

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 4, 2002, Meeting

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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, April 4, 2002, 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
	Walter Sullivan	Community Development Director
	Judie Fisher	Personnel Manager
	Mark Forsberg	Chief Deputy District Attorney
	Cheryl Adams	Deputy Purchasing Director
	Tom Hoffert	Utilities Operations Manager
	Gayle McCulloch	Employee Benefits Coordinator
	Vince Pirozzi	EMS Battalion Chief
	Robert Shreihans	Fire Captain
	Katherine McLaughlin	Recording Secretary
	Juanita Smith	Office Support Technician
	(B.O.S. 4/4/02 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, INVOCATION AND PLEDGE OF ALLEGIANCE - Mayor Masayko convened the meeting at 8:30 a.m. Roll call was taken. The entire Board was present, constituting a quorum. Rev. Elaine Morgan of the Episcopal Diocese of Nevada gave the Invocation. Mayor Masayko led the Pledge of Allegiance.

CITIZEN COMMENTS (1-0027) - None.

1. APPROVAL OF MINUTES (1-0030) - None.

2. AGENDA MODIFICATIONS (1-0035) - No changes were made to the agenda. Mayor Masayko explained his desire to take a recess between Item 12. C. and 12. D. Item 12. D. was scheduled for 4 p.m.

3. SPECIAL PRESENTATIONS

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A. PRESENTATION OF A PROCLAMATION FOR "TARTAN DAY", APRIL 6, 2002

(1-0098) - Mayor Masayko introduced and welcomed William Glenn, Dr. Robert Bledsaw, and Patricia Puchert. He read the proclamation into the record. Ms. Puchert thanked the Board for the recognition. Similar proclamations are to be issued in all of the communities in the State. The Legislature and Congressional recognition of "Tartan Day" as an Observation Day was described. She also thanked Dr. Bledsaw for playing the Bag Pipes. Mr. Glenn described the Scottish military society's record and explained the attempt to establish a scholarship program. Dr. Bledsaw played the Bag Pipes. Mayor Masayko thanked them for their attendance, the music, and their service to the United States.

B. PRESENTATION OF A PROCLAMATION FOR "COMMUNITY DEVELOPMENT MONTH" (1-0047) - Mayor Masayko introduced the item by noting Community Development's dedication to the community and read the proclamation into the record. He then presented it to Community Development Director Walter Sullivan. Mr. Sullivan thanked Redevelopment Authority and Economic Development Manager Rob Joiner for his CDBG efforts.

4. CONSENT AGENDA (1-0232)

4-1. TREASURER - ACTION TO APPROVE AN INCREASE TO THE TREASURER-DEBT RECOVERY DIVISION PETTY CASH FUND FROM \$200 TO \$300

4-2. DEVELOPMENT SERVICES - CONTRACTS - ACTION TO ACCEPT STAFF'S RECOMMENDATION ON THE CARSON CITY 2002 PRODUCTION WELL INSTALLATION PROJECT, CONTRACT NO. 2001-102 AND AWARD TO (BIDDER NO. 2) HUMBOLDT DRILLING AND PUMP COMPANY, INC., AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO THE REQUIREMENTS OF NRS CHAPTER 332, 338, 339, AND 624 FOR A CONTRACT AMOUNT OF \$426,824.93 AND A CONTINGENCY AMOUNT OF \$65,000

4-3. PURCHASING AND CONTRACTS

A. ACTION TO APPROVE THE AWARD OF CONTRACT NO. 0102-101, SECONDARY CLARIFIER #2 DRIVE REPLACEMENT FOR THE WASTEWATER RECLAMATION PLANT TO WESTECH ENGINEERING, INC., AS THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER PURSUANT TO NRS CHAPTER 332 FOR A TOTAL COST OF \$29,349

B. ACTION TO ADOPT A RESOLUTION AUTHORIZING THE BOARD OF SUPERVISORS TO DETERMINE THAT A 1978 CROWN FIRE TRUCK 37004 VIN 3 F1797C16000 HAS REACHED THE END OF ITS USEFUL LIFE AND IS THEREBY DONATED TO THE FURNACE CREEK VOLUNTEER FIRE DEPARTMENT IN DEATH VALLEY, CALIFORNIA, A GOVERNMENTAL ENTITY

C. ACTION TO APPROVE CONTRACT NO. 0102-114 FOR DEVELOPMENT SERVICES - UTILITIES OPERATIONS TO CONTRACT WITH HYDRO-TECH, INC., BY JOINDER BID THROUGH MINDEN-GARDNERVILLE SANITATION DISTRICT TO PROVIDE SEWER LINE CLEANING AND TELEVISION INSPECTION THROUGH JUNE 30, 2004, PROVIDED THEY HAVE APPROVED FUNDING AND FOLLOW APPROVED CARSON CITY PURCHASING PROCEDURES

4-4. ASSESSOR - ACTION TO REMOVE AND REFUND TAXES ON PARCEL NO. 04-091-01, 04-091-02, AND 04-091-03, LOCATED ON SOUTH ROOP STREET AND ACQUIRED ON JANUARY 23, 2002, BY NEVADA PUBLIC AGENCY INSURANCE POOL, A GOVERNMENTAL

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TAX-EXEMPT ORGANIZATION, FOR THE 2001-2002 TAX YEARS PER NRS 361.768

4-5. FINANCE - ACTION TO RATIFY THE EXPENDITURE APPROVAL LISTING FOR THE MONTH OF MARCH 2002

4-6. PERSONNEL - ACTION TO RENEW MEDICAL, RX, AND VISION PLANS WITH HOMETOWN HEALTH AND TO RENEW DENTAL, LIFE, AND AD&D BENEFITS WITH STANDARD INSURANCE COMPANY - Mayor Masayko recognized the insurance team members who were present. He thanked the team for its efforts to curtail the insurance costs. Resolution No. 2002-R-20 was assigned to the Treasurer's petty cash request and Resolution No. 2002-R-21 was assigned to the request to declare the fire truck surplus and donate it to the Furnace Creek Volunteer Fire Department. Supervisor Plank moved to approve each of the eight items on this morning's Consent Agenda including Resolutions 2002-R-20 and 2002-R-21. Supervisor Livermore seconded the motion. Supervisor Williamson commended the Insurance Team on its efforts to contain the insurance premium costs. Mr. Berkich recognized Insurance Team Member Judie Fisher and explained that this would be her last day as the City's Personnel Manager. Mayor Masayko complimented her on her tenure with the City and her many contributions to the community. He wished her success in her future endeavors. The motion to approve the Consent Agenda was voted and carried 5-0.

5. BOARD OF SUPERVISORS (1-0305)

A. ACTION ON A REQUEST FROM MAXINE NIETZ, REPRESENTING THE CARSON CITY RENDEZVOUS FOR A WAIVER OF FEES AT MILLS PARK ON JUNE 6 TO 10, 2002

- Deferred to the next meeting

B. NON-ACTION ITEMS - INTERNAL COMMUNICATIONS AND ADMINISTRATIVE

MATTERS (1-0320) - Mayor Masayko acknowledged Supervisor Williamson's announcement that she would run for re-election and wished her success. Chief Deputy District Attorney Mark Forsberg introduced new Civil Deputy District Attorney Jason Woodbury. Mayor Masayko welcomed him. Supervisor Williamson reported on her activities including: the Board's budget hearings; reading to Mrs. Adams Third Grade Class at Bordewich-Brey; the Downtown Task Force meeting; Health Smart's retreat; a meeting on the downtown parking lot projects and thanked Tom Metcalf and Mary Walker for their assistance; meetings and contacts on the racetrack; The Children's Museum Doll and Teddy Bear Show including her judging of the Easter hats and the success of this fundraiser; and the Employees of the Year Luncheon. Supervisor Williamson announced the Fun Run scheduled for Saturday. She also explained her announcement to run for re-election. She congratulated and wished Ms. Fisher well in her future activities. She described her knowledge of Ms. Fisher and her efforts on behalf of the community. Mayor Masayko explained that the Employee of the Year Luncheon had included a retirement ceremony for Ms. Fisher. Supervisor Plank reported on his activities including: a tour of the new Nevada Appeal facility with Barry Smith and the new publisher; TRPA meetings; a meeting with Mr. Berkich; an interview by Dave Morgan; reasons for his absence from the Parks and Recreation Commission meeting; the Sertoma Club's Heritage Program and announced the winners; and his work on the next RTC agenda. Discussion indicated the winner of the Sertoma's Service to Mankind Award had not yet been announced. Mayor Masayko reported on his activities including: AT Fremont's Fourth Grade Classes on Authors Day; the budget meetings; the Chamber of Commerce's Transportation Committee meeting where it had been announced that NDOT would be moving forward with its plan to restripe Carson Street to six lanes; the welcoming of the United Kingdom's General Consul from San Francisco and invited anyone who

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is interested in the program to contact himself; Nevada Commission for the Reconstruction of the Nevada Virginia and Truckee Railroad meeting including the Commission and its Foundation's discussion regarding staffing needs and the establishment of a blue ribbon committee to explore the situation and make a recommendation in the future; the City's Employee of the Year luncheon; his National Reading Month participation at the Bordewich-Brey Second Grade class and his networking with the Third Grade class; the Reno, Sparks and Carson City's public service announcement about the need for foster parents and thanked Channel 4 for its participation; Nevada Association of Counties meeting including its legislative package; the Lions' Regional Speakers Contest including an announcement of the winner; and noted the number of messages, meetings and memos which have been received/held on the racetrack. He announced the April 12 NACO Board of Directors meeting and NACO's plan to continue to conduct meetings with the Nevada Legislators. Supervisor Livermore explained his involvement with Dwight Millard and Ron Kipp in the relocation of the box car to Edmonds Park. Its use there was described. Their expertise could be tapped for the relocation of the bridge which the V&T Railroad Commission is considering using to bridge the Overman Pit. He then reported on his activities including: the USGS State Land Use Planning meeting and its discussion on the Southern Nevada Land Management Act, the list of BLM projects (copies of which had been distributed to the Board outside the meeting--none to the Clerk), the failure to obtain funding for the Silver Saddle Ranch, and the reasons some small counties do not want any more open space; the City Employee of the Year Luncheon including Ms. Fisher's recognition and her future plans; Economic Development Committee meeting; Youth Sports Organization meeting and announced the April 13 Little League Opening Day activities; Health Smart's strategic meeting including the recognition given to Kay Bennett who had retired from the Board of Directors; the budget sessions; his Easter activities including the Jaycees Easter Egg Hunt at Governor's Field; and the contact he had received regarding the racetrack. Supervisor Staub explained his knowledge of the court fees. Its base fee has not increased even though there have been mandated supplemental fees added to the base fee. Mayor Masayko expressed his willingness to share this information with the other NACO Board members if Supervisor Staub wished to provide it. Supervisor Staub then reported on his activities including: his reading to the Fourth Grade class at Bordewich-Brey; the budget meetings; the Employee of the Year Luncheon and congratulated the recipients and commended Mr. Berkich on his Master of Ceremonies endeavor; and his personal activities including his involvement with Little League. He announced that the Little League Opening Day will be held on April 9th with the Opening ceremony being held on April 13th. He described the number of teams and games scheduled for Little League this year and the reasons for its schedule. His experience with traffic and the street overlay projects in the community was noted. He had several meetings with different individuals regarding the racetrack. Although he acknowledged the citizens' concerns about the racetrack, he felt that they should have received adequate notice about it before moving to the area. He urged the Board members to tour the facility and described his personal tour of it. (1-1235) Mayor Masayko announced the Lions Club Senior Citizens Center breakfast/brunch scheduled for Saturday, April 13, and invited the public to participate in the fundraiser for Meals on Wheels. Supervisor Staub thanked Kim Riggs and Payless Shoe Source for the successful school shoes program. Mayor Masayko complimented Ms. Riggs on her efforts to help individuals who are less fortunate than herself.

C. STAFF COMMENTS AND STATUS REPORTS (1-1211) - Mr. Berkich explained his granddaughter's excitement at having had the Mayor participate in the Authors Day activities. Mayor Masayko felt that he had autographed approximately 60 books that day, if not more. Mr. Berkich thanked him for taking the time to do it.

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RECESS: A recess was declared at 9:45 a.m. The entire Board was present when Mayor Masayko reconvened the meeting at 10 a.m., constituting a quorum.

6. TREASURER - Al Kramer

A. ACTION TO APPROVE ON FIRST READING - AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 4 - LICENSES AND BUSINESS REGULATIONS AMENDING CHAPTER 4.13 LIQUOR BOARD AND LIQUOR LICENSING AND SALES TO AMEND THE APPLICATION REQUIREMENTS AND OTHER MATTERS PROPERLY RELATED THERETO (1-1265) - Discussion explained that the Code had not been enforced. There are other methods of enforcement if a problem arises. Supervisor Livermore explained his reasons for bringing the matter to the Board's attention. Additional comments were solicited but none given. Supervisor Livermore moved to introduce on first reading Bill No. 113, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 4 - LICENSES AND BUSINESS REGULATIONS AMENDING CHAPTER 4.13 LIQUOR BOARD AND LIQUOR LICENSING AND SALES TO AMEND THE APPLICATION REQUIREMENTS AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Williamson seconded the motion. Motion carried 5-0.

B. ACTION TO APPROVE ON FIRST READING - AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE TITLE 4 LICENSES AND BUSINESS REGULATIONS AMENDING CHAPTER 4.14 GAMING LICENSES AND REGULATIONS TO SPECIFY THE APPEAL PROCESS AND TO ESTABLISH THE DATE BY WHICH AN APPLICANT MUST HAVE AN APPLICATION FOR AN UNRESTRICTED GAMING LICENSE PENDING WITH THE STATE OF NEVADA FOR THE PURPOSE OF QUALIFYING FOR AN EXEMPTION TO THE 100 ROOM REQUIREMENT OF THIS CHAPTER AND OTHER MATTERS PROPERLY RELATED THERETO (1-1340) - Mayor Masayko explained the purpose of the ordinance and disclosed that he had received several telephone calls regarding the ordinance. Section 3 spells out the time line for applying for a State gaming license and when it must be approved. July 1, 2002, is less than six months after adoption of the ordinance. There should be a minimum of between the adoption date and the implementation date. Supervisor Staub indicated that for reasons he had disclosed when the original ordinance had been considered, he would abstain. Mayor Masayko reiterated that the effective date is less than three months away.

Public comments were solicited. Jim Alderson supported the July 1 effective date and thanked the Board for the revisions. Mr. Alderson indicated that he represented Bodines. Mayor Masayko indicated that if Mr. Alderson did not oppose the effective date, he would withdraw his objection. Mayor Masayko requested that the record indicate that Maurey Tresnit from Mo and Sluggo's had also voiced his objection in the Mayor's office to this section but he was not present. Additional comments on this paragraph were solicited but none given.

Mayor Masayko then requested comments regarding Section 4.14.047, the appeals section. Supervisor Williamson explained that this clause is a "meeting of the minds", i.e., Deputy District Attorney Mark Forsberg, Mr. Kramer, Neil Rombardo, and herself. Clarification indicated that everyone had a copy of the amended language. Mr. Kramer felt that this section should be discussed as it may not be necessary to include the language in the ordinance if the intent is understood. Supervisor Williamson explained the attempt to allow

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unrestricted gaming licenses for establishments which have not provided 100 hotel rooms but have provided other amenities which are of value to the community and the use of an equivalency ratio to recognize those amenities. The listing was read to illustrate items which could be provided. Anyone with a current gaming license will be grandfathered. Individuals who, through no fault of their own, cannot get their license through State Gaming within the specified timeframe could ask to have the deadline extended. Mr. Kramer explained this one year deadline. This section allows the applicant to request an extension to that timeframe. Discussion ensued between the Board and Mr. Forsberg regarding Section 4.14.047.2 and whether the criteria should be spelled out. Mayor Masayko felt that Subsections a, b, and c should be clarified so that it is understood that one did not have to comply with all three but that an exemption would be based on Subsections a and b and the equivalency issue is considered under Subsection c. Subsection c is enduring whereas a and b are temporary. He also questioned the type of evidence that would be required for a and b. Mr. Forsberg explained that if the applicant complies with Subsection a, the applicant would be exempt from the remaining items. Subsection b provides flexibility to Subsection a. If you do not make the timetables, Subsection c is the only way to avoid the 100 room requirement. Subsections a and b sunset soon. Subsection c will remain enforce. Mayor Masayko felt that Section .045 should be revised to include Subsection b. Mr. Kramer felt that the 180 day expiration date is also related to Subsections a and b. Mayor Masayko pointed out that some sections mandate notification by certified mail while others merely state a notice. He felt that it should be consistent. Mr. Kramer and Mr. Forsberg acknowledged the inconsistency. Discussion supported the inclusion of the final sentence to 4.14.047.2 requiring the decision by the Board to be in writing and based upon findings of facts. Mr. Forsberg deleted the "or" from line 5 of this paragraph. It now requires notification to be by certified mail. Discussion also pointed out the requirement that the applicant appear at the hearing. The sentence containing this requirement was modified to replace the comma with a period and commence a second sentence with: The Board.... Sections a and b are to have language added referring back to 4.14.045 paragraphs 3 and 4. It was felt that the revisions should be made and the item brought back at the next Board meeting.

Discussion questioned the economic factors which will be used to judge the annual economic benefit equivalent. The intent is to establish measurable standards that people can look to in the future rather than personal likes or dislike for a project. Although the Board has broad discretion in making its decisions, however, the courts do not like to see arbitrary issues included in this process. Therefore, the Board needs to base its decisions on substantial evidence and articulate the reasons for supporting this evidence and the decision. The concern is that the 100 hotel room standard is very specific but the comparables are rather vague. It is possible to bring in 100 tourists, for example, which would be an economic benefit. The Board's discussion should include whether this is adequate to justify the waiver. It was suggested that the comparison be made against capital investments that would be required for a motel in a community which is a tourist attraction item. Mayor Masayko felt certain that affirmative language could be developed along these lines. Supervisor Plank and Mayor Masayko suggested the July 1st deadline be extended to August 1st. Supervisor Livermore suggested that the equitable economic opportunities be broad enough to allow items that have not been thought of today to be considered in the future when times and conditions may be different. This will allow ingenious methods to be considered. Mayor Masayko asked if this would remove the 100 room standard and allow any type of economic or tourist activity to qualify. Supervisor Livermore felt that future Board's should establish the criteria based upon its conditions and times. Flexibility should be provided. Mayor Masayko pointed out the capital requirement of a 100 room motel. Motels do not necessarily draw tourists. Supervisor Williamson explained the original intent had been to control the proliferation of slot arcades. This

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was the reason for the 100 room requirement. Flexibility was also desired. For this reason the window of opportunity was provided for individuals who do not currently hold a gaming license and the economic equivalency had been added to the ordinance. July 1st had been suggested as it was felt to be a reasonable deadline, however, she was willing to accept the August 1st date. She urged the Board to establish a specified date rather than use the original proposal of 180 days after the effective date. A specific date establishes a known deadline. Windows of opportunity had included consideration of a convention center as an equivalent to the 100 room hotel/motel and to provide flexibility. Other standards could be used. She was willing to continue the item and asked if there were any other revisions. She did not wish to continue deferring action on the matter beyond one more time. Suggestions should be submitted to either Mr. Kramer or herself. Supervisor Plank felt that the applicant should be the one to prove that his capital improvements equal the 100 room hotel/motel. Flexibility allows "horse trading" and should be allowed. Mayor Masayko voiced his concern about having a regulatory agency establish the level of investment for the community. There may be unique ideas presented in the future which cannot be defined today. The economic benefit of a 100 room hotel and the cost of those 100 rooms will be difficult to determine in the future. Flexibility should be provided. Supervisor Livermore pointed out that a majority of the Board had supported the original ordinance as written and was willing to accept the flexibility if it can be provided in the next draft. Mayor Masayko reiterated the Board's intent to defer action on the ordinance at this time. Public comments were solicited.

(1-2101) Carson City Gaming Association representative Steve Bilyeu indicated the Association's support for the revisions. It was felt that their misgivings regarding Paragraph 2c would be addressed in the appeal process. The Board had discussed their issues, i.e., the limits, equivalents, reasons and comparisons, specifically, those in Paragraph C. The need for a measurement of the equivalency is based on the concern that in five to ten years when there is a new Board and different gaming applicants, there is a clear understanding of the equivalency measurement. The Association volunteered to assist in making the revisions as discussed.

Additional public comments were solicited but none were given. Supervisor Williamson moved to defer consideration of the ordinance and amendments to the Board's next regular meeting and directed staff on Sections 2(3) to change the effective date to August 1, 2002, and under 4.14.047 appeals under paragraph 2 to make the necessary change to Line 5 to remove "or", on Line 6 to put in a paragraph and capitalize "The Board...". Following a request for an amendment, Supervisor Williamson corrected the word "paragraph" to be to put in a "period" and capitalize "The Board..." and to put a colon after the last sentence which read "findings of facts:", Paragraphs a and b should reference Paragraphs 3 and 4 of Section 2; and for the Board of Supervisors, legal staff and the Treasurer to have some discussions about equivalency and flexibility in terms of determining what it is equal to 100 hotel rooms. Supervisor Plank seconded the motion. Clarification indicated that the 180 day extension on the first page, last line was not to be changed. The time referenced in this sentence is already running. Public comments were again solicited but none given. Mayor Masayko indicated that he would vote for the motion due to the ability to revise the ordinance in the future. The motion was then voted and carried 4-0-1 with Supervisor Staub abstaining.

7. CARSON CITY AIRPORT AUTHORITY - Legal Counsel Steve Tackes - ACTION TO APPROVE THE LEASE BETWEEN CRICKET NEVADA PROPERTY COMPANY ON BEHALF OF CRICKET COMMUNICATIONS, CARSON CITY AIRPORT AUTHORITY, AND CARSON CITY REGARDING PLACEMENT OF CELLULAR TELEPHONE ANTENNA, EQUIPMENT, AND EQUIPMENT BUILDING ON THE CARSON CITY AIRPORT (1-2232) - A third lease will be

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presented in the future for another antenna. The proposed lease is for \$800 per month. The antenna will be located on the tower in such a fashion as to not impact either AT&T or the airport's equipment. Mayor Masayko disclosed his involvement with the AT&T lease. Supervisor Plank moved that the Board of Supervisors approve the Antenna Tower Collocation and Land Lease between Cricket Nevada Property Company, Carson City Airport Authority and Carson City as approved by the Airport Authority on January 2, 2002; fiscal impact is that it generates \$9600 annually for airport operations. Supervisor Staub seconded the motion. Motion carried 5-0.

8. FINANCE - Director David Heath - ACTION TO APPROVE CONTRACT NO. 0102-068 - A REQUEST FOR PROFESSIONAL SERVICES TO BE PROVIDED BY HOBBS, ONG AND ASSOCIATES, INC., FOR THE WATER AND SEWER RATE STUDY THROUGH DECEMBER 31, 2002 FOR A COST OF \$45,000 PLUS \$4,000 FOR EXPENSES AND AUTHORIZE PURCHASING AND CONTRACTS TO ISSUE AMENDMENTS TO THE CONTRACT UP TO \$11,000 FOR A NOT TO EXCEED TOTAL COST OF \$60,000 (1-2301) - Mr. Heath highlighted the Committee's work on the utility rates and reasons for recommending a new study be conducted. The study will be conducted by John Bono. His local experience was limited. Mayor Masayko noted for the record that the Utility Rate Study Advisory Committee, its mission and charter had been reviewed and approved by the Board. He felt it is the appropriate time to bring forward a contract for an expert. Mr. Heath explained the time line for the study. Mayor Masayko asked that the users and the Board not be given rate shock at the last minute. He suggested the information be made available in the middle of the process. Supervisor Plank moved to approve Contract No. 0102-068, a request for professional services to be provided by Hobbs, Ong, and Associates, Inc., for the water and sewer rate study through December 31, 2002, for a cost of \$45,000 plus \$4,000 for expenses and authorize Purchasing and Contracts to issue amendments to the contract up to \$11,000 for a not to exceed total cost of \$60,000; the fiscal impact is \$60,000 and the funding source is \$30,000 from Sewer Professional Services 510-3201-434 and \$30,000 from Water Professional Services 520-3501-435 as provided in fiscal year 0102. Supervisors Williamson and Livermore seconded the motion. Motion carried 5-0.

9. DEVELOPMENT SERVICES - ENGINEERING - Senior Engineer John Givlin

A. ACTION ON DEDICATION OF A PUBLIC UTILITY EASEMENT (PUE) FROM WESTERN NEVADA COMMUNITY COLLEGE (WNCC) FOR THE OPERATION AND MAINTENANCE OF PUBLIC SEWER AND WATER FACILITIES ON THE WNCC CAMPUS, ON APNS 07-091-82 AND 83, CONSISTING OF A STRIP OF LAND CONTAINING APPROXIMATELY 45,956 SQUARE FEET (1-2423) - Mr. Givlin's introduction included Senior Engineering Tech Kathy Streeter and WNCC Representative Dr. Helanie Jesse. Discussion explained that the easements are overlaid and located in the same areas as the original street dedications with the exception of a portion around the library on the northwest side. Mayor Masayko apologized to Dr. Jesse for the failure to have this item, the following item and the road abandonment item scheduled for this afternoon tied together. He also indicated that it would not be necessary for her to attend the afternoon session. Mayor Masayko indicated for the record that the parking lot and circulation routes within the College allow an individual to reach College Parkway West and Murphy Drive. Mr. Givlin agreed that this will be possible when the campus is completely built out. Supervisor Williamson moved to accept the dedication of a public utility easement, PUE, from Western Nevada Community College for the operation and maintenance of public sewer and water lines across the WNCC campus on APNs 07-091-82 and 83, consisting of a strip of land containing approximately 45,956

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square feet as described and shown on the attached documents. Supervisor Plank seconded the motion. Motion carried 5-0.

B. ACTION ON THE DEDICATION OF STREET RIGHT-OF-WAY FROM WESTERN NEVADA COMMUNITY COLLEGE (WNCC) FOR A CUL-DE-SAC BULB AND MODERN ROUNDABOUT AT THE WESTERLY TERMINUS OF COLLEGE PARKWAY WITHIN THE WNCC CAMPUS, CONSISTING OF TWO SEPARATE FILLETS OF LAND; ONE CONTAINING APPROXIMATELY 2,415 SQUARE FEET (APN 07-091-82) AND THE OTHER CONTAINING APPROXIMATELY 2,030 SQUARE FEET (APN 07-091-83) (1-2567) - Discussion ensued concerning the use of the term "roundabout" rather than "cul-de-sac". Additional right-of-way was required for the "bulb". It will allow access to the balance of the campus. It terminates College Parkway. The City will maintain the right-of-way on both sides of the campus. The ingress/egress route was limned. Carson City is to develop the "bulb". The Board will consider storm drainage agreements in the future. Mayor Masayko explained that the 1:30 p.m. item technically abandons the portion of the right-of-way crossing the campus. Supervisor Williamson moved to accept dedication of street right-of-way from Western Nevada Community College for a cul-de-sac bulb and modern roundabout at the westerly terminus of College Parkway within the WNCC campus, consisting of two separate fillets of land; one containing approximately 2,415 square feet, APN 07-091-82, and the other containing approximately 2,030 square feet, APN 07-091-83, as described and shown on the attached document. Supervisor Plank seconded the motion. Supervisor Williamson complimented the College on its improvements. Motion carried 5-0.

10. BOARD OF SUPERVISORS - CONTINUATION OF NON-ACTION ITEMS (1-2785) - Mayor Masayko reiterated that Dr. Jesse was not required to attend the afternoon session.

RECESS: A recess was declared at 11:08 a.m. The entire Board was present when Mayor Masayko reconvened the meeting at 1:30 p.m., constituting a quorum.

11. CLERK-RECORDER - Alan Glover - ACTION TO APPOINT MEMBERS TO THE FUJI PARK BALLOT QUESTION COMMITTEE (1-2700) - Mr. Glover explained that non-residents can be appointed to the committees. The Open Meeting Law prohibits two members from discussing the item. Two of the applicants are family members who reside in the same household. He indicated his intent to call on Mr. Berkich if the committees need technical assistance. Mayor Masayko welcomed the applicants and thanked them for attending the meeting and submitting their applications. He also indicated that individuals who were not able to attend the meeting would be considered on the merits of their applications. The interview process was described. He thanked the applicants for their interest in working on the ballot question. The following applicants were interviewed: (1-2860) Susan Hoffman; (1-2957) Karl Neathammer; (1-3020) John Wagner; (1-3070) Jon Nowlin; (1-3120) Michael Hoffman; (1-3184) Patrick Anderson; (1-3264) Melissa Dyer-Cobb; and (1-3325) Wayne Pedlar. Board comments indicated that some of the applicants had incorrectly marked their applications to indicate support for or against the ballot question and had written statements in direct opposition to that designation. The following applicants were not present: John Utt; Michael Burgoon; Charles Kuhn; Jeanne Yapple; Jack Anderson; Dyonne Modarelli and Glen Martel. Ms. Dyer-Cobb's application was missing from the Board's packet. Copies were made and distributed to the Board. (A copy is in the file.) The Board questioned Mr. Anderson and Ms. Dyer-Cobb's applications due to the confusion over which side they wished to represent. The round-robin selection process was used by the Board to choose the following

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applicants for appointment: Wayne Pedlar; Jon Nowlin; Karl Neathammer; Michael Hoffman; John Utt and Jeanne Yapple. Supervisor Livermore moved to appoint in favor of the ballot question: John Utt, Karl Neathammer, and Wayne Pedlar; and in opposition to the ballot question: Jeanne Yapple; Jon Nowlin; and Michael Hoffman. Supervisor Williamson seconded the motion, thanked all of the applicants for applying, and urged the applicants to participate in the process. Mayor Masayko thanked Patrick Anderson for the clarity of his thoughts on his application and urged him to participate. Supervisor Plank thanked the applicants for volunteering to serve, noted the timeframe for completion of the arguments and rebuttals, wished them success in this endeavor, and encouraged the individuals who were not appointed to participate in the process. The motion to appoint the six individuals as listed was voted and carried 5-0.

Mr. Glover explained his intent to notify the appointees and thanked all of the applicants for applying. Mayor Masayko thanked Mr. Glover for developing the application and the process. Discussion indicated that the lawsuit which had been filed may force both the initiative ballot question and the Board's ballot question to be placed on the ballot. The initiative ballot question may require a committee to develop the arguments for and against that question. A final decision regarding the need to establish this committee will be made after the court issues its opinion. No formal action was taken on this topic.

RECESS: A recess was declared at 2:10 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 2:25 p.m., constituting a quorum.

12. COMMUNITY DEVELOPMENT - Director Walter Sullivan

A. ACTION TO APPROVE A REQUEST FROM RICHARD WIPFLI (PROPERTY OWNERS: WIPFLI FAMILY TRUST AND G. AND R. KILTY), TO ABANDON A PORTION OF THE RIGHT-OF-WAY OF EAST SPEAR STREET AND A PORTION OF ANDERSON STREET (APPROXIMATELY SEVEN FEET WIDE BY 198 FEET LONG) ON PROPERTY ZONED GENERAL OFFICE (G0), ADJACENT TO APN 004-231-04 (FILE NO. AB-01/02-6) (2-0095) - Associate Planner Jennifer Pruitt, Chief Deputy District Attorney Mark Forsberg - Discussion ensued regarding the Board's concern about abandonment of right-of-way within the original 160-acre townsite. Mr. Sullivan indicated that his office will be researching this question. He was not sure whether the location is within the tract. Mayor Masayko asked that future requests clearly indicate whether the location is in or outside the tract.

Mr. Forsberg explained the Board's policy to require the applicant to prove that the property had been dedicated originally. The Board could approve the abandonment conditioned upon the townsite/or compensation issue being resolved and final resolution of the lawsuit. One of the conditions of approval includes the steps which must be followed if the property is not in the original townsite or had not been dedicated to the City. Discussion also explained that if there is a public benefit to abandoning the property, the property could be abandoned at no cost if the benefit is equal to the value. Mayor Masayko directed staff to tighten the requirements to include a title report in the documents. Discussion explained that the right-of-way is needed to comply with the setback requirements. The agreements with the Ormsby House and Carson Station were sited to illustrate how an agreement could be developed that would allow the developer to move forward with his/her project while waiting for the final court ruling on ownership of parcels within the original townsite. The applicant was not present. It was felt that he was out of the country at this time. When he returns, he will research the ownership question. It was purported that he had agreed with staff to pay for the property if it was not dedicated. Public comments were solicited but none given. Supervisor Plank moved to

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conditionally approve, based on the location of the described property for abandonment being in or outside of the townsite, a request from Richard Wipfli; property owners: Wipfli Family Trust and G. and R. Kilty; to abandon a portion of the right-of-way of East Spear Street and a portion of Anderson Street, approximately seven feet wide by 198 feet long, on property zoned General Office, GO, adjacent to Assessor's Parcel Number 004-231-04, File No. AB-01/02-6, and to require the steps to set a value for reimbursement to the City for the abandonment of this abandoned street property if the property was not dedicated for the street from the described property which could include a financial reimbursement or a value of some public purpose of equal value to the City. Supervisor Williamson seconded the motion. Motion carried 5-0. Mayor Masayko requested that the record indicate that the Community Development Department will put the applicants on notice regarding the need for a chain of title in the future before the Board will proceed.

B. ACTION TO APPROVE A REQUEST FROM MAX HERSHENOW (PROPERTY OWNER: BOARD OF REGENTS - UNIVERSITY OF NEVADA, RENO) TO ABANDON A PREVIOUSLY DEDICATED RIGHT-OF-WAY LOCATED ALONG THE NORTHERN PROPERTY LINE OF 2201 WEST COLLEGE PARKWAY (APPROXIMATELY 60 FEET WIDE BY 870 FEET LONG (52,385 SQUARE FEET), A PORTION OF APN 007-091-82, ON PROPERTY ZONED PUBLIC IN CARSON CITY, NEVADA, PURSUANT TO THE REQUIREMENTS OF THE CARSON CITY MUNICIPAL CODE (FILE NO. AB-01/02-1) (2-0336) - Associate Planner Jennifer Pruitt
- The property is located outside the original townsite and was dedicated in 1993. Mayor Masayko noted the two actions which had been taken earlier regarding this area and requested that the record indicate that it is possible to access, as provided in the WNCC Master Plan, Murphy Drive and West College Parkway through the College parking lots and on the campus roads. Supervisor Williamson moved to approve a request from Max Hershenow, property owner: Board of Regents - University of Nevada, Reno, to abandon a previously dedicated right-of-way located along the northern property line of 2201 West College Parkway, approximately 60 feet wide by 870 feet long, 52,385 square feet, a portion of APN 007-091-82, on property zoned Public in Carson City, Nevada, pursuant to the requirements of the Carson City Municipal Code, based on seven findings and subject to four conditions of approval as contained in the staff report, File No. AB-01/02-1. Supervisor Plank seconded the motion. Motion carried 5-0.

C. ACTION TO AUTHORIZE THE MAYOR TO SIGN AN AMENDED INTERLOCAL AGREEMENT WITH THE WESTERN NEVADA HOME CONSORTIUM, WHICH AMENDS AND SUPERSEDES THE PREVIOUS INTERLOCAL AGREEMENT BY AND BETWEEN THE COUNTIES OF CHURCHILL, DOUGLAS, LYON, MINERAL, PERSHING, AND STOREY; THE CONSOLIDATED CITY/COUNTY OF CARSON CITY; AND THE CITIES OF FALLON, FERNLEY, LOVELOCK, AND YERINGTON, ALL POLITICAL SUBDIVISIONS OF THE STATE OF NEVADA, HEREINAFTER REFERRED TO AS "COUNTY" OR "COUNTIES", "CITY" OR "CITIES" (2-0410) - Mr. Sullivan's introduction included WNDD and WNHD Executive Director Marylou Bentley. Ms. Bentley reviewed the revisions to the agreement—the addition of Fernley and the establishment of the agreement's term as being fiscal years 2003, 2004, and 2005. In three years HUD will require another amendment to the contract to carry the agreement forward another three years. Mayor Masayko read the amendment into the record. Supervisor Williamson explained the research which had been conducted on what would happen if the City pulled out of the consortium. The City's participation provides justification for the consortium to operate. She recommended that the City remain in the consortium until the City's entitlement status is established. Mayor Masayko questioned whether becoming an MPO would provide any entitlements

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to the City. He also supported the City's continued participation in the interim.

Ms. Bentley then reported on the Consortium's activities during the last three years including the funding which had been processed, the amount spent in Carson City, the number of individuals/families who had been helped including those who were Carson City residents, the regional down payment program, the funds provided to Carson City's first time home buyers program, the rehabilitation of an owner occupied housing, and the funding for Dayton and South Lake Tahoe apartments. Carson City's continuation was appreciation. Its population is integral to the ongoing status of the program. Carson City's withdrawal will negatively impact the other Counties and their ability to provide affordable housing in their areas. Mayor Masayko supported her comments. Mr. Sullivan commended Ms. Bentley and her staff on their successful takeover of the assistance program. If interest rates increase in the future, the programs may become even more important. Funds are returned to WNHD when the homes are refinanced. These funds are reinvested. Ms. Bentley explained that this is done at no cost to the membership. The administrative fees are assessed for administrating the funds at a rate of eight percent. The WNDD dues have not been increased due to the program. Clarification indicated that she would receive \$519,000 from HUD and ten percent of an administration fee on other HUD funds which raised the total anticipated revenue to \$870,000. Lyon County is paid a small fee for being the lead agency. Mayor Masayko thanked her for her report. Comments were solicited but none were given.

Supervisor Plank explained that Supervisor Williamson is the City's representative on the Board. Mr. Sullivan indicated that a resolution is not required to approve the agreement. Supervisor Plank moved to authorize the Mayor to sign an Amended Interlocal Agreement with the Western Nevada HOME Consortium, which amends and supersedes the previous Interlocal Agreement by and between the Counties of Churchill, Douglas, Lyon, Mineral, Pershing, and Storey, a consolidated city/county of Carson City, and the Cities of Fallon, Fernley, Lovelock, and Yerington, all political subdivisions of the State of Nevada, hereinafter referred to as "county" or "counties", "city" or "cities". Supervisor Williamson seconded the motion. Motion carried 5-0.

RECESS: A recess was declared at 2:55 p.m. The entire Board was present when Mayor Masayko reconvened the meeting at 4 p.m., constituting a quorum.

D. ACTION REGARDING THREE (3) APPEALS OF THE PLANNING COMMISSION'S DECISION TO APPROVE A SPECIAL USE PERMIT APPLICATION FROM GLEN MARTEL (PROPERTY OWNER: BURTON FAMILY HOLDING), ACCEPTING ON-TRACK AUTOMOBILE RACING (INCLUDING GO-CARTS) AND TESTING (INCLUDING FILMING) OF VARIOUS CLASSES AND TYPES OF VEHICLES, LIMITED DRIVER TRAINING/ORIENTATION AND MOTORCYCLE (MOTO-CROSS) RACING (INCLUDING FOUR WHEEL ATV'S) AS EXISTING LEGAL NON-CONFORMING USES, AND APPROVING THE USE OF A COMMERCIAL OFFICE COACH AS AN EXPANSION OF A LEGAL NONCONFORMING USE ON PROPERTY ZONED MOBILE HOME ONE ACRE (MH1A), LOCATED AT 1200 RACE TRACK ROAD, APN 009-311-03 (FILE NO. U-01/02-18) (2-0666) - Mayor Masayko explained the protocol to be followed during the meeting and the purpose of the session. Only those issues raised during the Planning Commission meetings should be discussed. The packet was displayed to show that there is quite a case record. New facts will be returned to the Commission. The Board's options were noted. Three hours had been allocated for this purpose. A recess may be taken at 6:30 p.m.

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Mr. Sullivan introduced the item and reiterated the options which the Board had. There were approximately 450 pages of information in the Board's packet. The video tape of the Commission's meeting had also been given to the Board. He then reviewed the synopsis which was included in the packet. He reiterated the Board's ability to return the item to the Commission if new information is presented.

Senior Planner Lee Plemel reviewed the staff report including the Code provisions which allow the applicant to continue the legal nonconforming uses, the Code provisions allowing expansion of the nonconforming uses, the wide range of court decisions regarding the continuation of legal nonconforming uses, and the Board's need to determine that the Commission had made an error in its decision to overturn the Commission's decision. Mayor Masayko acknowledged that the applicant was present and that he supports the Commission's decision.

Glen Martel indicated he represented Champion Speedway and concurred with the Commission's findings. It had been an in depth discussion. Mayor Masayko indicated that there were 16 conditions of approval and that one indicated that there will be a one year review of the special use permit for the commercial motor coach. Mr. Martel agreed. He also indicated that the property owner and the track operator had signed the conditions of approval.

The three appellants were: the Allens, Mr. Kugler, and the Schulz family. Kate Schulz explained her representation of the John R. Schulz estate which fronts Center Drive and contains more than 34 acres. She distributed to the Board and Clerk a packet of information. (A copy is in the file.) She protested the expansion of uses which had not been abandoned before Barney Peterson took over the operation. Her prepared statement was read into the record. (A copy is contained in her packet.) Motocross activities were felt to have been abandoned between the date when Mr. Peterson acquired the facility in 1982 and 1986. Her synopsis of her research of the activities at the racetrack and of the documentation presented by Mr. Martel were limned. Mr. Martel's documentation purportedly supported her contention that no motocross activities occurred during the 1982-1986 timeframe. Testimonials presented 20 years after the fact cannot be independently verified and should be rejected. Mr. Kynett did not have a special use permit during his operation of the racetrack. Unpermitted activities should not be allowed nor grandfathered. Relocation of the go-carts from Fuji Park to the racetrack is an example of an illegal expansion of activities. The condition requiring monitoring of the noise decibel level by the racetrack should not be allowed as the Commission lacked thoughtful deliberation or knowledge of the proposal. The racetrack creates environmental, health and safety issues by taking City and State water and the lack of adequate sanitation facilities. It also creates social, law enforcement and traffic issues and impacts the assessed valuation of the surrounding area. The Schulz lands were homesteaded in 1872, long before the racetrack was developed. The residents of the Cavallero Acres development were aware of the racetrack but did not envision that the City would fail to enforce the zoning ordinances. In 1987 they had attempted to file a subdivision map for the area. Staff had indicated that they would deny the application even though thousands had been paid for engineering costs and in application fees. The subdivision remains in a deferred status. Only stock car racing can be proven to have existed at the racetrack. Motorcycle racing was abandoned between 1982 and 1986. If the Board approves the expansion of uses by denying the appeal, she asked a sunset condition be added closing the facility in 2007. The continued use of the racetrack will destroy the property values south of Clear Creek. She asked that the City help the racetrack find a new location and transfer the grandfathered and historic uses to that site.

Mayor Masayko thanked her for her spread sheet. He then indicated for the record that statements had been

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given by individuals alleging that they had participated in stock car or motocross activities at the facility for a specified number of years. Ms. Schulz explained that Page 10 of the spread sheets included the testimonials detailing when motocross had purportedly occurred at the racetrack. Her review of the documents which Mr. Plemel had provided was explained. This information had been used to determine the type of event which had occurred and to identify it accordingly on the spread sheet. She reiterated her contention that during Mr. Peterson's operation of the racetrack there had not been any references in the Nevada Appeal articles regarding motocross operations. The computerized program that she had used to sort the data was described. Clarification by Ms. Schulz indicated that she had included Mr. Don Schulz' appeal information with her appeal.

(1-1256) Jeff Schulz used the parcel map Ms. Schulz had provided to indicate the 20-acre parcel he owned. He felt that it was a critical issue. Once grandfathered rights are issued, they cannot be removed. The issues must be addressed accurately and fairly. There is a great deal of land in the area that could be zoned for minimal density in the City's best interest. It could provide additional revenue. He had talked with Mr. Sullivan earlier regarding the appeal. Mr. Sullivan had purportedly suggested that the appeals be consolidated and duplication of paperwork eliminated. They were attempting to keep the presentations short and to the point.

Don Schulz explained his work with Mr. Berkich, Mr. Sullivan, Mr. Bawden, and Mr. Martel. As time goes on, the property becomes usable for other things. He had suggested that the racetrack use BLM property adjacent to the landfill. Mr. Sullivan purportedly had found a location that would be suitable for relocation of the track. The economic advantage to the relocation would be the ability to build 944 homes in that vicinity. This would provide a substantial amount of revenue for the General Fund. If the City does not move quickly, it will continue to lose to Douglas County as it had with the Walmart decision. He urged the Board to consider the tax revenue and to limit the special use permit. It is not a grandfathered right. Mayor Masayko explained that he had granted Mr. Schulz latitude in his remarks, however, they were off the topic. He then noted that there are other individuals who had signed petitions for Jeff and Ray Schulz. He invited them to testify if they wish.

Ms. Schulz explained that David and Rosalee Dieter were in Oregon and could not attend. They were allegedly concerned about the noise and dust. These issues had been discussed at the Commission hearing. Mayor Masayko again asked if any of the individuals who signed Jeff and Ray Schulz' petition wished to speak. No one came forward.

(1-1396) Bill Kugler was represented by his attorney, John Griffin. Mr. Kugler purportedly owns property in the vicinity and is a partner with Gene Lepire. They own 30+ acres individually and collectively. He did not feel that it is a special use permit. The Planning Commission should have made factual findings as to what is a grandfathered right and what the uses were in 1978. If it was not abandoned, then it would be grandfathered. The Commission, however, had dealt with the matter as if it was a request for a special use permit. Mayor Masayko reminded Mr. Griffin that he had told Mr. Schulz that his comments were just slightly beyond the issue which was agenzized. Mr. Griffin felt that the District Attorney's office had taken a position that the Planning Commission's decision was "legally tenuous" based on the factual findings that had been made regarding the grandfathered rights. He suggested that the Board not follow the same process. He agreed that the court cases were "all over the board" as indicated by Mr. Plemel. He urged the Board to consider

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CCMC 18.05.072 which prohibits the expansion of nonconforming uses without a special use permit. Examples of the expansion of uses included the driver training from 12 to 5 Monday through Friday which the applicant indicated there is no evidence supporting when or how often this use had occurred. He urged the Board to find that the use should be occasional and not five days a week. Clarification indicated that driver's training is different from driver's practice. The difference in skill levels is between a new driver who needs training and an experienced driver who needs practice. New drivers have borrowed a friend's car for the training. It has purportedly been occurring since 1998 on a schedule of Monday through Friday from 12 to 5. He then used a 1979 calendar to challenge the racing period which he felt was from May 5 to October 14 with no activities on Sunday. The Commission had allowed it to occur from April 1 to October 31. The motocross calendar for 1979 was from May 20 to September 30 without any Saturday events. The Commission allowed motocross from March 1 to October 31. This is an expansion of the activities. A 1978 photograph of the track and a map show that an interior track did not exist. Construction is underway at this time on an interior racetrack. The go-carts from Fuji Park should not be allowed to use this area. A special use permit should be required for this use. He urged the Board to return the items to the Commission for factual findings. Only these expanded uses should be removed.

Discussion between Mayor Masayko and Mr. Sullivan explained the acceptance of testimonials to cover the period from 1982 to 1985 for the motocross activities. No one had been sworn in. A person's word was accepted as this is not a court of law. Considerable discussion had occurred between Deputy District Attorney Neil Rombardo and Commissioner Wayne Pedlar regarding the amount of evidence required to be considered significant/preponderance of the evidence and the type of information that could be used for that determination. If the Commission found that 51 percent of the evidence is on one side and 49 percent is on the other, the decision could be made to support the 51 percent. The conditions do not separate driver's training from driver's practice. The staff had suggested that driver's practice occur two days a week from 3 to 5 p.m. It is not a condition of approval.

Mr. Martel explained that Condition 16 relates to driver training and orientation. It would be misleading to use the term "driver's school". They do not advertise for students. An individual borrows a friend's car and does laps. There is class orientation on the line and braking with three or four drivers. This includes side-by-side racing. This is allowed due to safety concerns related to having inexperienced drivers racing. Driver's practice occurs at the same time. Practice tests the vehicles after repairs have been made when it has been involved in a racing accident. Mr. Martel indicated for the record that no practice would be allowed outside the stipulated hours for the driver training/orientation. Practice is also held on race days during the operational hours. The track is required to staff the training/orientation sessions due to insurance requirements. Therefore, the practice sessions must be scheduled and a fee paid for the staffing.

Discussion between Mayor Masayko and Mr. Sullivan also pointed out that the economy, weather, attendance, etc., will dictate the number of races and timing. Normal progression has expanded the number of races and times from that originally experienced in 1979. Mr. Plemel explained that staff's decision that if racing occurred at the track, albeit only one time in a year, that racing had occurred and that its use should be continued. Restriction to only the number of days that had been used every year may be a disincentive. The go-cart racing was felt to be part of the overall racing activities. Staff had supported the applicant as it is a similar activity and not an expanded use.

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(2-1954) Mr. Martel explained discussion with staff had indicated a standard that if it occurred once during the year, it was deemed to have existed. Documents had been submitted indicating that Saturday and Sunday auto racing had occurred. This established a two-day event. In 1974 they had Saturday, Wednesday, and Sunday racing with speciality racing including go-carts, bed races, three-wheeled speciality vehicles, etc. This established that go-carts had been there in 1974. In 1977 there was a jalopy race in the center of the race track. This established the use in the center of the track before 1978. In 1974 motocross was there from April through October with two-day events for a minibike. The quads and three wheelers were felt to be an extension of the minibikes.

Mr. Sullivan referenced the February 27 Minutes on Page 3 regarding a discussion with District Attorney Rombardo spelling out the legal parameters for considering the evidence and the number of races held during a season. Mayor Masayko pointed out that Nevada is a property rights state which means that the burden is on the appellants who want to limit the property uses. He also indicated his intent to restrict public comments to an additional 20 minutes. Additional public comments were then requested.

Tom Shelton explained that he had been involved with the racetrack since 1969. He was the President of the Racing Association for many years. A lot of the information which had been furnished on the racing activities had been his. He did not testify at the Commission meeting. Go-carts had originally been called "street carts". They had been raced there. Many years ago stock cars had been called "hard tops". There are not any new divisions being raced there. The names have changed over the years but the activities have remained the same. There had been a center track on two different occasions. One was a quarter track which was there in the 70s. It had a similar type of race cars as are being run there now. Later they raced mini-street cars, also known as mini-sprint cars, on it. These divisions were dissolved.

Mr. Don Schulz explained that the go-carts that came from Fuji Park were known as outlaw carts. They are a separate class of carts. They have motorcycle engines. They are not the sprint cars which Mr. Shelton was discussing. He then referenced his appeal and his comments regarding practices for the motocross. He felt that the Commission had erred when they allowed two practices per week. Staff's language had been two practices in conjunction with a scheduled race at the facility. He also felt that the ATVs are not the same. Quads are a big item right now with their own schedule of events. He felt that this was an expansion of the activities.

Kathy Saebourne, Treasurer for the Outlaw Carts, explained that the carts are open wheeled racing vehicles similar to the sprint cars. They are raced on open dirt as well as asphalt.

Carter Schleicher asked that the race track not be allowed to police itself due to its failure to comply with its dust abatement program as indicated by alleged State EPA citations. The Board should establish a standard and have it monitored by an expert. Mayor Masayko read Condition 6 into the record regarding this issue. He felt that the racetrack is well aware of the dust control plan and its requirements. Mr. Schleicher expanded on his request emphasizing the need for the City to have an expert monitor the Board established standard.

Kate Schulz explained the Lake Tahoe standard for jet skis which had recently been implemented and urged the Board to set a new standard for Carson City. The racetrack has a negative impact on the valley south of Clear Creek which needs to be recognized. Mayor Masayko pointed out Supervisor Plank's involvement with the TRPA and his understanding of those issues. Public comments were again solicited but none given. Mayor

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Masayko closed public comments.

Discussion between Mayor Masayko and Mr. Plemel explained the Commission's discussion and decision regarding motocross practice. Stipulation 9 allows motocross practice to occur two days a week between 4 and 8 p.m. This was a three-hour extension of the practice times. Mr. Sullivan explained staff's recommendation that the practices be restricted to the week during which an event is to be held. The testimony and the Commission's decision had been to allow the practices without consideration of an event.

Supervisor Staub disclosed that he had worked at the racetrack when he was 16. He had a long history with the racetrack and had taken a recent tour of the facility. There have been improvements but not a lot of changes since he worked there in 1967. He empathized with the residents who live around the track. Champion Speedway is a business and all business interests need to be successful. In order to be successful, evolution must occur. His involvement with the residents and direction to staff to attempt to find a resolution to the problems was described. He thanked staff for these efforts. Staff had provided all of the pros and cons involved with the topic to the Board as evidenced by the large packet of information received by the Board. In keeping with the Board's disclosure policy, he disclosed that he had represented Landmark Homes which is a corporation owned by Jim Bawden. He had discussed this relationship with the Deputy District Attorney Mark Forsberg. He must, therefore, in keeping with the Board's policy abstain from voting on this issue. Mayor Masayko indicated that he had discussed this with Supervisor Staub. He understood his reasons for his abstention. The Board is elected to make the decisions and set the policies. The Board must move forward and make a decision.

RECESS: A recess was taken at 5:28 p.m. The entire Board was present at 5:35 p.m. when Mayor Masayko reconvened the meeting, constituting a quorum.

Mayor Masayko expressed his empathy and concern for the residents living in the vicinity of the racetrack, specifically, related to the previous operators' methods of operation. They had not operated it in a fashion which he would have like to have seen. The Board, unfortunately, could not address those items this evening. Examples of these problems included the clientele's driving patterns, the dust, the after hour parties, the litter, the watering, etc. He apologized for the aggravation and frustration they had encountered. A business operator and property owner has the right to continue to do business as long as they maintain a continuity and follow the rules and regulations even if they are in a nonconforming zone. This is where the dilemma and balance are found. He gave Mr. Bawden and his group credit for coming forward and going through the process to develop clear definitions and terms and condition as to what is expected to occur, when, and who is involved so that the residents will have reasonable notice of the activities/events and use of the facility. Since October, there has been a continuing effort to improve the relationship with the neighbors. He acknowledged that the relationship with the neighbors had changed as the operators changed. He expected the current operator, Mr. Bawden, to comply with the conditions and to work with the neighbors. They will be back in July to discuss the operation including the start and stop times of the race and their attempts to get the fans to leave the facility and area. He urged the operator to make the fans aware of the impact that they are having on the residents and to encourage them to exit quietly and quickly with respect for the privacy and rights of the adjacent residents. This is a conflict situation created by the different adjacent uses. The conflict can be reduced by good business practices and public relations. He believed that the applicant and Mr. Bawden were committed to this effort. The meetings had provided an airing of the problems during which they had made voluntary stipulations to

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address those items. They had sacrificed some of their rights under the grandfathered clause to do so in an attempt to be reasonable and provide methods by which staff could understand and control the activities. He did not wish to see a noise standard in the community but the applicant had accepted one that will allow a standard for measurement. The community is growing. As this growth occurs, residences are being built in areas that have traditionally been used for other purposes. Disturbances have occurred. The racetrack needs to exist and to be allowed to continue to exercise its grandfathered rights. It will impact the neighbors but this comes with the territory. The speeding and loud parties are nontraditional activities which occur when several thousand fans get together. We should control this activity.

Supervisor Livermore noted the environmental changes which had occurred in the area since it was originally homesteaded by John R. Schulz. It frightened him to hear the desire to put 900 homes on 100 acres. The little valley has changed through evolution as the community has grown. The single family one acre ranchettes that are abundant in the area have not indicated a concern with this density. A comparison of this density was indicated as being the Sky Ranch Subdivision. This is a future vision for the area. The grandfathered rights should commence with the original owner in 1958 who started all types of racing in 1960s. If it had an engine, it was raced there. The Commission's decision limited the racing activities. Private property rights are also involved here. He had received numerous telephone calls and had visited the area several times. There are one or two residences on Saddlehorn who have elevated porches so that they can watch the races. Everyone has his/her own view of the activities and how they fit into Carson City's lifestyle. Some people want the use to sunset and/or be relocated to another area. There is a potential for that to happen in the future. Discussion is considering relocation but he was not certain who will pay for it. He appreciated the investment the Schulz family has in the area as well as that which Mr. Bawden has made in the track operation. He was unsure how they should be put together but hoped that it will be sorted out over time and relief will be provided. He looked forward to the July Commission discussion and how the operation is functioning with the conditions which have been applied. This is the beginning of a new program. There are other conflicts in the area caused by commercial development, the prison facilities, and State activities. This includes the State's pistol and rifle ranges. It is not an easy solution but one that will take time to evolve. He wanted to wait and watch the operation. He looked forward to the July Commission decision.

Supervisor Plank disclosed that his service club had a concession at the racetrack during the 1970s. He had recently toured the racetrack. At one time the attendance had been only 400 people. His memory of races at the facility indicated it had been packed, was smelly, and dirty. He was willing to go forward with the Commission's plan and see how it goes for this season. His visit of the facility impressed him to the point that he could not imagine it being as disturbing as it had been 25 to 30 years ago.

Supervisor Williamson complimented several young members of the audience on their patience and attention. She had visited the site. It was larger than she had thought it would be. She also thought the discussion would be different. This is a question of development and land use that should be resolved by the property owners. The City should facilitate those discussions. Once the property owners have determined the uses, the Board can validate/facilitate the use. The "Not In My Back Yard" concerns may be the result of the reduced amount of land that is available. Mr. Sullivan should be contacted if failure to comply with the conditions occurs. The City should install speed limit signs on Race Track Road. She would vote to deny the appeals and encourage all of the property owners to work together.

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Mayor Masayko expressed his desire for the record to be clear regarding the issues which he had considered. He had been concerned about the appellant issues and the reasons for the Commission's decisions. He had satisfied himself regarding the driver training issue. It had been there historically and is tied to the practice. There are motorcycle practices outside of those hours. He believed that the track existed and had been there every year since 1978 with varying uses including automobiles and motorcycles. The go-carts are an extension of the automobiles. The Quads and other motorcycles are an extension of motorcycle racing. The filming and Hodge's use has been there for some time. It is like a restaurant that is in the middle of a housing development for which it is not zoned. The hours fluctuate with the business demand. The menu is changed according to the demand and marketing. Over time they may have replaced the tables and redone the interior but it was always a restaurant. When it was nonconforming, it was only open two or three hours a day. It is a private property right that indicates this is a racetrack and the uses were demonstrated and grandfathered. They are legitimate and should be allowed to continue. The special use permit hearings place clear definition on the uses and activities which are to occur. The operational parameters are there. We are not sneaking in things. It will allow the surrounding residents to understand what is there and what will happen there now and in the future. He acknowledged that a special planning area is being developed on some of the parcels. The racetrack and those uses are sensible for the people developing it and the buyers who purchase in that area. Restrictions will be there. This is an improvement as it will allow for enforcement. Traffic control should be included. The budget session was just completed. The Sheriff is the chief law enforcement officer in Carson City. The Board allocates the funds which provides his staff. We expect the same level of traffic enforcement on all public streets. Champion Speedway operators need to control the guests who are there. There should be enough security guards, trained guards, to make sure that the spectators are controlled and safe. Those who are not in control should be handled. This will give us a better product than we have had in the past. He had received a number of complaints which were felt to be outside the normal operating hours or were a failure to adhere to the conditions including people breaking the traffic laws and failure to conduct themselves in a reasonable manner. Those items are contained in the permit and the conditions. The community will be better off as a result of having them. Unless there are other reasons to deny or change the Commission's recommendation, the Board should move forward with it. If the conditions are not adhered to, the issue will be back. Additional comments were solicited but none given.

Supervisor Plank pointed out that safety is the responsibility of the operator and they can control who is allowed in and who is not. His experience with a rogue pilot was explained to illustrate the Airport Authority's inability to control such activities. This season's results will prove whether the decision was correct.

Supervisor Plank then moved to deny the three appeals and uphold the Planning Commission's decision to approve a special use permit application from Glen Martel, property owner: Burton Family Holding, accepting on-track automobile racing, including go-carts, and testing, including filming, of various classes and types of vehicles, limited driver training/orientation and motorcycle, motocross, racing, including four wheel ATV's, as an existing legal nonconforming uses and approving the use of a commercial office coach as an expansion of a legal nonconforming use on property zoned Mobile Home One Acre located at 1200 Race Track Road, Assessor's Parcel Number 009-311-03, based on the findings as contained in the staff report and subject to the conditions of approval and stipulations as contained in the Notice of Decision dated February 27, 2002, File No. U-01/02-18; no fiscal impact, and thanked the Commission for its hard work. Supervisor Williamson seconded the motion. Mayor Masayko noted the three appeal areas and the 16 conditions of approval related to the grandfather conditions at the Champion Speedway. He also stated for the record that Supervisor Staub

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would be abstaining from the vote. The motion was voted and carried 4-0-1 with Supervisor Staub abstaining as indicated. Mayor Masayko thanked the audience for attending and working through the process.

There being no other matters for consideration, Supervisor Livermore moved to adjourn. Supervisor Williamson seconded the motion. Motion carried unanimously. Mayor Masayko adjourned the meeting at 6:06 p.m.

The Minutes of the April 4, 2002, Carson City Board of Supervisors meeting

ARE SO APPROVED ON July 18, 2002.

/s/

Ray Masayko, Mayor

ATTEST:

/s/

Alan Glover, Clerk-Recorder