramento. Supervisor Smith and Mayor Masayko voiced their support for expediting the process. Mr. Berkich emphasized the intent to have the transfer be as transparent as possible, specifically, in relation to the employees. Their termination date remains September 30, although transfers are being considered. Hopefully, by September 30, they will have been absorbed elsewhere in the City. Mayor Masayko read the Eagle Valley Women's Golf Club letter of support into the record. (A copy is in the file.) Public comments were solicited but none given. No formal action was taken.

B. ACTION TO APPROVE A CONTRACT WITH GERALD MASSAD TO PROVIDE FOOD AND BEVERAGE SERVICE (1-0268.5) - Mr. Berkich requested the item be considered this evening which would allow time for staff to meet with Mr. Massad on the contract. Mr. Massad's attorney Byron Bilyeu agreed to the continuance. Supervisor Bennett voiced her objection to having to negotiate the contract. She was willing to consider a finalized agreement. Supervisor Plank indicated Mr. Bilyeu had been his attorney 16 years ago. He did not feel that there was a conflict of interest. Public comments were solicited but none given. Mr. Berkich clarified his request to delay action on this item and the two items under Item 4, which is the Liquor and Entertainment Board items. Reasons the final contract had not been provided prior to the meeting were explained. Discussion with Chairperson Meyers indicated the Corporation is willing to accept and honor whatever commitments/contracts the City had entered, including Mr. Massad's. Mayor Masayko pointed out that the target date for the concession is estimated to be April 1. Additional public comments were solicited but none given. No formal action was taken.

C. ACTION ON A RESOLUTION SETTING UP PETTY CASH AND CHANGE FUNDS AT THE EAGLE VALLEY GOLF COURSE AND ESTABLISHING CONTROL PROCEDURES (1-0401.5) - Supervisor Tatro moved that the Board adopt Resolution No. 1997-R-10, A RESOLUTION SETTING UP PETTY CASH AND CHANGE FUNDS AT THE EAGLE VALLEY GOLF COURSE AND ESTABLISHING CONTROL PROCEDURES. Supervisor Plank seconded the motion. Motion carried 5-0.

5. TREASURER - Al Kramer

A. REVIEW AND POSSIBLE ACTION ON BUSINESS LICENSE CLASSIFICATION FOR MASSAGE THERAPISTS (1-0438.5) - Trish Corrigan explained her request that Massage Therapists be reclassified. Discussion between the Board and Ms. Corrigan included the fee reduction created by the reclassification and the revenue loss. Supervisor Smith urged staff to implement the reclassification. Mr. Kramer explained his intent to bring back other Code revisions and support for the change. Supervisor Tatro encouraged staff to allow the modification to occur at this time. Ms. Corrigan explained the terms massage therapists and licensed massage therapists and the national certification programs for each. Supervisor Bennett felt that Ms. Corrigan was attempting to elevate the profession but was at the same time objecting to the fees assessed such professionals. Mr. Kramer indicated that Class A required more than four years of college and specialized training. Massage therapists' training parallels personal service training better than that required for doctors,

attorneys, etc. Supervisor Smith acknowledged the business license ad hoc committee and indicated his desire to allow the committee to make its recommendation. Mr. Kramer indicated the new modifications would not be effective until December 1, which is the new billing cycle. Clarification indicated Class A contains massage establishments. Massage therapists could be contracted by the establishments or they could provide their service in the customer's home. Mayor Masayko briefly explained the modifications being considered by Reno to its business license ordinance. Mr. Kramer further detailed Reno's modifications. Reno's revenue from this source is approximately 20 percent of its General Fund. Carson City's revenue is approximately five or six percent of the General Fund. Public comments were solicited but none given. Sheriff Banister indicated the service has not been a problem for his Department although it may have been in the past. Mayor Masayko felt that the testimony provided would support the fee reduction. Discussion between Mayor Masayko and Mr. Lipparelli indicated the fee could not be changed until after the ordinance has had two readings and publications. The fee would remain as established until this occurs. Supervisor Bennett urged the Board to consider the modifications when the committee submits the total revision rather than to open "Pandora's box" with repeated classification modifications. Mayor Masayko urged the Board to proceed with the modification as requested. **Supervisor Tatro moved to direct the District Attorney's office to draft an ordinance to amend Carson City Municipal Code 4.04.020 regarding classification of Massage Therapists business license by moving it from Class A and inserting it in Class D. Mayor Masayko seconded the motion.** Supervisor Tatro explained his feeling that the applicant had presented a flaw in the ordinance and that relief should be granted regardless of the committee's revisions which would not be effective for eight or nine months. **The motion was voted and failed on a 2-3 vote with Supervisors Smith, Plank and Bennett voting Naye.** Mayor Masayko directed that the District Attorney to include the revision in the modifications when presented by the ad hoc committee. Supervisor Smith explained his agreement that changes are warranted, however, there are others which also need to be considered and "rearranged". He was opposed to considering them on a one-on-one basis. Mr. Kramer felt that his portion of the ordinance would be completed in May. Mayor Masayko directed Mr. Berkich to agendize the ordinance for consideration by September.

B. ORDINANCE - SECOND READING - ACTION ON BILL NO. 108 - AN ORDINANCE AMENDING TITLE 12 (WATER, SEWAGE, AND DRAINAGE) OF THE CARSON CITY MUNICIPAL CODE AMENDING SECTIONS 12.01.100 (PENALTIES FOR THE NONPAYMENT OF BILLS) AND 12.03.070 (PENALTIES FOR THE NONPAYMENT OF BILLS) REDUCING THE PENALTIES FOR THE NONPAYMENT OF WATER AND SEWER BILLS, CHANGING THE PENALTY PERIOD TO MATCH THE BILLING CYCLE AND AUTHORIZING THE USE OF AGREEMENTS TO PAY AND OTHER MATTERS PROPERLY RELATED THERETO (1-0866.5) - Supervisor Tatro moved to adopt Ordinance 1997-11, Bill No. 108 on second reading, AN ORDINANCE AMENDING TITLE 12 (WATER, SEWAGE, AND DRAINAGE) OF THE CARSON CITY MUNICIPAL CODE AMENDING SECTIONS 12.01.100 (PENALTIES FOR THE NONPAYMENT OF BILLS) AND 12.03.070 (PENALTIES FOR THE NONPAYMENT OF BILLS) REDUCING THE PENALTIES FOR THE NONPAYMENT OF WATER AND SEWER BILLS, CHANGING THE PENALTY PERIOD TO MATCH THE BILLING CYCLE AND AUTHORIZING THE USE OF AGREEMENTS TO PAY AND OTHER MATTERS PROPERLY RELATED THERETO, fiscal impact is approximately \$27,000 per year from the Water and Sewer Revenues. Supervisor Bennett seconded the motion. Motion carried 5-0.

6. UTILITIES DIRECTOR - Deputy Utilities Director Jay Ahrens - ORDINANCES - SECOND READING

A. ACTION ON BILL NO. 109 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND PATRICK E. AND ANGELINE DOUGLASS REGARDING ASSESSOR'S PARCEL NO. 8-125-37, LOCATED ON NORTH ROOP STREET, CARSON CITY, NEVADA, FOR RECLAIMED WATER MAIN PARTICIPATION (1-0905.5) - Supervisor Smith moved that the Board adopt Ordinance No. 1997-12 on second reading, Bill No. 109, AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND PATRICK E. AND ANGELINE DOUGLASS REGARDING ASSESSOR'S PARCEL NO. 8-125-37, LOCATED ON NORTH ROOP

STREET, CARSON CITY, NEVADA, FOR RECLAIMED WATER MAIN PARTICIPATION. Supervisor Tatro seconded the motion. Motion carried 5-0.

B. ACTION ON BILL NO. 110 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND GRANITE CONSTRUCTION COMPANY REGARDING ASSESSOR'S PARCEL NO. 8-521-68, LOCATED AT 5855 SHEEP DRIVE, CARSON CITY, NEVADA, FOR SEWER MAIN PARTICIPATION (1-0936.5) - Supervisor Tatro moved that the Board adopt on second reading Bill 110, Ordinance No. 1997-13, AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND GRANITE CONSTRUCTION COMPANY REGARDING ASSESSOR'S PARCEL NO. 8-521-68, LOCATED AT 5855 SHEEP DRIVE, CARSON CITY, NEVADA, FOR SEWER MAIN PARTICIPATION, fiscal impact is \$53,137.15 which includes a 15% contingency, funding source is 515 Participation and requiring an augmentation to the FY 96/97 budget. Supervisor Plank seconded the motion. Motion carried 5-0.

7. PUBLIC WORKS DIRECTOR - Jay Aldean

A. ACTION ON A DEVELOPMENT RELEASE AND CANCELLATION FOR JAMES AND NANCY ROBERTSON, APN'S 08-081-29 AND 30 LOCATED AT 3427 NORTH CARSON STREET, CARSON CITY, NEVADA (1-0965.5) - Mr. Aldean indicated that the status report on development agreements is pending receipt of some GIS mapping information. Discussion explained the bonding requirements for commercial property and subdivisions. These parcels did not require a bond. Supervisor Bennett indicated releases are "rare" and encouraged staff to have more in the future. Mayor Masayko felt this issue would be considered when the status report is provided. Supervisor Bennett moved that the Board of Supervisors cancel the Development Agreement between Carson City and James and Nancy Robertson, regarding the improvements associated with the development of land known as Assessor's Parcel No. 08-081-29 and 30 at 3427 North Carson Street, Carson City, Nevada. Supervisor Tatro seconded the motion. Motion carried 5-0.

BREAK: An eight minute recess was declared at 10:45 a.m. Mayor Masayko reconvened the session at 10:53 a.m. The entire Board was present constituting a quorum.

B. PRESENTATION BY MICHELLE JOHNSON OF CARSON CITY'S TRANSPORTATION SERVICE ALTERNATIVES (1-1065.5) - Michelle and Jeff Johnson presented their report to the Board and Clerk. (A copy is in the file.) Ms. Johnson briefly explained her experience and reviewed the report. Her comments included the potential that the ISTEAs funding population mark of 50,000 may be raised. The City then may not be eligible for Title 9 grants. She responded to Board questions concerning the funding problems encountered in Cheyenne which forced Cheyenne to bring the program in-house. Cheyenne's ridership had been approximately 2,000 trips a month. Mr. Berkich indicated the staff's consensus is that the City needs to step forward and provide the necessary direction to consolidate the existing services. This will provide the efficiency and economy necessary for the program to exist. He suggested that the program be placed through the RFP process in the private sector. Reno was cited as an illustration of this program. Supervisor Bennett felt that the reason Reno's program is successful is due to the fact that it has a Transit Authority and urged the Board to consider this issue also.

(1-1450.5) NDOT Representative Jim Mallory indicated the ISTEAs population target of 50,000 will be considered this fall and may be moved to 100,000. He also indicated the City would have to meet a density factor, which he was not sure if it had. Supervisor Smith pointed out that public transit is expensive without funding from other sources. It does not operate on its own funding source. Mr. Mallory also pointed out that the more cities with 50,000 populations a State has, the smaller the funding. The same is true for the next funding level. It may be possible that the amount available for funding is not adequate to support applying/compliance. Mayor Masayko explained that during his campaign public comments stressed the importance of public transit and, specifically, for services outside the current social services. His comments pointed out several areas of concern which must be analyzed before expansion occurs. The expansion will eventually occur and meet the public demand for all

residents. He preferred having the service operated by the private sector, however, the leadership may have to be provided by the Board. The need for the Board to become the grant recipients will be considered at a future time. At this time it is important for the Board to provide the direction necessary to coordinate the current services. He urged the Board to continue subsidizing the ridership to the extent possible. Discussion ensued on the Regional Transportation Commission's role in this program. Supervisor Smith indicated that the Commission was and is currently working with Paratransit on the service. He had, however, been unaware of this proposal until he had reviewed the Board packet on Friday. Mr. Aldean explained NDOT Representative Sandy McGrew's contact with his Department about retaining Ms. Johnson to study the City's program. The contract had been hurriedly issued and the report completed so that its data could be included in the budget. He agreed that RTC had not been advised of the program. Mr. Berkich indicated the study had been included in the workshop discussion. Mayor Masayko felt the discussion clearly pointed out a communication problem and stressed the importance of the program. He urged staff to make sure that the program continues to function. Mr. Aldean indicated that staff will continue working on the RFP. Washoe County's provider would be nice to have in Carson City if at all possible. He felt that the Board had been informed about the program/study in January when the Board had directed staff to prepare the RFP with a presentation to the Board and Commission. Mayor Masayko felt that the Board should not contract with the private, non-profit social service agencies. The Board or RTC should become the grantees. Options 1 and 2 should be pursued until a decision can be made by the Board. He thanked the Johnsons for the report and presentation. He was unsure how the current \$238,000 in funding could be replaced. Ms. Johnson offered to assist in any way possible.

OARC Representative Mary Winkler then explained her loss of funding and its impact on her program. OARC had been the major sponsor for the City's program and had been coordinating its program. Mayor Masayko expressed a willingness to discuss the program with the State agencies. He emphasized the need for the OARC program to continue as well as for the State to continue the funding. Ms. Winkler stressed the need to respond quickly as the grants terminate March 31.

(1-1885.5) Northern Nevada Center for Independent Living Representative Deedee Foremaster explained her clientele and their need for public transportation. If the OARC program is eliminated, her clientele will lose their jobs and independence. Her clientele could not afford \$4 a trip as they are only making \$5 an hour. She urged the Board to expand the current ridership subsidy program. Supervisor Tatro pointed out that this concern had not been discussed at RTC and requested Ms. Winkler's concern be addressed by both Mr. Berkich and Mr. Aldean. State Vocational Rehab needs to understand the need for its funding. Without it the City's program may also fail. Comments continued to stress the importance of the program. Supervisor Tatro requested the issue also be agendaized for the next Board meeting. Mayor Masayko reiterated his direction to Mr. Berkich about contacting the State.

RSVP Executive Director Janice Ayres described her program and expressed her feeling that little had been accomplished since 1973 in the way of public transportation. The current program with Paratransit did not provide the necessary coordination and services. It only added a "middle man". OARC had been the only agency which could stay in the program due to the insurance problems. An inquiry about insurance on her van had caused her insurance to be cancelled. She had been forced to assure her new carrier that she would not be going public with her service in order to avoid a \$20,000 assessment. Her RSVP program has not been acceptable to the coordinator as it provides rides to Reno for medical services. Efforts had been made to coordinate the programs without success. She urged the Board to "step up to the plate and fund the program". Mayor Masayko agreed that it would cost the City to provide the service. He was willing to analyze the program and directed staff to keep the Board briefed on the program. Additional public comments were solicited.

Mr. Aldean indicated that the staff would continue to work with NDOT and provide whatever assistance it could to OARC. Mayor Masayko reiterated his willingness to participate in this program. Supervisor Bennett reiterated her desire to keep RTC informed. Mr. Aldean indicated that he would keep RTC informed of the status. Paratransit continued to provide monthly reports to RTC. Budgetary concerns were stressed and may cause staff to submit preliminary figures which could be changed later. No formal action was taken on this item.

10. COMMUNITY DEVELOPMENT DIRECTOR - Walter Sullivan

A. ACTION ON GM-96/97-1 - A REQUEST BY MEDICAL HOLDINGS, OWNER, FOR PROPOSED SENIOR CARE FACILITY TO EXCEED GROWTH MANAGEMENT RESOLUTION NO. 1996-R-38 - COMMERCIAL STANDARDS FOR INDUSTRIAL, SEWER AND WATER LIMITATIONS PURSUANT TO CCMC 18.82.150(1-2150.5) - Utility Director Dorothy Timian-Palmer explained her reasons for supporting the request. Supervisor Tatro moved that the Board of Supervisors approve a request by Medical Holdings to exceed Growth Management Resolution No. 1996-R-38 - Commercial standards for industrial, sewer and water limitations pursuant to CCMC 18.82.150 subject to conditions of approval as contained in the Utility Manager's report. Supervisors Smith and Plank seconded the motion. Motion carried 5-0.

B. ORDINANCE - FIRST READING - ACTION ON A-96/97-12 - AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18 (ZONING), SPECIFICALLY, SECTION 18.04.040 (DETERMINATION OF DISTRICTS) BY AMENDING SECTION 18.04.040(6) TO AUTHORIZE DEVELOPMENT OF SPLIT-ZONED PARCELS THROUGH THE USE OF SPECIAL USE PERMITS (2-0145.5) - Discussion explored the concept, its procedures, and its fee. Supervisor Tatro moved that the Board uphold the Planning Commission's recommendation and approve an ordinance on first reading, Bill No. 112, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 18 (ZONING), SPECIFICALLY, SECTION 18.04.040 (DETERMINATION OF DISTRICTS) BY AMENDING SECTION 18.04.040(6) TO AUTHORIZE DEVELOPMENT OF SPLIT-ZONED PARCELS THROUGH THE USE OF SPECIAL USE PERMITS. Supervisor Plank seconded the motion. Motion carried 5-0. Supervisor Bennett expressed her regret that the ordinance had not been approved two months ago.

C. ORDINANCE - SECOND READING - ACTION ON BILL NO. 111 - AN ORDINANCE EFFECTING A CHANGE OF LAND USE DISTRICT ON ASSESSOR'S PARCEL NUMBER 10-051-22 FROM LIMITED INDUSTRIAL (LI) TO PUBLIC (P) ON APPROXIMATELY 3.2 ACRES OF LAND, LOCATED AT 3301 EAST FIFTH STREET, APN 10-051-22, IN CARSON CITY, NEVADA (2-0245.5) - Supervisor Tatro moved to adopt Bill 111 on second reading, Ordinance No. 1997-13, AN ORDINANCE EFFECTING A CHANGE OF LAND USE DISTRICT ON ASSESSOR'S PARCEL NUMBER 10-051-22 FROM LIMITED INDUSTRIAL (LI) TO PUBLIC (P) ON APPROXIMATELY 3.2 ACRES OF LAND, LOCATED AT 3301 EAST FIFTH STREET, APN 10-051-22, IN CARSON CITY, NEVADA. Supervisor Plank seconded the motion. Motion carried 5-0.

8. RISK MANAGER - John Mayes - ACTION ON GROUP MEDICAL INSURANCE BENEFITS FOR CARSON CITY EMPLOYEES (1-2238.5) - Mr. Mayes explained the Insurance Team's analysis and recommendation. He introduced the Committee members and Insurance Broker Willis Corroon's Representatives Cathy Crispel and Randy Grossman. Ms. Crispel used the overhead projector to explain the report, including the selection program, the savings, the services, and recommendation. (Copies of the slides are included in the packet.) The new program will become effective June 1. Her comments indicated the premiums were only estimates which could change based on the number of individuals who enroll and the experience level encountered. Finance Director Walker explained the "actual savings" and the funding sources. A copy of her memo was distributed to the Board and Clerk. Her comments noted the employees' concerns about the cost for dependent coverage. The recommended programs' cost for this service was substantially lower than the current program which may help the employees. Her comments also indicated that the savings would be on-going funding and encouraged the Board to not spend the entire three years worth of savings at one time.

(1-2725.5) Committee Member and Carson City Fire Fighters President Bob Shreihans expressed his support for the team analysis of the insurance program and the recommendation. His comments noted the large decrease in the dependent coverage costs.

Supervisor Bennett explained her concern about the coverage and knowledge of the insurance programs. She questioned who the Carson City providers would be and reasons for forcing City employees to obtain services in

other areas. Ms. Crispel indicated that all but nine of the Physicians Managed Care participants are in the Hometown Health Care Program. Supervisor Bennett then explained her concern that Washoe Medical Center, who is the HHP underwriter, would lower the physician's rates by providing its own doctors to the point that the local physicians would withdraw from the program. This would force the employees to use either the HHP or Washoe Med for services. She questioned Washoe Med's motives. She opposed supporting out-of-town medical services. She urged the Committee and employees to be watchful over HHP's program. Ms. Crispel indicated that the Committee had been aware of these concerns and would carefully analyze the program at the end of the third year before renewing the coverage. Ms. Crispel then explained the reasons for having a three year contract. The insurance contract includes the ability to cancel the program without cause.

(1-2985.5) Hometown Health Plan Director of Marketing Brian Casper indicated both the insurance program and the HMO are not-for-profit and always have been. There is no intent to move toward a for-profit status. The provider network has been a very stable and growing area over the last five years in Northern Nevada. The turnover rate has been less than two percent a year. He felt that the organization was a Northern Nevada based organization which is community oriented. It was the first to offer a medicare list program for the senior citizens. It was one of two programs offering Medicaid programs with access as a vital first issue. The intent had been to provide access and to allow access by a wide range of the community including large and small employer groups. Examples of this coverage were noted. The firm is continuing to analyze methods for extending the coverage to meet the needs of others who are or have not been insured. The firm attempts to bargain with the physicians and local hospitals. This allows the primary physicians leeway in managing the health care programs. They support keeping the premiums in the local community which is not provided by Mutual of Omaha or larger specific care facilities. He also noted that CDS is owned by Pacific Care and the premiums are taken out of the State. The City's policy is to become fully insured and his firm attempts to reinvest this premium in the community. The access question is always a concern. His provider list is based on a philosophical belief that the direction of care is a critical unit between the primary care physician and the patient. They had never insisted upon a physician or use of a hospital outside the community. The program does work. The care is provided locally. His involvement with the health systems' senior management indicates that Washoe Med will provide local dialysis service. He was unaware of any interest to bring in general practitioners. The intent is to be sure the current physician base remains strong and an active partner in the medical care. Supervisor Bennett thanked him for his correction of her statements and apologized for any misrepresentation her statements may have made. Her intent was noted. She questioned whether he would be willing to include in the contract language which would reimburse the Carson City physicians who are on his panel of providers at the same rate throughout the life of the contract. Mr. Casper indicated this is not his field, however, his knowledge of the physicians' contracts indicates physicians do not like to have more than a one year contract. He was willing to take this issue to the manager and request the contracts to be extended for a three year period. Supervisor Bennett emphasized her desire for Mr. Casper to understand her knowledge of the field and desire to provide the community and, specifically, the employees with access to health care in Carson City at a decent price. She was impressed with the Committee's understanding of the health care market, however, was concerned that this would not be the case after three years of experience with the carrier. Mayor Masayko encouraged the provider to include and maintain Carson City physicians on its list.

Mr. Mayes indicated support for keeping the employees' coverage in Carson City. The Committee did not want to have to leave the immediate area for medical assistance. He did not feel that the Committee would be "managed" but would be the "managers". Mayor Masayko thanked the Committee for its hard work and diligence.

Supervisor Smith moved that the Board of Supervisors accept Carson City's Group Medical Insurance Committee's recommendation to: 1. Retain Hometown Health Plan for the City's group medical, prescription drug, and vision benefits; and, 2. Retain Standard Insurance Company for the City's life, AD&D, dependent life and group dental benefits, with a fiscal impact of a decrease to the Group Medical Budget of 16.7 percent from the prior year for a savings of \$372,773 the first year. Supervisor Tatro seconded the motion. Motion carried 5-0.

BREAK: A five minute recess was declared at 11:40 a.m. When the meeting was reconvened at 11:45 a.m. the entire Board was present, constituting a quorum.

12. BOARD OF SUPERVISORS

C. STAFF COMMENTS AND STATUS REPORTS

i. STATUS REPORT ON SKATEBOARD PARK AT MILLS PARK (1-3393.5) - Mr. Berkich explained that the low bidder was Anchor Concrete and its experience in Carson City. The Board will consider the contract at the next Board meeting. The budget had been \$50,000. The bid was \$48,400. Virginia Orcutt thanked the Board for its assistance. She pointed out that this leaves a small amount for contingency items and thanked the Board on behalf of the children who need the park. The Board thanked her for her dedication and congratulated her on the project. Supervisor Smith thanked her for her willing to not only present a problem but to provide an answer and work tirelessly toward its completion. Ms. Orcutt invited the Board to attend the opening ceremony. Mayor Masayko and Supervisor Bennett reiterated the comments thanking her for her work and support of the program. Mayor Masayko also requested recognition be provided to the others who had supported the program at the opening ceremony.

ii. STATUS REPORT ON DISASTER RECOVERY EFFORTS (2-0748.5) - Mr. Berkich indicated that he had distributed a memo on the disaster recovery efforts. (The Clerk had not been given a copy of this memo.) The damage assessment was 100 percent complete and had been turned into FEMA. The total allowed by FEMA is approximately \$3.1 million. A proposal is being submitted to the Legislature which would have the State pick up the entire amount of categories A and B. This is the emergency cost and the debris removal.

9. PURCHASING DIRECTOR - Acting Purchasing Director John Iratcabal - ACTION ON CONTRACT NO. 96/97-201 - PUBLIC SAFETY COMPLEX, CONSTRUCTION MANAGEMENT (1-3555.5) - Mr. Iratcabal's introduction corrected Page 14, Section 9.9.4 to be that "Vanir or CM may be liable" and not the City. He briefly described the construction manager's purpose. Vanir Representative Manny Aliabadi explained the scope of work, Vanir's and Gordan Grahams' experience and background. Clarification by Mr. Aldean indicated the contract included a "not to exceed amount of \$300,000". There is sufficient funds in the account at this time to meet this commitment. Public Works would also be accountable for the project. Mr. Aldean did not wish to experience the problems encountered with the Fire Department. Comments also stressed the desire to keep the project within budget and to provide a quality product. Supervisor Tatro moved that the Board accept the Purchasing Department's recommendation on Contract No. 9697-201 and authorize the Mayor to sign the Agreement with Vanir Construction Management, Inc., for a not to exceed cost of \$300,000; funding source is Capital Projects Fund Capitol Outlay - Public Safety Complex for \$150,000 plus a \$150,000 augmentation from Capital Projects Funds, Ending Fund Balance and with the change on Page 14, Section 9.9.4 in the first sentence to delete the word City and to replace it with CM. Supervisor Bennett seconded the motion. Motion carried 5-0.

11. CITY MANAGER - John Berkich

A. ACTION TO APPROVE ASSIGNMENT AND ASSUMPTION AGREEMENT CONSENTING TO THE ASSIGNMENT BY THE TRUST FOR PUBLIC LAND OF THE 1995 BORDA BROTHERS INDEMNIFICATION AGREEMENT TO THE DEL WEBB CONSERVATION HOLDING CORP. AND THE UNITED STATES OF AMERICA (2-0261.5) - Supervisor Tatro moved to approve assignment and assumption agreement consenting to the assignment by the Trust for Public Lands of the 1995 Borda Brothers indemnification agreement to the Del Webb Conservation Holding Corporation and the United States of America. Supervisor Bennett seconded the motion. Motion carried 5-0.

B. DISCUSSION AND DIRECTION TO STAFF ON ALTERNATIVES FOR THE SALE OF 2621 NORTHGATE LANE (2-0295.5) - Discussion explored the Board's original direction to sell the property at an auction. Mr. Berkich explained the Nevada Department of Transportation's ability to conduct such an auction and its offer to sell the parcel for the City. If the Board elects to sell the property through the services of a licensed

real estate broker, an exclusive listing could not be given. The commission for such a sale would be approximately six percent or \$60,000. An auctioneer would also be given a fee which could range between zero and six percent. This fee would be subject to negotiation. NDOT's offer was at no fee, however, all costs would have to be reimbursed. The minimum bid would be equal to or greater than the assessed value of the building. Supervisor Smith expressed his concern about using NDOT's services to save money when there are local, licensed auctioneers in the community. Supervisor Tatro disclosed his employment at NDOT and knowledge of Jack Crawford, who had offered to conduct the sale; however, he is not involved with this area and did not have a conflict of interest. He then expressed his annoyance at reconsidering the Board's original direction on this topic. He suggested the Board discuss the agenda process at its retreat in April. He urged staff to analyze the different sale procedures and recommend an alternative. Otherwise, he did not feel that the Board could make an informed decision about the process at this meeting. Supervisor Plank recommended using the services of a local auctioneer. Mayor Masayko explained his discussion with Mr. Berkich about the City's master plan for relocating to the Bank of America Building which had caused the matter to be agendized. Discussion indicated that formal action was not required at this time and that the original motion would remain in tact. Mayor Masayko suggested staff draft an action on the relocation and disposal. Supervisor Bennett also suggested that a Plan A and Plan B approach be prepared. Supervisor Tatro explained that the Board had created an action plan by its decision on June 20 which was contingent upon the relocation to the Bank of America Building. He could not understand the need to reconsider the process. He suggested, if necessary, that the information be reconsidered. If there has not been a material change in this information, reconsideration should not occur. He felt that the June direction had established a relocation plan, a budget, and a tentative schedule. The only new information received to date had been the proposal from NDOT to conduct the auction and the change in two Board members. Mayor Masayko explained his reasons for feeling that there should have been a master plan for the relocation rather than a "representation of the institutional knowledge". He had questioned the reasons for selling the building, leasing back a portion for the two remaining agencies, the lease period, reasons for relocating Public Works when it is in a leased area now, etc. Supervisor Tatro expressed his feeling that he should have discussed the matter with Mayor Masayko. Also, Mayor Masayko had not reviewed the June 20 Minutes. Mr. Berkich explained his intent to make a presentation on the master plan of City facilities and to meet with NDOT about its offer. He would compare this offer with private auctioning and the use of a broker. Supervisor Smith felt that staff only needed direction to investigate the NDOT offer and to compare it with the use of a private auctioneer. He also expressed his feeling that new Board members need a period to get "up to speed" with previous Board actions/directions. He felt that the City Hall discussion two weeks ago had been a waste of his time as he was fully aware of it. He did not feel that time should be taken to reconsider the action plan. He questioned the number of decisions which would have to be reconsidered. Concerns about any decision should begin with a review of the records on the date that the decision was made.

Supervisor Plank recommended directing staff to pursue the public auction and to develop a Plan B as recommended by Supervisor Bennett. Plan A should be the method which would create the best yield for the City after meeting the costs for developing the Bank of America building rather than just the appraised value. Mayor Masayko pointed out that the proposal was a significant expenditure of public funds and that his question had been how a decision is made and the communication process for explaining this decision to the public. He emphasized his feeling for strong accountability to the electorate that there had been adequate and appropriate information provided on which to make that decision. He was still requesting the action plan for the City Hall.

Mr. Berkich indicated that this information would be provided at the next Board meeting plus information on the NDOT alternative with a cost comparison. This option was new information. Adequate notice and supporting information had not been provided on this topic. This will be addressed prior to the next meeting.

12. BOARD OF SUPERVISORS

C. STAFF COMMENTS AND STATUS REPORTS

i. STATUS REPORT ON DISASTER RECOVERY EFFORTS (2-0755.5) - Mr. Berkich

noted the memo on the damages calculated to date. This assessment report has been completed and submitted to FEMA. The total is estimated at \$3.4 million. A recommendation has been submitted to the Legislature seeking funding for all of the Categories A and B costs. These are the emergency and debris removal costs. The bill also recommends the State pickup half of the costs for the match and provide a ten year, low cost loan for the balance of the match. Supervisor Bennett felt that the City had been fortunate when all of the disasters are considered around the country to have been able to obtain this amount.

B. FUTURE AGENDA ITEMS - STRATEGIC PLANNING/GOAL-SETTING SESSION - MARCH 22, 1997 AND BOARD RETREAT - APRIL 12, 1997 (2-0821.5) - Discussion noted the purposes for the two meetings. The goals established by the Board will be considered during the budget process. Discussion ensued on the reasons for having the session on March 22 and whether a quorum of the Board would be able to attend. Comments expressed a desire for the session to commence at 1:30 p.m. Mr. Berkich was directed to provide the packet as early as possible. Supervisor Tatro noted the philosophical question concerning whether to have the Board establish its goals prior to the budget sessions or after hearing from each of the Department Heads. Supervisor Bennett solicited ideas for the Board retreat.

A. NON-ACTION ITEMS - INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS, STATUS REPORTS, AND COMMENTS FROM THE BOARD MEMBERS (2-0955.5) - Supervisor Tatro - None. Supervisor Bennett briefly explained the TRPA meeting and its hearings on the watercraft issues and ferry/sight-seeing service. (Supervisor Tatro left the meeting at 12:53 p.m. A quorum was still present.) Supervisor Plank briefly described the Park and Recreation Commission's budget review process and expressed the hope that the Board does not become involved with the moving of paper clips. Supervisor Smith reported on the Subconservancy District's meeting including the flood repair allocations. He then explained the decision not to fund a Dayton Valley Groundwater study. He urged the Subconservancy members to consider the overall water issues and not restrict the service to area demands. He had committed to reconsidering the item if so requested by the representatives' Commissioners. He then noted his decision to close his business and thanked the public for its support and telephone calls. His optimism about the future and potential employment opportunities was voiced. Supervisor Bennett briefly noted the support he had given to the community. Mayor Masayko indicated that the Board and City is concerned about the closure. He felt certain that Supervisor Smith was looking forward to new challenges and career. He then reported on the Tri-County Railway Commission meeting and its Storey and State funding. Its funding raising efforts, however, have been temporarily stalled. State Legislators have been asking if and when the Commission would bring forward its matching funds for the grant. He had also been spending some time at the Legislature. The Open Space Tax Initiative will be heard next Thursday at 8 a.m. Mayor Masayko invited the public to attend.

BREAK: There being no other matters for consideration until 6 p.m., Mayor Masayko recessed the session at 1:05 p.m. Mayor Masayko reconvened the session at 6:05 p.m. The entire Board was present constituting a quorum. Staff members present included: City Manager Berkich, Treasurer Kramer, Sheriff Rod Banister, Community Development Director Sullivan, Purchasing and Contracts Director Iratcabal, Deputy District Attorney Lipparelli, and Recording Secretary McLaughlin.

3. B. ACTION TO APPROVE A CONTRACT WITH GERALD MASSAD TO PROVIDE FOOD AND BEVERAGE SERVICE - CONTINUED (2-1238.5) - Mr. Berkich indicated that an agreement had not been finalized. Mr. Lipparelli reviewed the chronology of events on the contract and the negotiations efforts. The odor problem continues to exist inspite of numerous efforts to alleviate it, however, this is not a contract issue. The current stumbling block is the termination provision. The termination clause in the ARA contract was explained. It had been included in the sample agreement circulated with the RFP. Mr. Massad's attorney, Byron Bilyeu, had removed the City's ability to terminate the contract when he returned the draft. The termination clause is used to terminate the contract for reasons other than as a result of a breach of its terms. Staff had responded with a counter proposal which eliminated the concessionaire's ability to terminate the contract on 120 day notice. This made the contract termination process upon mutual consent or upon breach. This afternoon's negotiations had included the termination clause upon 120 day notice, reimbursement of any startup costs incurred establishing

service, plus an offer to pay an unspecified amount for each remaining month of the contract. Reasons for offering these clauses were explained. This final offer had also been rejected by Mr. Massad. Mr. Berkich indicated that both parties had worked hard on the agreement. He, too, pointed out that the termination clause was contained within the RFP and is the same clause as had been contained in the ARA agreement. The City had never before offered to reimburse startup costs or the penalty clause for early termination.

(2-1395.5) Not-for-profit Corporation Chairperson Wes Myers felt that the corporation could live with the terms of the contract. The contract should be equal to all parties. He urged the Board to include a termination clause which could be implemented by both parties. The final decision was, however, up to the Board. He had read a draft agreement at 2 p.m., however, had not seen the final offer. In response to Supervisor Bennett's question, he explained that the contract would create a loss of revenue for the corporation. Tournaments provide a chance to package golf with food and beverage services. The contract under discussion would not allow the corporation to provide this service. Discussion between Supervisor Bennett and Purchasing Director John Iratcabal indicated that ARA's contract did not allow for this type of packaging. Mr. Berkich indicated that the corporation may be able to take advantage of this concept.

Mr. Bilyeu felt that the contract which had been attached to the RFP had only been a sample and was not a portion of the RFP. It had always been their understanding that some issues were open to negotiations. Mr. Massad's response had been selected based upon his proven experience, his track record in the community, and his ability to do the job. His service would be good for the golf course including both the public and the golfers. The 120 day termination clause was a part of the sample agreement and not in the RFP. The RFP indicates the contract is for 18 months. This had been the basis for Mr. Massad's offer. Since that time Mr. Massad had incurred expenses in an attempt to commence operation. They had conceded to all of the City's requests including several which are not to Mr. Massad's advantage. Mr. Bilyeu had objected to the elaborate nature of the default clause, specifically, the one related to what would happen if Mr. Massad dies. There are no default provisions for the City included in the contract. Mr. Bilyeu's problem with the 120 termination clause is that it voids the 18 month contract. It is a 120 day contract after which it is on a day-to-day basis. This clause had not been open for discussion prior to this morning's meeting. The direction provided earlier today on the contract had been to make minor language changes only and to remove the red lines. He reiterated that the 120 day clause had not been a material part of the RFP. It is not included in other City contracts, i. e., the golf pro's. He suggested that the termination clause include a provision that Mr. Massad would not be terminated except in good faith. City staff had rejected this amendment. This is unfair to Mr. Massad. Without the good faith clause he was unwilling to allow the 120 day termination clause to be included in the contract. The 120 day clause would allow Mr. Massad to sign the contract and immediately receive his termination notice without a valid reason. This would force Mr. Massad to perform for 120 days. He felt that the 120 day termination clause was based upon the offer made on Monday to Mr. Massad to walkaway from the contract in exchange for money. This offer had purportedly been made by Mr. Myers and Mayor Masayko. The amount was alleged to be \$10,000. If the Board wished to make the same offer this evening, he was willing to accept it.

(2-1762.5) Mayor Masayko voiced his objection to the last comment. Mr. Bilyeu had not been in attendance at the meeting. He objected to the comment as it was not a fact.

(2-1775.5) Corporation Chairperson Myers explained Mayor Masayko and his attempt to negotiate with Mr. Massad. At that meeting Mr. Massad indicated he only wished to operate the beverage concession and not the food. This is the offer which the Board tabled at its last meeting. Both Mayor Masayko and Chairperson Myers indicated to Mr. Massad at their meeting that the beverage concession offer was not possible. The operation must include both food and beverage. Chairperson Myers indicated he responded that another option would be to consider Mr. Massad's expenditures to date and for the golf course to reimburse him for those costs. Mr. Massad indicated that he had spent \$10,000. Mr. Massad should either take and run the food and beverage concession or the golf course will reimburse you for any expenses incurred. If this totals \$10,000, this is what he would be paid. There had been no attempt to "buy him off". All efforts were geared toward getting the negotiations off center. Chairperson Myers indicated that the bar should not be operated without food. Mayor Masayko indicated that this had been the attempt and discussion as he recalled it.

Discussion ensued between Supervisor Smith and Mr. Lipparelli concerning the reasons the 120 day termination clause had been added. When it was discovered that Mr. Massad had removed the City's 120 day termination clause, a decision was made to remove Mr. Massad's ability to terminate the contract on 120 days notice, which was felt to be equitable. It was later decided that it is important for the City to have this clause as part of the contract as it will allow the City to respond to a situation at the golf course, if necessary, and go in a different direction. This was felt to be a reasonable request as it had been included in the ARA contract and in the sample draft agreement attached to the RFP. The clause had always been in the agreement. It was first removed from the draft received on Monday, which was after Mr. Bilyeu became involved. Mr. Bilyeu allegedly had recommended its removal as it could have been harmful to Mr. Massad.

Mr. Berkich explained the reasons the clause had been included in the ARA contract, which was when the first food and beverage RFP was issued. It allows the City/Board flexibility to respond to concerns if the concessionaire fails to meet the public demands and interest. ARA had used this very clause to cancel the contract. Mr. Bilyeu has represented that it goes only one way but this is not the case. Staff had also offered to reimburse his costs which would make him whole and provided a penalty clause if the contract is terminated early. These two clauses were not included in the ARA contract.

(2-1941.5) Mr. Bilyeu indicated his remarks were not accusations. He had merely indicated that the offer had been made. He purportedly understood the reasons the offer was made. He continued to expound on his reasons for feeling that reinsertion of the 120 day termination clause created a one sided agreement against his client. He also understood the not-for-profit corporation's need for the clause. The clause is not fair to his client. He explained for Supervisor Bennett his definition of "good faith" would require a reason or non-performance other than to get someone else to provide the service. Nevada has an implied covenant for contracts which includes the term "good faith". He reiterated his comments that the termination clause is unfair. Supervisor Bennett then indicated that the contract contains an agreement by Mr. Massad to rent the facility for \$1500 a month. He will run the bar and restaurant for specified hours, can use the facility for banquets and weddings, etc., and operates the refreshment carts on the course. Discussion between Mr. Bilyeu and Supervisor Bennett indicated Mr. Massad could also increase his prices by 50 cents. Reasons for including this clause were noted. Supervisor Bennett continued her list of items which Mr. Massad could do, specifically, assess a corkage fee per individual for use of the pavilion by tournament players who provide their own beverages and food. This is in exchange for \$1500 a month. Mr. Bilyeu also indicated that Mr. Massad would be responsible for cleaning the premises, etc. Supervisor Bennett indicated that Mr. Massad would supply his own personnel. The City will supply all of the equipment. He would purchase the carts, The only costs the City would be responsible for would be those the City would normally incur if the premises is vacant. Supervisor Bennett commended Mr. Massad on his entrepreneur abilities. She felt that Mr. Massad, who is a successful businessman, would remain successful as a result of the contract. Although she did not have his numbers or "pro forma", she guessed that he would do quite nicely as a result of his involvement. She was not prepared to buy the comment that the contract was entirely one sided. She was not saying that he should not be successful. She was saying that if the City proceeds with the contract under the negotiated terms, she was very comfortable with the fact that Mr. Massad would do quite nicely. The Board should be aware of this when entering into the agreement. Mr. Bilyeu indicated that the contract itself is not one sided, only the clause is one sided. If Mr. Massad's operation is successful, it will benefit the golf course. The City is buying Mr. Massad's reputation and experience. Mr. Massad could also fail. Supervisor Bennett then explained her involvement with the 120 day termination clause and her first awareness that it had been red lined. The different agreements were read and the "red line" elimination/insertion editing marks explained. Supervisor Bennett pointed out the not-for-profit corporation's need for the golf course to generate as much revenue as possible. Mr. Bilyeu indicated this is the normal concern for any business. He felt that none of the corporation's officers have any food and beverage experience. Mr. Massad wants to make the operation a success. To do otherwise would hurt both his business reputation and the courses. If the service is great, it will make the course more attractive. If the corporation wishes to operate the facility, it can do so in 18 months but not in 120 days. Mr. Massad prefers to have his contract extended at the end of the 18 month period if it is successful operation. The risk is on Mr. Massad. He reiterated his comments concerning the unfairness of the 120 day termination clause without the "good faith" statement.

Supervisor Plank expressed his desire to either include the "good faith" statement in the 120 day provision or eliminate the entire clause.

Supervisor Smith questioned Mr. Lipparelli concerning his definition of the term "good faith" and reasons for hesitating to allow its insertion. Mr. Massad is an honorable person in the community who had approached the entire endeavor in good faith. The Board is honorable. Mr. Lipparelli explained that it is a "powerful argument" that the authority should not be granted without providing a reason for termination. This appears to indicate that arbitrary and capricious reasons could be used for dismissal. The original draft included a provision for termination by either party. This clause was well-known by both sides of the negotiating table. If the City determines that it is more desirable for it to operate the service, it could. This would not be a reflection on Mr. Massad's performance. It is a business decision. The contract is not one of adhesion as Mr. Bilyeu had indicated as both parties are on equal ground. Both parties are sophisticated and dealing at an arms length across a negotiating table with legal counsel. Both sides understand the term. Termination could be made without any reason if it is included in the contract. If it is not in the contract, reasons for terminating the contract must be found. It is a two-way street. The clause was designed so that Mr. Massad could have operated during the busy golfing season and terminate the contract prior to the slow season.

Supervisor Smith then voiced his frustration. The corporation's ability to takeover within two weeks further compounded the issues. He was hesitant to make a decision with which the corporation would have to live particularly if it impacts its operation. He had also heard that the corporation did not wish to voice publicly its position on the contract. It was purportedly willing to accept the Board's decision. He did not see the problem with inserting the words "good faith". It is necessary to have the 120 day cancellation for both parties. The current operation is enduring a hardship due to the lack of service. His concern about Mr. Massad's ability to decide to operate only one service and to terminate the contract at the end of 120 days was expressed. He then indicated that if the term "good faith" is added, he would support leaving the 120 day termination in the agreement. Supervisor Smith also voiced his frustration at the constant change in the negotiations.

Mr. Lipparelli then explained his legal understanding of the term "good faith". He felt that it meant that the reasons for termination would be restricted to those found under the default clause. A reason would have to be found to terminate the contract if the term "good faith" is added. He used a corporation's ability to hire an executive to illustrate the ability to terminate the employment if the corporation is sold. Supervisor Smith then explained that this is the reason Mr. Massad wanted the clause. The corporation would be taking over the operation in one or two months. This makes it a four month contract and not an 18 month contract. The startup costs must be considered in this light also. The request is a "small amount of protection" for the gamble that the operation would be successful. Mr. Lipparelli indicated that staff had always described the impact in this manner. The corporation would have the ability to terminate the contract on 120 days notice. In recognition of the fact that this would cause Mr. Massad to lose his investment in the facility, staff had offered to reimburse his costs and pay a penalty based upon the number of months remaining in the contract. The City does not have this same clause. Mr. Massad could sign the contract today and give the City 120 day termination notice tomorrow. He would not be required to reimburse the City for its advertising costs to obtain a new concessionaire. Staff had only been attempting to provide the flexibility requested within the agreement.

Mayor Masayko also pointed out that Mr. Massad is not being pressured into taking the contract under these conditions.

Mr. Bilyeu indicated that the reaction to the reimbursement and buyout offer had been that it only an offer to include a provision. There is more than hard costs involved. Mr. Massad still needs to develop the menu and order the beverage carts. Timing and deposit requirements were explained. Mr. Bilyeu then explained the performance bond requirements and reiterated his request that the 120 day termination clause include "good faith".

(2-2745.5) Supervisor Plank indicated he had no problem adding the term "good faith". He felt that Mr. Massad would perform in good faith. If it is a profitable operation, he may desire to cut a new deal with the corporation.

He also felt that the corporation could make money on the facility if the contract were not issued. This, however, is not the issue.

BREAK: A ten minute recess was requested to allow Supervisor Plank an opportunity to talk to Mr. Lipparelli. Mayor Masayko declared a recess at 7:20 p.m. He reconvened the session at 7:30 p.m. The entire Board was present constituting a quorum.

(2-2785.5) Supervisor Plank indicated that he did not feel that it was necessary to continue doing something because it had always been done that way. Even though it could create some hardship in regard to the non-profit corporation's cash flow, it is a situation where the Board/City needs to get off the dime on the agreement. Therefore, **Supervisor Plank moved to direct City staff to present for approval of the Board an agreement with Mr. Massad that provides for the termination of the agreement only upon the occurrence of a default or by mutual agreement and which contains the provisions that the parties agreed to this afternoon. Supervisor Smith seconded the motion.** Mayor Masayko indicated that the motion would direct staff to enter into the agreement based upon the representation made with the cancellation only for default or by mutual agreement of both parties. Mr. Lipparelli then noted that the motion also included direction to bring back an agreement which had been agreed upon during this afternoon's meeting. This eliminates the need to reconsider items covered to date. He then requested the opportunity to place on the record those items by discussing them with Mr. Bilyeu. Supervisor Smith questioned whether the motion would allow the operation to commence prior to consideration of the agreement or if the agreement would have to be approved first. Mr. Lipparelli indicated there were other language changes agreed upon earlier this afternoon which he would discuss with Mr. Bilyeu. A clean agreement is not available for approval at this time. Supervisor Smith then expressed his desire for the contract to be based upon good faith and to not include the penalty for early termination. Mr. Lipparelli responded by explaining that the motion eliminated the termination clause so that the only termination allowed would be for default. This eliminates the buyout and reimbursement for costs. Recovery costs are not allowed for breached agreements. The issues which had been resolved this afternoon related to the odor problem, parking, signage, etc. He had suggested that discussion occur with Mr. Bilyeu to be sure that the record is clear about those items. Supervisor Plank questioned whether Mr. Bilyeu agreed with Mr. Lipparelli's comments and noted that the language discussion could last until at least 4 a.m.

Mr. Bilyeu indicated that the contract had been delivered this morning. They had agreed on some typographical corrections and changes in dates. He was willing to take this morning's copy and make those revisions. The contract provides for the City Manager's and the City's legal counsel's signatures. It should not be necessary for the Board to reconsider the agreement. He suggested staff be directed to sign the contract as amended.

Supervisor Plank indicated that the motion did not include this direction and questioned if it would create a problem. Mr. Lipparelli indicated that past history indicated City staff had never been authorized to sign such an agreement. The Board had always approved an agreement with a hard copy in front of them. It could create a potential for a problem to occur if a different understanding/interpretation of the Board's direction is made. This was the reason he wished to review the agreements reached this afternoon. Word-smithing during the open meeting should not be required. Mr. Massad would not commence operation under the contract until April 1. Therefore, it would not impose a hardship if the contract is not approved for two weeks.

Supervisor Bennett expressed her surprise at the deletion of the 120 day termination clause. There must be a method for the corporation to get out of the contract or make adjustments in order to have leverage and flexibility. She questioned Supervisor Plank's reasons for returning to "square one". Supervisor Plank indicated that the jury would be out for 18 months in regard to Mr. Massad's contract and ability to function. Mr. Massad's performance and cooperation with the corporation will be the performance mix. This is the good faith issue. All of the parties are honorable people. Mr. Massad is accepting the risk and making an investment. Supervisor Plank wished to avoid all of the language about penalties if terminated. It will be a lot cleaner this way.

Supervisor Tatro expressed his desire to avoid reconsideration of the contract. Mayor Masayko agreed. As all of

the rest of the contract had been agreed upon, it should not be necessary to take a lot of time to redraft the agreement. The Board had another item for discussion yet this evening.

Mr. Lipparelli then explained his reasons for wishing to discuss the items which had been agreed upon. Mr. Bilyeu's March 5 agreement included a clause indicating that payment should not be made later than 60 days after the effective date of the agreement. This afternoon the agreement was changed to: Payment shall be made no later than 30 days after April 1. A definition of remodeling was also included. There are approximately ten others changes. Supervisor Tatro questioned whether it would be necessary to have legal counsel present during the housing element discussion. Mr. Lipparelli felt this it would not be necessary. Supervisor Tatro suggested that Mr. Bilyeu and Mr. Lipparelli go to Mr. Lipparelli's office and develop a finalized agreement. The Board could take five minutes to read the agreement after the housing element discussion. Action could then be taken. The motion on the floor would be voted upon prior to this occurrence. Supervisor Smith noted that Mr. Massad would not commence operation until April 1. The liquor license request and food service should also be considered prior to Mr. Bilyeu and Mr. Lipparelli's leaving. Mayor Masayko supported Supervisor Tatro's suggestion.

Corporation Chairperson Myers requested the Board consider that it is not allowing any latitude for the corporation. The City had tied the corporation's hands with the agreements for the golf pro and for maintenance workers. This agreement would further tie the corporation's hands. There will not be any termination ability or outlet. The City was giving it \$3 million in debt service. Half of the underground portion of the building is not usable. The corporation must meet all of these expenses. The Baltimore course had not saddled the corporation with any debt service. It had obtained a \$300,000 loan at four percent and a second loan 90 days later for \$600,000. The corporation would be attempting an entirely new concept with competition from new courses. The corporation would be forced to live with these conditions for 18 months. If the courses' revenue drops, the corporation will have no outlet. This is the only area where there was a chance to increase the revenues. When he had been selected to serve on the corporation's board, there had not been any mention of a contract for the food and beverage operation. This contract only came about since the interviews. He felt the 120 day termination clause was sensible for both sides as it would allow the corporation/vendor to have some flexibility. The corporation would not be able to come to the Board for support if revenue continues to decrease. Mayor Masayko indicated that the corporation may have to ask for Board support. This bridge will be crossed when necessary. Supervisor Smith then explained that he had been waiting all day for the corporation's direction on the proposal. He was becoming frustrated with the entire process. This morning Mr. Myers had stated that the corporation would support whatever direction the Board elected. Now, he was saying that the agreement would tie the corporation's hands. Supervisor Smith wished to honor the corporation's desires/wishes. The corporation is taking on a tremendous responsibility and he did not wish to make it any harder than it already is. He felt that since the corporation was ready to takeover sooner than anticipated, it should have been making this decision. Perhaps the Board should talk with Mr. Massad; call a spade, a spade; and thank him for his offer. Things have changed since the original discussion. He suggested paying Mr. Massad for his trouble and letting the corporation make the decision and move forward. He respected and honored Mr. Massad, whom he felt would do a good job for the course. If the corporation has decided it wishes to take over the entire operation, then it should say so. Without this direction, he must continue to deal with Mr. Massad.

Chairperson Myers felt that his comments moved the contract from 120 days to 18 months. This is what the Board was giving him. He was only cautioning the Board that the corporation does have obligations. Supervisor Smith questioned who would accept a 120 day contract, do all the work, purchase all the inventory, hire employees, etc. He did not feel that anyone who is credible would do it. Chairperson Myers felt that at the contract price another vendor could be found with ease. The restaurant and bar had generated over \$360,000 last year. The average cost of this operation was 45 percent. The contract offer was very lucrative. As a businessperson he always looked to limit a bad contract the best that he could until it is returned to a profitable situation. The operational costs were reiterated including snow removal, utilities, garbage, etc. He did not feel that a replacement would be difficult to find. Therefore, a limitation should be placed upon it.

Supervisor Plank indicated that the motion was **to direct City staff to present for approval by the Board an**

agreement with Mr. Massad to provide for termination of the agreement only upon occurrence of default or upon mutual agreement and which contains the provisions the parties had agreed to this afternoon. Mayor Masayko felt that the Board was cognizant of the issues included/removed from the agreement. Supervisor Smith had seconded the motion. The motion as indicated was voted by roll call with the following result: Tatro - Yes; Plank - Yes; Bennett - Yes; Smith - Yes, because I think it is the right thing to do but I am really disappointed that I am going against the perceived wishes of the new corporation; and Mayor Masayko - Prior to my also voting yes, I will remind the Board and some of the members of the audience what I stated at the last Board of Supervisors' meeting, that I was willing to set down and discuss with Mr. Massad what his requirements were and what he thought he needed to move this thing along so that I understood it from the Board's perspective, and I think I did that, I am very disappointed in how that was characterized this evening, but you are on your perception and I am on mine, so with that, the vote is five yeases. The motion carried 5-0.

Discussion indicated that the Board would consider the agreement at 9 p.m. Mayor Masayko requested Mr. Massad, Mr. Bilyeu, and Mr. Lipparelli remain during discussion of the following items. Mayor Masayko then recessed the Board of Supervisors session and immediately convened the Liquor and Entertainment Board. The entire Board was present, including Sheriff Banister, constituting a quorum.

4. LIQUOR AND ENTERTAINMENT BOARD - TREASURER - Al Kramer

A. ACTION ON A FULL BAR LIQUOR LICENSE FOR GERALD MASSAD, DOING BUSINESS AS JERRY'S (2-3480.5) - Chairperson Masayko expressed a intent to have Mr. Massad immediately takeover the operation on a temporary basis. Mr. Massad responded that he was willing to takeover the beverage service as soon as feasible. Member Bennett asked him for clarification of his comment. He responded that he did not have the appropriate permits and was unsure how long it would take to obtain same. He also needed to obtain the necessary liquor stock. He emphasized his intent to have the service in operation as soon as possible. Member Plank noted that the City has a liquor inventory which he could purchase presumably at cost. The open stock could not be sold. Mr. Massad indicated his willingness to do whatever was legal. Mr. Berkich indicated that this service would be commencing without a contract which creates liability concerns. Both Member Bennett and Chairperson Masayko indicated that "if it could happen, it will". Member Tatro suggested that staff return at 9 p.m. with a contract amendment which would allow the liquor sales to commence in accordance with the terms of the contract except that this portion would be effective tomorrow and that the starting date would be on the date that Mr. Massad is able to have an inventory. Mr. Massad then stated that Member Smith was right. He was ashamed but he would prefer to end the thing right now. It is turning into a much more complicated deal. He certainly did not want to hamper Chairperson Myers' ability to make money at the golf course. He did not want to be made out to be the bad guy here. You guys came to me and we put this thing in the paper. You said, "Please, would you please bid on this." Now, all of a sudden, it's not what you want to do and that's okay. Just say that and let's get down the road. Mayor, you are absolutely right and nobody inferred anything different. What we were saying was, "I have costs involved and you said, 'Whatever those costs are, we will be glad to reimburse you.'" If that is what you want to do, all we were saying is to put it on the record and let's get it over with because this is not comfortable for me at all. Mr. Massad indicated he was really upset about this whole thing. He was sorry if he was showing it but it's just gotta' stop and he wanted it to stop tonight. If it makes your direction any easier, let's get it over with. Let's end it. Chairperson Masayko indicated it was not the most comfortable thing the Board had undertaken either. He then stated to Mr. Massad that he was knew Mr. Massad was upset and wanted to give him an opportunity to think about it. Chairperson Masayko indicated that he was not willing to accept his statement on the record as an offer to withdraw as he did not believe that it was what Mr. Massad really intended to do. Mr. Massad responded that it is what he intended to do. If he could recoup his costs, he would agree to withdraw. Member Bennett requested the comments be made on the record. Chairperson Masayko indicated that Mr. Massad could not make the statements from his seat and asked him to come forward to the microphone. Mr. Massad stated that if he could recoup his costs, he would withdraw in the best interest of the not-for-profit corporation. All that they needed was for someone to please tell him that. This is all that he requested. He was not trying to make a ton of money. The reason he had made his proposal had been due to the fact that it was an 18 month contract. That is a lot of time to recoup charges. If anyone thinks they can do it, good luck. Chairperson Myers is doing it because

he has however long he has it. Mr. Massad had 18 months. He had a lot of costs to try and get back in that short period of time. Of course, he was not going to pay the same rent as if he had it for five years or three years or ten years. That is a different proposition. You are telling me to go out there and get the licenses and all this stuff just to help. It was his understanding that he was going to come and help the Board get their feet wet for the transition period. The transition period is April the first. Okay, you guys changed the rules. That is fine. Or somebody changed the rules. Member Bennett noted that circumstances had changed. Mr. Massad continued that if you had said that back in December that it was going to be a 120 day contract, he would never have applied. He could not make himself any clearer. He was sorry. Member Bennett questioned whether she had heard Mr. Massad's comments correctly that he had withdrawn. Mr. Massad responded that in the best interest of the city, he thought the Board had needed someone of his caliber to help them with the other new golf courses in town. That was what he had thought. He did not know that it was a price issue but, if the price is the issue, if you need this as a revenue associated with that, he understood totally. He thought that his reputation and his expertise would help. Member Bennett indicated this was exactly what the Board had thought. Mr. Massad continued, however, we are talking around it. It doesn't even matter any more. He was so fed up with the whole thing, he did not care what was wanted.

(3-0039.5) Member Smith indicated that in light of Mr. Massad's statement, he suggested that a motion was in order, although he did not blame Mr. Massad who was a lot calmer than Member Smith would have been. Member Smith then moved that the Board of Supervisors.... Chairperson Masayko interrupted by recessing the Liquor and Entertainment Board and reconvening the Board of Supervisors. (The entire Board was present constituting a quorum.)

(3-0048.5) **Supervisor Smith moved that the Board of Supervisors ask Mr. Massad to prepare a list of the costs that he had incurred and submit them to the City Manager for considered by the Board of Supervisors at our next meeting, which is March 20, for reimbursement.** Following discussion of an amendment, **Supervisor Smith amended his motion to reject all proposals under the RFP, due to Mr. Massad's statement, and direct staff to entertain his claim for reimbursement. Supervisor Tatro seconded the motion.** Mr. Massad indicated his costs totaled approximately \$10,000 as had been explained earlier in the week. He requested the Board make its final decision this evening. The issue is over. That is the number. It needs to be decided this evening. **Supervisor Smith expressed a willingness to include in the motion an amount not to exceed \$10,000,** however, he advised Mr. Massad that there must be some type of a list breaking down the costs even for his time. He was aware that Mr. Massad's time was considerable as he was concerned that this afternoon he could have said \$17,000. He urged Mr. Massad to take the time to set down and list the costs. He assured Mr. Massad that the people would be fair. Mayor Masayko also stated that as they were spending enterprise funds/public funds, there should be a documented list of what the expenses were and that the City would be reasonable as far as reimbursing them. **Supervisor Tatro indicated his concurrence with the amendment.** Mayor Masayko indicated the motion is to recognize Mr. Massad's statements on the record, to take action to reject all bids on the RFP for food and beverage service at the Eagle Valley Golf Course, and further, to recognize that Mr. Massad had incurred startup expenses and that this Board is willing to entertain reimbursement of those costs up to \$10,000. Supervisor Smith indicated this statement represented his motion. Additional discussion by the Board was requested but none given. The **motion** as stated was voted and **carried 5-0.**

The Board of Supervisors was again recessed and the Liquor and Entertainment Board was convened. (The entire Board was present including Sheriff Banister, constituting a quorum.)

Discussion indicated a motion by the Liquor and Entertainment Board on Mr. Massad's liquor license was not necessary.

4. B. ACTION ON A FULL BAR LIQUOR LICENSE FOR THE CITY OF CARSON CITY (EAGLE VALLEY GOLF COURSE), PATRICIA M. MILLIGAN, LIQUOR LICENSE MANAGER AND CARSON CITY EMPLOYEE (3-0113.5) - The favorable Sheriff's report was noted. Member Smith expressed the hope that Ms. Milligan "did not feel like the second one asked to the dance". The matter was not a reflection

upon her abilities. Comments on her service had always been made in the highest esteem. Member Smith moved that the Liquor and Entertainment Board approve a full bar liquor license for the City of Carson City, Eagle Valley Golf Course, Patricia M. Milligan, Liquor License Manager and Carson City Employee; fiscal impact is a \$200 per quarter fee, \$1,000 origination fee, and \$500 investigation fee. Member Plank seconded the motion. Mr. Berkich indicated that Ms. Milligan had been providing an outstanding service at the course. She had also provided a statistical report on food sales to date. To date the revenue for the food service was approximately \$3300. Ms. Milligan felt that it could have been doubled if liquor had been available. The packet also contained letters requesting the Board implement the service as soon as possible. The motion to grant the license as indicated was voted and carried 6-0.

There being no other matters for consideration by the Liquor and Entertainment Board, Mayor 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.

BREAK: A ten minute recess was declared at 8:10 p.m. Mayor Masayko reconvened the session at 8:20 p.m. The entire Board was present constituting a quorum.

13. COMMUNITY DEVELOPMENT DIRECTOR - Walter Sullivan - ACTION ON MPE-96/97-1 - REVIEW OF THE DRAFT HOUSING ELEMENT OF THE MASTER PLAN AND THE SELECTION OF APPROPRIATE GOALS AND STRATEGIES (3-0168.5) - Consultants Andy Burnham and Chris Cares - Mr. Sullivan's introduction included the consultants, purpose of the meeting, the technical committee and Planning Commission's hearings, and the Builders Association's involvement. Discussion noted a March 3rd memo and the chronology of the meetings. The draft is the first version. Corrections and revisions will be made to it. Mayor Masayko welcomed Messrs. Cares and Burnham. They also indicated the element is a rough draft which will be revised. Community participation was further described. Reasons for developing an element were provided, including copies of the NRS requirement. (A copy is included in the file.) They briefly reviewed the statistical data related to the demographics, the surrounding communities/counties, and the affordability issues. Broad based definitions were used throughout the document to provide flexibility. Carson City is not unique in its housing mix for low income individuals/families. Concerns had been expressed about the statistics for the mobile home. These stats are being verified. Both ends of the spectrum indicate that there is a shortage of rental units and homes available for purchase for those with very low and very high incomes. This problem could be addressed by increasing the supply for the higher end of the spectrum. This would create a rippling effect and assist with housing for the lower end. Carson City has a diversity of programs for providing housing for low and moderate incomes. Impediments and possible resolutions were noted, specifically "NIMBY" (Not In My Backyard). The goals and action plan were noted. The Board was urged to implement those goals which could be done quickly and at a low cost first.

Discussion ensued among the Board, staff and the consultants on the purpose of and ability for having a housing coordinator who is either contracted, a staff member, or one of the nonprofit corporations. Mr. Sullivan explained the intent had always been not to increase staffing but to have an individual assigned to the program who understands all of the various programs and can be accountable. Supervisor Bennett expressed her desire to have the document address the perception that the community growing at a faster rate than three percent. The document should also provide guidelines for addressing the current residents' needs. Mayor Masayko urged staff and the consultants to restrict growth to the three percent provided in the Growth Management Ordinance. Rehabs/redevelopment and infills may assist in this development. Supervisor Bennett felt that the permit allocation process, specifically for multi-family units, needed to be analyzed and slowed down. Mr. Sullivan indicated that the consultants would review the Growth Management Ordinance and analyze the document and its impacts. Mr. Burnham indicated that he had been aware of the situation. Carson City does have a large number of mobile home units which are an important affordable housing factor. These units will be squeezed more and more as infill/rehab occurs. He urged the Board to be cognizant of the economic factors and provide a method to better protect the existing stock. Supervisor Tatro felt that the document indicated the need to construct higher rental housing stock which creates the ripple effect on the community. Mr. Burnham also indicated the need to analyze

the amount of available multi-family zoning and consider other multiple use zoning districts. Mayor Masayko expressed concern about the loss of commercial property for this use and its impact on the plan to be the "regional retail center" for the surrounding counties. He suggested using rehabilitation/infill to meet this need. Mr. Sullivan explained an example provided by Mr. Cares which had apartments units over retail stores/shopping centers. Mr. Cares further described the example. Communities are using such demonstration projects to meet the housing demands. Impacts created by having low wage earners living within the county were noted. Public perception is that these individuals should work and buy our merchandise but not live here. Mr. Cares urged the Board to maintain its growth restrictions. Addressing the residential needs in this fashion provides a different approach. The City's vision plan and quality of life issues can assist with this endeavor. Traffic concerns created by forcing low income wage earners to live in surrounding communities were explained to illustrate how this impacts the residents' quality of life. Mr. Cares urged the Board to balance the commercial development with the residential concerns to control the impacts.

Supervisor Bennett explained the Healthy Community program and its requirement that a healthy community accommodate its residents and work force. If this is not done, the community will become a "Boulder, Colorado" community and lose its dynamics by having only residents with a common economic background. She also explained the "time honored" concept of having apartments/housing units over stores as is common in Brooklyn. These units were originally utilized by low income residents. Mr. Burnham pointed out that this is strategy c on page 42. Supervisor Plank expressed his concern about this goal and the potential for damaging the retail commercial tax base. It could provide for the neighborhood concept and may address the NIMBY concerns while protecting the open space. The current master plan appears to provide for filling the valley while leaving the surrounding hillside as open space. Mr. Sullivan had assured him this was not the case. He supported retaining open space on the valley floor also. Boulder's pristine open space supported his concept to have open space within a ten minute walk from a residence. Mr. Sullivan noted Senior Planner Guzman's support for this concept. Discussion with the consultants and Builders Association emphasized the need to update the Code. This would provide flexibility and the type of growth described by Supervisor Bennett. Examples of such successful neighborhood programs were noted. He also emphasized that the Technical Committee, Planning Commission, and Builders Association had emphatically requested that no additional groups or programs be established. They asked that the current programs be analyzed and strengthen. Support was also indicated for maintaining the building inspector program. This would provide affordable, safe and sanitary housing. Supervisor Tatro felt that there is a shortage of multi-family zoning. There is an appropriate amount of single family 6,000 and commercial zoning. He suggested a concept using clustering and village concepts for condos for the higher income levels. Supervisor Bennett felt that Lake Glen Manor fit his description. Supervisor Tatro further described his concept which could be used as demonstration project. Mr. Cares felt that with the open space initiative such a concept could occur. (3-1260.5) Mayor Masayko preferred the use of incentives over regulation. The Board needed to begin providing such incentives. The negative impacts of over regulation and different incentive proposals had also been discussed throughout all of the meetings. Mayor Masayko indicated this could create a partnership between government and private developers which would remove some of the barriers. Board consensus supported having this listed as a goal. Supervisor Plank also encouraged the development of housing units with garages in the back and better architectural designs. Mr. Burnham indicated the Planning Commission had also supported this concept. Supervisor Plank then suggested a concept of having apartments and single family housing units mixed together to create a community environment. Discussion indicated Goal No. 1 would be changed as it is more of a strategy/philosophy than a goal. Mayor Masayko felt that a consensus supported the other goals as listed. Mr. Burnham felt that the report had been in the right direction. The Board's discussion had also provided additional definition which could be matched with the other meetings. Mr. Sullivan indicated that this had been the purpose of the meeting.

Builders Association Executive Officer Gayle Farley indicated support for the element and Board comments. She, however, opposed the statement on Page 2 of Mr. Sullivan's memo that the Association supported impact fees. This had never been the case. Mr. Sullivan explained the purpose of his memo and indicated that other procedures would be used to provide housing in addition to impact fees. Mayor Masayko suggested the statement be revised. Ms. Farley also indicated that the Association was working with the Growth Management Commission.

CARSON CITY BOARD OF SUPERVISORS
Minutes of the March 6, 1997, Meeting
Page 20

There being no other matters for consideration, Supervisor Bennett moved to adjourn. Supervisor Tatro seconded the motion. Motion carried 5-0. Mayor Masayko adjourned the meeting at 9:35 p.m.

The Minutes of the March 6, 1997, Carson City Board of Supervisors meeting

ARE SO APPROVED ON _____,

1997.

Ray Masayko, Mayor

ATTEST:

Alan Glover, Clerk-Recorder