

**City of Carson City  
Agenda Report**

**Date Submitted:** December 9, 2014

**Agenda Date Requested:** December 18, 2014  
**Time Requested:** 20 minutes

**To:** Mayor and Supervisors

**From:** Community Development

**Subject Title:** Presentation and discussion only to provide an update on the schedule and process to work with downtown property owners to establish a Commercial Area Vitalization District to help pay for the cost of maintenance of the Downtown Carson Street project. (Lee Plemel)

**Staff Summary:** The Downtown Carson Street project includes streetscape improvements to Carson Street from Fifth Street to William Street. The Board of Supervisors previously directed staff to include the establishment of a Commercial Area Vitalization (CAV) District in the project, by which the cost of ongoing sidewalk and landscaping maintenance would be offset by property owner assessments. The purpose of this item is to provide information to the Board regarding the legal process of establishing a CAV District and an update on the schedule for establishing the District.

**Type of Action Requested:**

Resolution

Formal Action/Motion

Ordinance

Other (No Action)

**Does This Action Require a Business Impact Statement:**  Yes  No

**Recommended Board Action:** (No action required.)

**Explanation for Recommended Board Action:** The purpose of this item is to provide information to the Board regarding the legal process for establishing a CAV District and an update on the schedule for establishing the District.

A CAV District may be initiated by action of the Board of Supervisors or by petition from the property owners within the proposed District. The downtown Carson Street property owners intend to initiate the CAV District by petition. Following is a summary of the petition process to implement a CAV District.

- Property owners submit petition to initiate a CAV District. The petition must be signed by owners of property constituting at least one-half of the property valuation within the proposed District.
- At least 20 days before a public hearing regarding the petition is conducted by the Board of Supervisors, notice of the public hearing must be published in the newspaper and sent to each property owner and each tenant who owns a business within the proposed District.

- The Board of Supervisors conducts a public hearing regarding the proposed District. The Board adopts an ordinance to create the District.

Attached is a memo prepared by former City Manager Larry Werner providing more detail on the requirements to implement a CAV District. Staff anticipates that the petition from the property owners will be submitted in January, which would then be acted upon by the Board in February or March.

The Board of Supervisors adopted the Plan of Expenditure for the proposed projects, including the Downtown Carson Street project, on April 17, 2014, and adopted the ordinance imposing the one-eighth percent sales tax on May 1, 2014, to pay for the projects within the Plan. The sales tax proceeds may only be used on those projects identified in the Plan of Expenditure. The Board approved the Downtown Carson Street design concept on November 6, 2014. A Request for Proposals from the Public Works Department is currently out to establish a design team for final project design, which is scheduled to occur through most of 2015 with construction in 2016.

Following is the Downtown Carson Street project description from the adopted Plan of Expenditure:

***Downtown Carson Street***

*The downtown corridor segment would be developed generally in accordance with the Downtown Envision Plan prepared in 2006 and extend along the corridor from Fifth Street to William Street, which could include reducing Carson Street to one through lane in each direction, adding bikes lanes, and adding a turn lane at intersections. The parallel parking originally proposed would be significantly reduced in scope and generally limited to handicap parking and loading, which would reduce traffic conflicts and allow for better traffic flow. As a result, wider sidewalks would be constructed allowing business access to the area for outside seating for cafes, displays, and public events. Another component of the downtown project would include improvements to Curry Street from Musser to Washington and include improved parking, improved pedestrian access, street furniture such as benches, themed lighting, and directional signage.*

**Applicable Statute, Code, Policy, Rule or Regulation:** NRS 271.

**Fiscal Impact:** TBD.

**Explanation of Impact:** The CAV District is intended to offset any additional sidewalk and landscaping maintenance costs that would be incurred by the City as a result of the Carson Street improvements. It is preliminarily estimated that the CAV District will raise approximately \$50,000 annually.

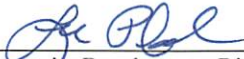
**Funding Source:** CAV District property owner assessment.

**Alternatives:** N/A

**Supporting Material:**

- 1) Memo from Larry Werner regarding CAV District formation, dated February 15, 2012
- 2) Draft proposed CAV District description from downtown property owners

**Prepared By:** Lee Plemel, Community Development Director

**Reviewed By:**  Date: 12-9-14  
(Community Development Director)  
Marena Wink Date: 12-9-14  
(City Manager)  
Joseph L. Wood Date: 12/9/14  
(District Attorney's Office)  
Michael Smith Date: 12/9/14  
(Finance Director)

**Board Action Taken:**

Motion: \_\_\_\_\_ 1) \_\_\_\_\_ Aye/Nay  
2) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
(Vote Recorded By)

# MEMORANDUM

**TO:** Supervisor Abowd  
Supervisor Walt

**FROM:** Lawrence A. Werner, P.E., P.L.S.  
City Manager

**DATE:** February 15, 2012

**SUBJECT:** General procedure for Commercial Area Vitalization District

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The following is a summary of the requirements of NRS Chapter 271 – Local Improvement which guides the formation and operation of a Commercial Area Vitalization District (similar to a Business Improvement District). I have tried to incorporate all the requirements in an order that leads to the formation of a district. I have excluded the Provisional Order process except where referred to by the Petition Process. There may be additional steps that need to be incorporated into the process as we get into the details but, hopefully, I’ve included the majority of the NRS requirements.

## **Procedure for Commercial Area Vitalization District.**

A Commercial Area Vitalization Project is defined as a project for the beautification and improvement of the public portions of any area zoned primarily for business or commercial purposes, including, without limitation:

- (a) Public restrooms;
- (b) Facilities for outdoor lighting and heating;
- (c) Decorations;
- (d) Fountains;
- (e) Landscaping;
- (f) Facilities or equipment, or both, to enhance protection of persons and property within the improvement district;
- (g) Ramps, sidewalks and plazas; and
- (h) Rehabilitation or removal of existing structures; and

the improvement of an area zoned primarily for business or commercial purposes by providing promotional activities which is defined as promotion of public events that benefit business or real property in the improvement district; providing music in any public place within the improvement district; promotion of tourism within the improvement district, marketing and economic development, including the recruitment and retention of retail business; providing services related to security, sanitation, the removal of graffiti, the

cleaning of streets and sidewalks and providing other municipal services that are supplemental to those typically provided by the municipality, and any other activity that benefits businesses and real property located in the improvement district.

The process for creating a Commercial Area Vitalization District (CAVD) starts with a petition signed by owners of tracts constituting at least one-half of the basis used for computation of assessments for acquiring or improving a commercial area vitalization project. A petition for acquiring or improving a commercial area vitalization project must be accompanied by a plan describing proposed improvements, proposed management plan and a proposed assessment plat when submitted to the Board of Supervisors (Board).

Upon the filing of a petition for the acquisition or improvement of a commercial area vitalization project, the Board shall hold a public hearing on the petition. At least 20 days before the public hearing, the Board shall:

(a) Mail notice of the hearing to each owner of real property within the proposed improvement district and to each tenant who resides or owns a business located within the proposed improvement district; and

(b) Publish notice of the hearing in a newspaper of general circulation in the municipality, describing the purpose and general location of the proposed improvement district, and the date, time and place of the proposed public hearing.

Notice must be sent by mail to each person who owns real property which is located within the proposed improvement district and to each tenant who resides or owns a business located within the proposed improvement district.

A person who owns or resides within a tract in the proposed improvement district and which is used exclusively for residential purposes may file a protest to inclusion in the assessment plat; and if written remonstrance by the owners of tracts constituting one-third or more of the basis for the computation of assessments for the commercial area vitalization project are presented to the Board, the Board shall not proceed with the commercial area vitalization project

At the public hearing, any owner of real property or tenant who resides or owns a business located within the proposed district for a commercial area vitalization project may present, orally or in writing, the reasons why he or she believes that:

(a) The petition does not contain a sufficient number of qualified signatures; or

(b) The finding required by the subsection below cannot reasonably be made with respect to any part of the proposed improvement district.

After consideration of any objections made at the hearing, and of any other information reasonably known to it, the Board must, as a condition precedent to the initiation of the procedure for acquiring or improving a commercial area vitalization project, find that the public interest will benefit by the provision of the proposed improvements within that part of the municipality. In making this determination, the Board shall consider the differences it finds between the municipality as a whole and the territory within and adjacent to the proposed improvement district.

After the hearing and after the Board has disposed of all complaints, protests and objections, oral and in writing; determined that it is not prevented from proceeding; and determined that there were not filed with the clerk complaints, protests and objections in writing and signed by the owners of tracts constituting a majority of the frontage, of the area, of the zone, or of the other basis for the computation of assessments stated in the notice, of the tracts to be assessed in the improvement district or in the assessment unit, if any, and the Board has jurisdiction to proceed, the Board shall determine whether to proceed with the improvement district, and with each assessment unit, if any.

When an accurate estimate of cost, full and detailed plans and specifications and map are prepared, are presented and are satisfactory to the Board, it shall, by resolution, make a determination that public convenience and necessity require the creation of the district; and the creation of the district is economically sound and feasible. This determination may be made part of the ordinance creating the district and is conclusive in the absence of fraud or gross abuse of discretion.

The Board may, by ordinance, create the district and order the proposed project to be acquired or improved. This ordinance may be adopted and amended as if an emergency existed.

The ordinance must prescribe the extent of the improvement district to be assessed, by boundaries or other brief description, and similarly of each assessment unit therein, if any. The kind and location of each project proposed, without mentioning minor details. The amount or proportion of the total cost to be defrayed by assessments, the method of levying assessments, the number of installments and the times in which the costs assessed will be payable.

Upon adoption or amendment of the ordinance, the Board shall cause to be recorded in the office of the city recorder a certified copy of a list of the tracts to be assessed and the amount of maximum benefits estimated to be assessed against each tract in the assessment area, as shown on the assessment plat as revised and approved by the Board. Neither the failure to record the list as provided in this subsection nor any defect or omission in the list regarding any parcel or parcels to be included within the district affects the validity of any assessment, the lien for the payment thereof or the priority of that lien. The Board may not adopt an ordinance creating or modifying the boundaries of an improvement district for a commercial area vitalization project if the boundaries of the improvement district overlap an existing improvement district created for a commercial area vitalization project.

The Board in forming an improvement district for a commercial area vitalization project may contract with a nonprofit association to provide the improvements that are specified in the plans for the commercial area vitalization project. If creation of the commercial improvement district was initiated by petition, the Board shall contract for that purpose with the association named in the plan for management of the improvement district.

An association with which the Board contracts may, at any time, request that the Board modify a plan or plat with regard to the commercial area vitalization project. Upon the written request of the association, the Board may modify the plan or plat by ordinance after holding a hearing on the proposed modification. If the proposed modification of a plat expands the territory for assessment, a person who owns or resides within a tract which is located within the territory proposed to be added to the improvement district and which is used exclusively for residential purposes may file a protest at any time before the Board modifies the plat by ordinance. A petition is not required for a modification made pursuant to this section.

An association with which the Board contracts must be a private nonprofit corporation and must be identified in the plan for management of the improvement district. The association shall maintain liability insurance covering its activities.

The contract between the Board and the association is a contract for professional services and is not subject to the limitations of subsection 1 of NRS 354.626. The terms of the contract may extend beyond the terms of office of members of the Board; and for the time necessary to cover the life of improvements and to fulfill financial commitments for equipment, services and related undertakings.

The association does not become a political subdivision, local government, public body, governmental agency or entity, establishment of the government, public corporation or quasi-public corporation for any purpose solely on the basis of a contract entered into with the Board.

A contract executed pursuant to this section must ensure that the type and level of services provided by the City at the time of the creation of the improvement district continue after the improvement district is formed. A contract must specify the approvals required for expenditures and provide for internal controls adequate to protect the assets of the improvement district. The contract must provide for audits of the association by the Board at the discretion of the Board. If an audit finds a misuse of money or any fraud in the activities of the association, the Board may take control of any assets of the association related to the improvement district.

On or before June 30 of each year after the Board acquires or improves a commercial area vitalization project, the Board shall prepare or cause to be prepared an estimate of the expenditures required in the ensuing fiscal year and a proposed assessment roll assessing an amount not greater than the estimated cost against the benefited property. The assessment must be computed according to frontage or another uniform and quantifiable basis.

The Board shall hold a public hearing upon the estimate of expenditures and the proposed assessment roll. The assessment may not exceed the amount stated in the proposed assessment roll unless a new hearing is held after notice is mailed and published in the manner provided below.

After the public hearing, the Board shall confirm the assessments, as specified in the proposed assessment roll or as modified, and levy the assessment. An improvement district created for a commercial area vitalization project is not entitled to any distribution from the local government tax distribution account.

Notice must be given and the hearing conducted in the following manner. Upon receiving the assessment roll, the Board, by resolution, shall: fix a time and place when and where complaints, protests and objections made in writing or verbally concerning the assessment roll, by the owner of any tract or any person interested, will be heard and order the City Clerk to give notice of the hearing. The City Clerk shall give notice by publication and by registered or certified mail of the time and place of the hearing. The notice must state that the assessment roll is on file in the office of the clerk; the date of filing the assessment roll, the time and place when and where the Board will hear all complaints, protests and objections made in writing or verbally to the assessment roll or to the proposed assessments, that if a person objects to the assessment roll or to the proposed assessments: the person is entitled to be represented by counsel at the hearing; any evidence the person desires to present on these issues must be presented at the hearing; and evidence on these issues that is not presented at the hearing may not thereafter be presented in an action brought pursuant to NRS 271.395. Any complaint, protest or objection to the regularity, validity and correctness of the assessment roll, of each assessment, and of the amount of the assessment levied on each tract must be filed in writing with the clerk of the municipality at least 3 days before the assessment hearing.

**Initial process to get started.**

- Group of business owners identify the area(s) that should be included in the CAVD, define the type of service, promotion or improvement that should be addressed and who will develop and manage the district. Maps are available.
- Retain or form Management entity.
- Estimated costs are developed.
- Potential assessed properties and businesses are identified.
- Method of assessment is defined.
- Petition is prepared with all of the elements defined and included.
- Petition is submitted to the Board of Supervisors.

City staff will help where we can in the initiation of the District. Once the petition is filed with the Board then the process is handed over to the City for actual creation, based on the data contained in the petition.

CC:

Mayor and Board of Supervisors  
Chief Civil Deputy District Attorney  
Public Works Director  
Planning Director  
Finance Director



The sole purpose of the contemplated Downtown Commercial Vitalization District (the “**District**”) will be to self-assess its members in an amount equal to the City’s increased maintenance costs for our redesigned downtown. Under no circumstances will any portion of the assessment be used to cover expenses previously paid, or undertakings previously borne, by the City. To the contrary, the assessment will: (1) be annually paid by the District’s property owners as part of their respective ad valorem tax; (2) total no more than \$50,000 in year one,<sup>1</sup> as pro-rated among the District’s property owners as set forth below; and (3) increase by a CPI-indexed amount (which shall never be more than 5% on a year-over-year basis).

The District would be administered by a Nevada non-profit corporation that is run by a three-person board of directors and represented by a single corporate officer who is appointed annually by the board to a one-year term. No board member or officer would be entitled to receive compensation for serving in those capacities, and the corporation’s permissible overhead would be prohibited from exceeding 1% of the previous year’s total assessment.

The District will include all real property that fronts Carson Street from Williams to Fifth — so long as it is zoned and classified for a use other than exclusively residential (collectively, the “**125%-assessed Members**”). The District will also include all real property that fronts any east-west street or avenue that runs off of Carson to Curry or Stewart (e.g., Proctor and Telegraph) (collectively, the “**East-West Streets**”). The owners of properties that front an East-West Street west of Plaza are referred to herein as the “**100%-assessed Members**”, and the owners of properties that front an East-West Street east of Plaza are referred to herein as the “**75%-assessed Members**”. The Carson City Government would be assessed, and pay the assessments for, all publicly owned properties within the District.

All assessments and Member voting shall be in the proportion that the square footage of a Member’s intra-District building(s) bear(s) to the total square footage for all buildings within the District, as increased by 25% for each 125%-assessed Member and reduced by 25% for each 75%-assessed Member. Square footage will be determined based upon the Carson City Assessor’s Records.

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<sup>1</sup> The Year One Assessment will be equal to the actual cost of the increased maintenance, if any, and shall not under any circumstances exceed \$50,000. In Year One and all subsequent years, the City will be required to document the alleged increased maintenance costs by spreadsheet and corroborating documentation.