

## CARSON CITY AUDIT COMMITTEE

### Minutes of the April 22, 2014 Meeting

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A regular meeting of the Carson City Audit Committee was scheduled for 8:30 a.m. on Tuesday, April 22, 2014 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Chairperson Michael Bertrand  
Vice Chairperson William Prowse  
Member John Bullis  
Member John McKenna

**STAFF:** Marena Works, Interim City Manager  
Nickolas Providenti, Finance Department Director  
Randal Munn, Chief Deputy District Attorney  
Kathleen King, Deputy Clerk / Recording Secretary

**NOTE:** A recording of these proceedings, the committee's agenda materials, and any written comments or documentation provided to the recording secretary, during the meeting, are part of the public record. These materials are available for review, in the Clerk's Office, during regular business hours.

**1 - 2. CALL TO ORDER AND ROLL CALL (8:30:25)** - Chairperson Bertrand called the meeting to order at 8:30 a.m. Roll was called; a quorum was present. Member Sanada was absent.

**3. PUBLIC COMMENTS AND DISCUSSION (8:30:42)** - Chairperson Bertrand entertained public comment. (8:31:28) In reference to the Fraud, Waste, and Abuse Program, Ward 4 Supervisor Jim Shirk advised of having "lived through this experience," and expressed the opinion "there's a down side to everything and there's an up side to everything." He advised of having been contacted in January "that [he] made 2,000 copies on one day; then [he] made another 2,000 copies on a City ... copy machine and then ... a couple days later, I made not 2,000, not 4,000, not 10,000, but 17,000 copies." He advised that the "experience ... was not pleasant." He expressed the opinion that the process was not good and "there are a lot of things that need to be worked out and how it's handled." He expressed the further opinion that "the program itself could probably be beneficial to the City but, in the early stages, ... we need to step back, take a look at this." He expressed the opinion that "making 17,000 copies in a day and being investigated for that, although it may be warranted because you have to investigate everything, ... it was wrong." He reiterated the need for re-evaluation of the program. He stated that "through the whole process, you're accused of something and, then you're found I guess, for the ... sake of argument, not guilty, but you can't get any letter saying that you're free of this; that there is no mistake. ... Here you are, you're free and clear, you're exonerated. There's nothing forthcoming. That's it. You won't hear anything. So you're accused of something, you have to go through the process, but you're not given the letter saying you've done nothing wrong." He reiterated the need to evaluate the process. He "commend[ed] the staff who run this program. They were pleasant. They were always there when I contacted them. They never gave me a hard time." He "condemn[ed] the process because ... the kinks [have not] been worked out." Chairperson Bertrand offered to modify the agenda to address items 8 and 9 prior to item 6; however, Supervisor Shirk declined. Supervisor Shirk expressed the opinion that his "testimony today should be evaluated and put into perspective and put that into how we do this in the forward motion ..." Chairperson Bertrand entertained additional public comment; however, none was forthcoming.

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**4. POSSIBLE ACTION ON APPROVAL OF MINUTES - February 11, 2014 (8:35:32) -** Chairperson Bertrand entertained a motion. **Vice Chairperson Prowse moved to approve the minutes. Member McKenna seconded the motion. Motion carried 4-0.**

**5. POSSIBLE ACTION TO ADOPT THE AGENDA (10:08:55) -** Chairperson Bertrand modified the agenda to combine items 8 and 9.

**6. PRESENTATION, DISCUSSION, AND POSSIBLE ACTION TO DIRECT STAFF REGARDING THE DRAFT AGREED UPON PROCEDURES (“AUP”) REPORT ON INTERNAL CONTROLS FROM THE CARSON CITY PUBLIC GUARDIAN, AS PREPARED BY KAFOURY, ARMSTRONG & CO., AS OF AND FOR THE YEAR ENDING JUNE 30, 2013 (8:36:08) -** Chairperson Bertrand introduced and provided background information on this item. Ms. Works provided additional background information, and Chairperson Bertrand entertained questions or comments of the committee members.

When no questions or comments were forthcoming, Chairperson Bertrand invited Attorney Laura Miles to the podium. (8:40:08) Attorney Laura Miles expressed the opinion that a “misinterpretation” had occurred. She explained that “the petty cash funds are not City funds. They are donated funds for use for the public guardian's wards. They are not, in any way, accountable to the City. They are accountable to the court. All funds managed by the public guardian ... are not City funds. They are the property of the individual wards. The public guardian, under NRS 159, is mandated to file accountings with the court. The court has to approve all accountings on all cases for each individual ward. And, in the past 15-plus years ... there has not been any problem with any of the accountings provided to the judges ... All fees paid to the public guardian's office, under NRS 253, are approved by the court. The court has full oversight of all of the funds in the public guardian's office. The fees that are paid to the public guardian are paid to the county and, once the county receives those funds, then those are the only funds coming out of the public guardian's office which are county funds. As far as the accounts, the public guardian is the only signer on any of the wards' accounts. The accounts are not in the City's name. They are in individual wards' names. The individual wards are the ones who pay taxes on those accounts. The individual ward's social security number is the tax ID number on those accounts. The only person who can withdraw funds from those accounts is the public guardian. The staffers in her office do have access to the Quickbooks on the computer and to reports which they do post in the computer for her, but they cannot withdraw any funds out of those accounts. ... And the problems that Ms. Works referred to with guardians, if you looked into that fact, the problem with the public guardians has never been mismanagement of funds. It is private fiduciaries who have mismanaged funds who have had court cases against them. The public guardians in this State, because they are county employees, because they are accountable to the court for every penny that comes through their offices, we have not had any problems with the public guardians in this State as to the management of the wards' funds.” Ms. Miles reiterated “those funds are not City funds and the public guardian does have to account for all of those funds to the court on a regular basis.”

In response to a question, Ms. Miles advised that the public guardian provides the judges “with a complete accounting showing the printout of all the accounts, the registers, as well as what each fund is spent for, how much income, ... and the five judges ... in the past 15-plus years have had no problems with it.”

(8:43:53) Public Guardian Deborah Marzoline added that her office is “also overseen by the federal government. We have to do a report on all funds from RSDI, SSI that we get for each client yearly. So,

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I have to send them something saying how much we've spent on medical, rent, food, clothing, how much we've saved for them.” She acknowledged that she and her staff are employees of the City.

In response to a further question, Ms. Miles explained that “NRS 253 is the statute that creates the public guardian's offices throughout the State and it is up to the county commissioners in each county to appoint a public guardian. They are county employees, though the county commissioners also have the option of contracting with a private fiduciary to be the public guardian. In that case, they are not county employees. But still, all funds handled by the office, ... are reportable to the court in each individual case.” In response to a further question, Ms. Marzoline advised that she is bonded and “responsible for anything that ... goes on in my office.” In response to a further question, Ms. Marzoline advised that the auditors reviewed 10 to 15 random files. In response to a comment, she reviewed the staff positions in the Public Guardian's office. Following discussion, Ms. Miles advised that she and Ms. Marzoline have been working, over the past two years, to develop a new Public Guardian Manual.

In response to a question, Ms. Works provided additional background information on the agreed-upon procedures (“AUP”) report. She acknowledged that the cost for developing the agreed-upon procedures report will be covered by the City. In response to a question, Mr. Munn advised that “there are individuals that have duties over which there should be some oversight.” In response to a further question, he advised that there is no supervisor over the Public Guardian “other than a public body which is always problematic. Because of that, ... the City Manager has tried, over the years, to have some type of oversight to see ... what's going on over there.” Ms. Works discussed her research into other city charters relative to the public guardian's office. Extensive discussion followed.

At Chairperson Bertrand's invitation, Kafoury, Armstrong & Co. Engagement Shareholder Dan Carter advised of having issued an engagement letter with a not-to-exceed amount of \$10,000. He estimated that the work to date has amounted to approximately \$2,000 or \$3,000. He explained that the committee may need to be added as a “user” of the independent accountant's report. He expressed the opinion that the committee seems to have “a good understanding of the way this has all played out.” He advised of “some minor discrepancies; most of which could be explained while we were out there.” He expressed the opinion that the “primary concern is just the documentation of internal controls and segregation of duties.” Mr. Carter, Ms. Marzoline, and Ms. Miles responded to questions of clarification.

Chairperson Bertrand commended City staff for looking into this matter, and suggested following up on the issues discussed at this meeting. Following discussion, Chairperson Bertrand summarized the consensus of the committee as being “supportive of your taking a look at these issues, getting this taken care of, working with the public guardian.” He expressed a preference to “see controls and systems in place so no matter who is in that position, ... there's oversight and there's controls. Otherwise, ... you do open up to potential fraud or sometimes just errors or things of that nature and we have no way of being able to check on that.” He thanked Mr. Carter for his work, and Vice Chairperson Prowse thanked City management for looking into the matter.

**7. DISCUSSION AND POSSIBLE ACTION REGARDING THE PRESENTATION, DISCUSSION, AND POSSIBLE RECOMMENDATIONS TO THE BOARD OF SUPERVISORS ON THE PERFORMANCE METRICS DEVELOPMENT FINAL REPORT, AS PROVIDED BY MOSS-ADAMS, LLP (9:14:47)** - Chairperson Bertrand introduced this item, and Moss-Adams, LLP Policy and Program Director Mark Steranka introduced Colleen Rosillas and provided background

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information on development of the subject report. Ms. Rosillas narrated a PowerPoint presentation of the Performance Framework, copies of which were included in the agenda materials. Ms. Rosillas, Mr. Steranka, and Mr. Providenti responded to questions of clarification, and discussion ensued, throughout the presentation.

Chairperson Bertrand thanked Mr. Steranka and Ms. Rosillas for their presentation, and entertained a motion. **Member McKenna moved to forward to the Board of Supervisors the presentation, discussion, and recommendations of the performance metrics development final report, as provided by Moss-Adams, LLP. Vice Chairperson Prowse seconded the motion.** In response to a question, Member McKenna explained the intent of his motion. In response to a comment, Mr. Steranka advised that the performance metrics development report is submitted in final form. He explained that the report “is a living document; that information, as it becomes available, will continue to be developed. ... the intent is for this report to become an information tool ... for the City. So, as that information is developed, as goals are developed, they will be added to this framework that the City's using. And the framework will continue to evolve over time.” Following discussion, Chairperson Bertrand entertained additional questions. When no further questions were forthcoming, he called for a vote on the pending motion.

<b>RESULT:</b>	<b>Approved [3 - 1]</b>
<b>MOVER:</b>	<b>Member John McKenna</b>
<b>SECOND:</b>	<b>Vice Chair Bill Prowse</b>
<b>AYES:</b>	<b>Member McKenna, Vice Chair Prowse, Chair Bertrand</b>
<b>NAYS:</b>	<b>Member John Bullis</b>
<b>ABSENT:</b>	<b>Member Mary Sanada</b>
<b>ABSTAIN:</b>	<b>None</b>

**8. DISCUSSION AND POSSIBLE ACTION REGARDING PRESENTATION, DISCUSSION, AND POSSIBLE RECOMMENDATIONS TO THE BOARD OF SUPERVISORS ON THE FRAUD, WASTE, AND ABUSE (“FWA”) PROGRAM FINAL REPORT, AS PROVIDED BY MOSS-ADAMS, LLP; and 9. DISCUSSION REGARDING AN UPDATE ON THE FRAUD, WASTE, AND ABUSE (“FWA”) PROGRAM ACTIVITY (10:01:10)** - Chairperson Bertrand introduced this item. Moss-Adams, LLP Policy and Program Director Mark Steranka provided background information on, and an overview of, the subject report, copies of which were included in the agenda materials. Vice Chairperson Prowse discussed the importance of confidentiality relative to the fraud, waste, and abuse program process. He noted “one of the major goals of a fraud, waste, and abuse policy ... to ... develop and maintain public confidence in the City's management.” He acknowledged the likelihood of awkwardness associated with any investigation, but expressed the opinion that “this process has had good benefits in terms of helping citizens be comfortable with the way the City operates and gives the citizens and individuals an outlet to try to identify and resolve problem areas.” Member McKenna disagreed with “any expectation of confidentiality” in consideration of the records of the City being public. He expressed the further opinion that there are as many citizens who believe the fraud, waste, and abuse program is “a waste of money” as there are who believe it beneficial.

In response to a question, Mr. Steranka described the program as “relatively new,” and advised that “there are two steps remaining in the current program that will still happen before the end of the fiscal year. One is to do web-based training for employees ... to build additional awareness and understanding by employees.

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... And then, whatever the City decides to do in terms of more public announcement awareness of this.” Mr. Steranka was uncertain as to the anticipated volume of calls to the fraud, waste, and abuse hotline.

Chairperson Bertrand modified the agenda to combine items 8 and 9. Following a brief discussion, Member McKenna suggested giving the fraud, waste, and abuse program “three years, five years ... and see if it works out; see if there's a need there. Tweaking it every six months ... is [not] worthwhile. It's one of those programs that has to be put into place.” In response to a question, Mr. Steranka advised that “as we go through this process, confidentiality is paramount both to the person making the report and the ... subject or subjects of the report. That is incredibly important.” He assured the committee that “confidentiality has been preserved through this process. You're going to have, in essence, two primary outcomes. You're going to have an outcome of which there is no substantiated issue. And so it's kind of reported, investigated, closed. Or you're going to have a situation where there is substance to it and it can be at various levels. It can be criminal. It can be civil. It can be ... waste or abuse. And if there is the latter case, then we're going to have details to report back to you because I would expect that there will be, in essence, ... findings or recommendations.” Mr. Steranka reviewed the report included with the agenda materials for item 9, and advised that the report was provided to the committee to “close the loop.” In reference to previous comments, he suggested the report is a public document. “... if the recipient of this wants to connect the dots, then they can, but we're purposely not putting details in this because there isn't a finding that we're reporting back to you that something needs to be done about it.” Discussion followed, and Mr. Steranka suggested that, upon request, the complainant or the person being complained against could receive whatever is prepared publicly for the committee. He emphasized “they're not going to get a separate letter from Moss-Adams saying, 'We absolve you ...' or anything like that. They're going to get what we've delivered to the City.” Additional discussion followed, and Mr. Steranka assured the committee members that “the person on the receiving end is made very well aware in a very timely manner, not only as we're progressing through the investigation, of the status, but as soon as we've made a conclusion, they're aware of it. So, even though, they have not received something in writing yet,” he assured the committee, “they knew what our conclusion was. Verbally, they were made aware in a timely fashion.”

In response to a question, Member McKenna cautioned to ensure that “rules for employees” are followed; “notification, due process, and definitely confidentiality there because they have confidentiality under NRS. Now, public officers, citizens,” Member McKenna expressed the hope that “everybody realizes that until all the facts are in, it's not a foregone conclusion.” Mr. Munn advised that District Attorney Neil Rombardo had opposed the fraud, waste, and abuse program. He explained, “It wasn't so much the volume but it was that we all deal with ... constant complainers, people that look for problems. And his concern was this would become a vehicle for people to do anonymous complaints which really sift down to political attacks. And the case in point is the first one out of the chute. ... the way this process worked, eventually, what Moss-Adams was able to gather ends up on the D.A.'s plate and we have to figure out whether there's any substance or meat, civilly, ethically, criminally, and make some assessment and, ultimately, make some advice to Moss-Adams. So, we end up becoming intimate in the process and we become, essentially, the safeguard that people are not unjustly accused of something because it can become very expensive. If this ends up as an ethics complaint, that person has to go and appear before the Ethics Commission and our office doesn't tender defense to those individuals so they incur legal expenses, all because of maybe a false claim. If it was one that they were willing to make to the Ethics Commission in the first case, they certainly could have but didn't. The District Attorney's Office does not feel this program will produce a cost effective approach to dealing with wrongdoing by employees and that internal controls within the system will find those things long before people will file an anonymous complaint.”

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Discussion followed, and Member McKenna advised of having voted against the fraud, waste, and abuse program. He suggested that “public officers, those who are elected, those who are city managers, we have a different criteria. We have no shield. Everything we do is public and people can complain about us any way they want, through this program or through the newspaper ... and we have a different standard to live up to and that just goes with taking this job.” Member McKenna didn't see any reason to criticize the fraud, waste, and abuse program “that could work very well internally; however, we have the D.A.'s feelings on it. We spent the money. Let's see if it works.” Vice Chairperson Prowse agreed with a three to five year review process of the fraud, waste, and abuse program. In reference to the fraud, waste, and abuse program in the State of Oregon, he advised “there are a lot of benefits to come out of it beyond just identifying somebody abusing the system or not. And, in this case, ... it raised an issue within how the City operates and, based on the report, there were some changes made. That's a good thing.” Vice Chairperson Prowse expressed the opinion that the City should “try on the program for size and see what happens.”

Chairperson Bertrand entertained additional committee member comments and, when none were forthcoming, public comments. When no public comments were forthcoming, he entertained a motion. **Vice Chairperson Prowse moved that the Audit Committee recommend this final report on the fraud, waste, and abuse program to the Board of Supervisors. Member McKenna seconded the motion.** Chairperson Bertrand entertained discussion and, when none was forthcoming, a vote on the pending motion.

<b>RESULT:</b>	<b>Approved [4 - 0]</b>
<b>MOVER:</b>	<b>Vice Chair Bill Prowse</b>
<b>SECOND:</b>	<b>Member John McKenna</b>
<b>AYES:</b>	<b>Vice Chair Prowse, Members McKenna, Bullis, and Chair Bertrand</b>
<b>NAYS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>Member Mary Sanada</b>
<b>ABSTAIN:</b>	<b>None</b>

In response to a question, Mr. Munn suggested forwarding the Fraud, Waste, and Abuse Program Investigation Report 2014-01 to the Board of Supervisors. In response to a further question, Mr. Steranka advised that Moss-Adams will make both the committee and the Board of Supervisors aware of investigation activity.

**10. DISCUSSION AND POSSIBLE ACTION REGARDING MONITORING OF AUDIT FINDING RESPONSE TRACKING REPORT AND POSSIBLE DIRECTION TO THE INTERNAL AUDITOR TO REPORT AND DISCUSS THE MONITORING WITH THE BOARD OF SUPERVISORS (10:31:21)** - Chairperson Bertrand introduced this item, and Moss-Adams, LLP Policy and Program Director Mark Steranka reviewed the agenda materials. The committee members offered suggested revisions to the report, and discussion followed. Chairperson Bertrand suggested no formal action was necessary.

**11. DISCUSSION AND POSSIBLE ACTION TO IDENTIFY, DISCUSS, AND PROVIDE RECOMMENDATIONS TO THE BOARD OF SUPERVISORS ON ADDITIONAL PROJECTS TO BE PERFORMED BY THE INTERNAL AUDITOR FOR THE PERIOD ENDING JUNE 30, 2015 (10:37:29)** - Chairperson Bertrand introduced this item. Moss-Adams, LLP Policy and Program Director Mark Steranka provided background information, and narrated a PowerPoint presentation, copies

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of which were included in the agenda materials. He and Mr. Providenti responded to corresponding questions of clarification, and discussion ensued.

Chairperson Bertrand entertained a motion. **Vice Chairperson Prowse moved to recommend to the Board of Supervisors the four audit projects, as follows: maintain the fraud, waste, and abuse program; provide basic internal audit services; perform an internal controls review Citywide; and update and focus the strategic planning development phase 2; the balance of the \$110,000 budget would be available during the year on an as-needed basis. Member Bullis seconded the motion.** Chairperson Bertrand entertained discussion on the motion and, when none was forthcoming, called for a vote on the pending motion. (11:03:08) In response to a question, Mr. Munn advised that approval of the contract was the understood intent of the motion.

<b>RESULT:</b>	<b>Approved [4 - 0]</b>
<b>MOVER:</b>	<b>Vice Chair Bill Prowse</b>
<b>SECOND:</b>	<b>Member John Bullis</b>
<b>AYES:</b>	<b>Vice Chair Prowse, Members Bullis, McKenna, and Chair Bertrand</b>
<b>NAYS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>Member Mary Sanada</b>
<b>ABSTAIN:</b>	<b>None</b>

**12. POSSIBLE ACTION TO APPOINT ONE MEMBER OF THE AUDIT COMMITTEE TO ACT AS LIAISON TO COMMUNICATE WITH THE EXTERNAL AUDITOR (10:55:24) -**

Chairperson Bertrand introduced and provided background information on this item. Mr. Munn provided direction in response to a question. Chairperson Bertrand entertained a motion. **Vice Chairperson Prowse moved to appoint Member Sanada as the committee's liaison with the external auditor. Member Bullis seconded the motion.** Chairperson Bertrand entertained discussion. In response to a question, Mr. Munn advised that one person does not constitute a subcommittee “because they're not a collegial body, and their work is independent and they come back and report to the [committee].” Chairperson Bertrand entertained additional questions or comments and, when none were forthcoming, called for a vote on the pending motion.

<b>RESULT:</b>	<b>Approved [4 - 0]</b>
<b>MOVER:</b>	<b>Vice Chair Bill Prowse</b>
<b>SECOND:</b>	<b>Member John Bullis</b>
<b>AYES:</b>	<b>Vice Chair Prowse, Members Bullis, McKenna, and Chair Bertrand</b>
<b>NAYS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>Member Mary Sanada</b>
<b>ABSTAIN:</b>	<b>None</b>

**13. POSSIBLE ACTION TO SCHEDULE NEXT MEETING OF THE AUDIT COMMITTEE (10:57:35) -**

Chairperson Bertrand introduced this item, and discussion took place regarding the next meeting. Consensus of the committee was to schedule the next meeting for Tuesday, August 12<sup>th</sup> at 3:00 p.m.

**14. PUBLIC COMMENT (11:03:45) -** Chairperson Bertrand entertained public comment; however, none was forthcoming.

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**15. ACTION TO ADJOURN** (11:03:51) - Chairperson Bertrand adjourned the meeting at 11:03 a.m.

The Minutes of the April 22, 2014 Carson City Audit Committee meeting are so approved this 12<sup>th</sup> day of August, 2014.

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MICHAEL BERTRAND, Chair