

CARSON CITY BOARD OF SUPERVISORS

Minutes of the December 17, 2015 Meeting

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A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, December 17, 2015 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Mayor Robert Crowell
Supervisor Karen Abowd
Supervisor Brad Bonkowski
Supervisor Lori Bagwell
Supervisor Jim Shirk

STAFF: Nick Marano, City Manager
Sue Merriwether, Clerk - Recorder
Adriana Fralick, Chief Deputy District Attorney
Kathleen King, Chief Deputy Clerk

NOTE: A recording of these proceedings, the Board's agenda materials, and any written comments or documentation provided to the Clerk, 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 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE

(8:29:15) - Mayor Crowell called the meeting to order at 8:29 a.m. Ms. Merriwether called the roll; a quorum was present. First United Methodist Church Pastor Dixie Jennings-Teats provided the invocation. At Mayor Crowell's request, Paul McGrath led the pledge of allegiance.

5. PUBLIC COMMENT (8:31:41) - Mayor Crowell introduced this item, and entertained public comment. (8:32:06) In reference to item 11, Rob Joiner expressed support for dedicating the Third Street Plaza to Bob McFadden. (8:34:37) Paul McGrath reviewed written materials relative to road maintenance, and provided copies to the Clerk. He requested Supervisor Shirk to sponsor an item for the next Board of Supervisors meeting. Mayor Crowell entertained additional public comment; however, none was forthcoming.

6. POSSIBLE ACTION ON APPROVAL OF MINUTES - November 19, 2015 (8:39:15) - Mayor Crowell introduced this item, and entertained suggested revisions. When none were forthcoming, he entertained a motion. **Supervisor Shirk moved to approve the minutes, as presented. Supervisor Bagwell seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote. **Motion carried 5-0.**

7. POSSIBLE ACTION ON ADOPTION OF AGENDA (8:39:43) - Mayor Crowell introduced this item, and advised that item 13(B) would be deferred to a future agenda. Mayor Crowell entertained additional modifications to the agenda; however, none were forthcoming.

8. SPECIAL PRESENTATIONS:

8(A) PRESENTATION OF A PROCLAMATION FOR RENO RODEO FOUNDATION DENIM DRIVE (8:40:18) - At Mayor Crowell's request, the Board members moved to the podium. Mayor Crowell read into the record the language of a Proclamation, copies of which were included in the agenda materials. (8:43:07) Reno Rodeo Foundation Executive Director Clara Andreola introduced Reno Rodeo Foundation Board of Trustees Treasurer Laura Tadman; Reno Rodeo Association Volunteers Rod and

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Sharon Smith; Volunteer Carla Navarro; and Donors Karen and Charlie Abowd. Ms. Andreola announced the Rhythm and Rawhide event, and thanked the Board for the Proclamation.

8(B) PRESENTATION OF LENGTH OF SERVICE CERTIFICATES TO CITY EMPLOYEES (8:47:19) - Mayor Crowell introduced this item, and presented a Certificate of Appreciation for five years' continuous, dedicated service to Electrical Communications Foreman Shawn Wiese. Mayor Crowell presented Certificates of Appreciation for ten years' continuous, dedicated service to Office Manager Nicole Clapham, to HR Generalist Lora Schueller, and to Water Production Operator Jeffrey Voeltz. Mayor Crowell presented a Certificate of Appreciation for fifteen years' continuous, dedicated service to Chief Deputy Assessor Kimberly Adams. Mayor Crowell presented a Certificate of Appreciation to Chief Information Officer Eric Von Schimmelmann for 25 years of continuous, dedicated service. The Board members, City staff, and citizens present applauded.

ORDINANCES, RESOLUTIONS, AND OTHER ITEMS

9. CITY MANAGER

9(A) PRESENTATION OF A QUARTERLY REPORT ON THE RETENTION AND EXPANSION ECONOMIC DEVELOPMENT PLAN FOR CARSON CITY BY THE NORTHERN NEVADA DEVELOPMENT AUTHORITY, AS APPROVED ON AUGUST 7, 2014 (8:52:10) - Mayor Crowell introduced this item, and Northern Nevada Development Authority Vice President of Business Development Danny Campos reviewed the agenda materials. Mr. Campos responded to questions of clarification, and discussion ensued. Mayor Crowell entertained public comment and, when none was forthcoming, thanked Mr. Campos.

9(B) POSSIBLE ACTION TO RATIFY THE APPROVAL OF BILLS AND OTHER REQUESTS FOR PAYMENTS BY THE CITY MANAGER FOR THE PERIOD OF NOVEMBER 7, 2015 THROUGH DECEMBER 4, 2015 (9:11:17) - Mayor Crowell introduced this item, and entertained questions or comments. When no questions or comments were forthcoming, he entertained a motion. **Supervisor Bagwell moved to ratify the approval of bills and other requests for payment by the City Manager for the period of November 7, 2015 through December 4, 2015. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Lori Bagwell
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bagwell, Abowd, Bonkowski, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

10. COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

10(A) POSSIBLE ACTION TO ADOPT BILL NO. 114, ON SECOND READING, AN ORDINANCE TO CHANGE THE ZONING FROM AGRICULTURE TO PUBLIC COMMUNITY, ON PROPERTY LOCATED EAST OF INTERSTATE 580, BETWEEN EAST FIFTH STREET AND NORTH LOMPA LANE, APN 010-041-74, AND TO CHANGE THE ZONING FROM

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SINGLE FAMILY 6,000 AND SINGLE FAMILY TWO ACRE TO PUBLIC COMMUNITY, ON PROPERTY LOCATED AT 501 AND 502 SOUTH ORMSBY BOULEVARD, APNs 003-151-25 AND 009-014-05 (ZMA-15-155) (9:11:49) - Mayor Crowell introduced this item and, in response to a question, Planning Manager Susan Dorr Pansky reviewed a comment relative to a request for an access easement. Mayor Crowell entertained questions or comments of the Board members and, when none were forthcoming, public comment. When no public comment was forthcoming, he entertained a motion. **Supervisor Bonkowski moved to adopt Bill No. 114, on second reading, Ordinance No. 2015-12, an ordinance to change the zoning from Agriculture to Public Community, on property located east of Interstate 580, between East Fifth Street and North Lompa Lane, APN 010-041-74, and to change the zoning from Single-Family 6,000 and Single-Family Two-Acre to Public Community, on property located at 501 and 502 South Ormsby Boulevard, APNs 003-151-215 and 009-014-05, based on the findings contained in the staff report. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bonkowski, Abowd, Bagwell, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

10(B) POSSIBLE ACTION ON A HEARING TO CONSIDER A PETITION FROM DOWNTOWN PROPERTY OWNERS TO ESTABLISH A NEIGHBORHOOD IMPROVEMENT DISTRICT, PURSUANT TO CHAPTER 271 OF THE NEVADA REVISED STATUTES, FOR THE PURPOSE OF PAYING FOR MAINTENANCE OF THE DOWNTOWN STREETScape ENHANCEMENT PROJECT, WHICH INCLUDES IMPROVEMENTS TO CARSON STREET, BETWEEN FIFTH STREET AND WILLIAM STREET; IMPROVEMENTS TO THIRD STREET, BETWEEN CARSON STREET AND CURRY STREET; AND IMPROVEMENTS TO CURRY STREET, BETWEEN MUSSER STREET AND ROBINSON STREET (9:13:44) - Mayor Crowell introduced this item, and opened the public hearing. Mayor Crowell disclosed that he is a shareholder in Crowell Enterprises, listed as an owner of 108 West Telegraph Street. He advised of his intent to participate in discussion and action on this item. Mayor Crowell entertained additional disclosures; however, none were forthcoming.

Community Development Director Lee Plemel provided an overview of the subject and following three items. He reviewed the agenda materials relative to the subject item in conjunction with displayed slides.

Mayor Crowell entertained public comment. (9:25:46) Loreen Hautekeet advised that she and her husband, Michael, have two properties in the proposed NID. She distributed to the Board members and the Clerk copies of plat maps, pointed out her properties, and read into the record a prepared statement. Ms. Hautekeet and Mr. Plemel responded to questions of clarification, and extensive discussion ensued.

Mayor Crowell entertained additional public comment. (10:01:54) George Higgins identified himself for the record as an employee of Cactus Jack's Casino and the property owner of Northern Nevada Comstock Investments. He expressed support for the downtown improvements, and concern over "creating another

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layer of bureaucracy ...” He advised that loan documents from Nevada State Bank prohibit voluntarily joining a NID. He discussed difficulties associated with operating a business in downtown Carson City, and expressed uncertainty that “additional traffic will help.” He reiterated a preference for not having “an additional level of bureaucracy ...”

(10:04:07) Nevada Press Foundation Secretary / Treasurer Barry Smith advised that the Nevada Press Foundation owns the Rinckel Mansion at 102 North Curry Street. He further advised of “similar concerns ...” “We get no improvements there in front of that property and, therefore, no maintenance.” He inquired as to who defines maintenance and how detailed the agreement, between the non-profit corporation and the City, will be. On behalf of the Nevada Press Foundation, he expressed general support for the downtown improvements. He expressed the belief “there needs to be some clarification” as to the origins of the “75 percent participation level figure ...”

(10:07:09) Stan Jones, identified himself as a “tenant of the property at 904 North Curry [Street].” He expressed the opinion that the “map needs to be revisited.” He expressed agreement with Loreen Hautekeet's comments, and a preference for “everything to be made square, eliminate the City offices, and put everybody else in the district.” Mayor Crowell responded to questions regarding snow removal.

(10:09:13) Dana Freund expressed excitement over the downtown improvements, and discussed plans for additional events.

Following discussion, Mayor Crowell entertained additional public comment. (10:13:20) Loreen Hautekeet expressed a willingness to participate in the NID “if you give me the benefit.” She responded to questions of clarification, and discussion ensued.

(10:20:32) Doreen Mack, of Lofty Expressions, introduced herself for the record as the President of the Downtown 20 / 20 Group. She expressed agreement with Ms. Hautekeet's comments that “if they are paying for these costs, they need to be included in the maintenance of these plans.” Ms. Mack discussed the importance of “group participation.”

Mayor Crowell entertained additional public comment and, when none was forthcoming, Board member questions or comments. Extensive discussion ensued and, at Mr. Marano's request, Mayor Crowell recessed the meeting at 10:27 a.m. Mayor Crowell reconvened the meeting at 10:42 a.m.

In response to a question, District Attorney Jason Woodbury explained that the petition “is the legal mechanism that initiated the NID. There's actually two mechanisms that can do that. You can initiate the process on your own or it can be initiated by citizen petition. But it has to be initiated by one of those two ways. So the way before you is the initiation of it today.”

Mr. Plemel reiterated the concern expressed as “the commensurate level of maintenance for those properties that are outside the red area.” He suggested an alternative “to keep the boundaries, keep the percentage of assessment but, if the City would commit to the difference in funding for snow removal and other cleaning on ... Curry Street and in front of the other properties, the details of that would be in the agreement, between the NID and the City, that comes between now and when the assessment starts.” He responded to questions of clarification, and extensive discussion ensued.

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Mayor Crowell entertained additional public comment and, when none was forthcoming, closed the public hearing. Additional discussion took place among the Board members to determine the appropriate action. Mr. Plemel, Mr. Woodbury, and various other staff members responded to questions of clarification throughout the discussion.

Mayor Crowell entertained a motion. **Supervisor Abowd moved to find that the public interest will benefit by the provision of the improvements proposed in the Downtown Streetscape Enhancement Project, and to determine that all conditions precedent to the creation of the proposed Neighborhood Improvement District, required by Chapter 271 of the Nevada Revised Statutes, have been fulfilled. Mayor Crowell seconded the motion,** and entertained discussion. Mr. Woodbury responded to questions of clarification, and discussion ensued. Mayor Crowell called for additional discussion, and when none was forthcoming, a vote on the pending motion.

RESULT:	Approved [4 - 1]
MOVER:	Supervisor Karen Abowd
SECOND:	Mayor Robert Crowell
AYES:	Supervisor Abowd, Mayor Crowell, Supervisors Bonkowski, Bagwell
NAYS:	Supervisor Jim Shirk
ABSENT:	None
ABSTAIN:	None

10(C) POSSIBLE ACTION TO INTRODUCE, ON FIRST READING, AN ORDINANCE CREATING THE DOWNTOWN NEIGHBORHOOD IMPROVEMENT DISTRICT, PURSUANT TO CHAPTER 271 OF THE NEVADA REVISED STATUTES, FOR THE PURPOSE OF PAYING FOR MAINTENANCE OF THE DOWNTOWN STREETScape ENHANCEMENT PROJECT, WHICH INCLUDES IMPROVEMENTS TO CARSON STREET, BETWEEN FIFTH STREET AND WILLIAM STREET; IMPROVEMENTS TO THIRD STREET, BETWEEN CARSON STREET AND CURRY STREET; AND IMPROVEMENTS TO CURRY STREET, BETWEEN MUSSER STREET AND ROBINSON STREET (11:34:50) - Mayor Crowell introduced this item, and Community Development Director Lee Plemel reviewed the agenda materials. Supervisor Bagwell proposed a revision to Section V, paragraph 10.

Mayor Crowell entertained public comment. (11:39:25) Loreen Hautekeet proposed additional revisions to the language of the ordinance. Mr. Woodbury and Mayor Crowell responded to questions of clarification, and discussion ensued.

(11:48:00) Assessor Dave Dawley commended Mr. Plemel on working with the Assessor's and Treasurer's offices to develop the proposed ordinance.

Mayor Crowell entertained additional public comment and, when none was forthcoming, Board member questions or comments. Following discussion, Mayor Crowell entertained a motion. **Supervisor Bagwell moved to introduce, on first reading, Bill No. 115, an ordinance creating the Downtown Neighborhood Improvement District, pursuant to Chapter 271 of the Nevada Revised Statutes, for the purpose of paying for maintenance of the Downtown Streetscape Enhancement Project, with an amendment to Section V, paragraph 10, "to add language they can request for increased maintenance or changes in the percentages, as permitted by law, and change the 75 percent to two-**

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thirds.” Supervisor Bonkowski seconded the motion. In response to a comment, Supervisor Bagwell amended her motion “to do the procedural requirements with the Assessor and the Treasurer to properly collect the assessments.” Supervisor Bonkowski continued his second. Mayor Crowell entertained discussion on the motion. Supervisor Shirk explained his vote against the motion. Mayor Crowell called for a vote on the pending motion.

RESULT:	Approved [4 - 1]
MOVER:	Supervisor Lori Bagwell
SECOND:	Supervisor Brad Bonkowski
AYES:	Supervisors Bagwell, Bonkowski, Abowd, and Mayor Crowell
NAYS:	Supervisor Jim Shirk
ABSENT:	None
ABSTAIN:	None

11. PUBLIC WORKS DEPARTMENT

11(A) POSSIBLE ACTION TO ADOPT A RESOLUTION DETERMINING THAT THE NEW THIRD STREET PLAZA BE NAMED AFTER BOB McFADDEN (11:55:59) - Mayor Crowell introduced this item, and Engineering Manager Danny Rotter provided an overview of the agenda materials. (11:56:41) Lisa McFadden introduced herself, Rob McFadden, and Carson McFadden. She acknowledged the donations of Kurt McFadden, Julie Weston McFadden, and Shawnie McFadden. Ms. McFadden read into the record the Staff Summary portion of the staff report.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Mayor Crowell moved to adopt Resolution No. 2015-R-39, determining that the Third Street Plaza be named the Bob McFadden Plaza in perpetuity. The motion was seconded and carried unanimously.**

RESULT:	Approved [5 - 0]
MOVER:	Mayor Robert Crowell
SECOND:	The motion was unanimously seconded.
AYES:	Mayor Crowell, Supervisors Abowd, Bonkowski, Bagwell, Shirk
NAYS:	None
ABSENT:	None
ABSTAIN:	None

Mayor Crowell recessed the meeting at 12:01 p.m., and reconvened at 12:10 p.m.

11(B) POSSIBLE ACTION TO APPROVE THE 90 PERCENT DESIGN OF THE DOWNTOWN STREETScape PROJECT AND TO DIRECT STAFF TO COMPLETE THE DESIGN (12:11:00) - Mayor Crowell introduced this item, and entertained disclosures. Supervisor Abowd read into the record a disclosure statement, and advised that she would participate in discussion and action on this item. Mayor Crowell entertained additional disclosures; however, none were forthcoming.

Engineering Manager Danny Rotter introduced Mike Bennett, of Lumos & Associates; Jeff Bean, of Q&D Construction; and Public Works Department Director Darren Schulz. Mr. Rotter thanked various community organizations / representatives, as well as the City's Wastewater crews. He reviewed the agenda

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materials in conjunction with displayed slides. Mr. Rotter, Mr. Bennett, and Mr. Schulz responded to questions of clarification throughout the presentation.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Bonkowski moved to accept the recommendations of the Regional Transportation Commission and the Redevelopment Authority Citizens Committee for the 90 percent design of the Downtown Streetscape Project, and to direct staff to complete the design with additional alternative bids, as discussed at this meeting. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion. Supervisor Shirk read a prepared statement into the record. Supervisor Bagwell explained her vote against the motion, and thanked the staff and consultants for their hard work. She commended the increasing improvements to the project. Mayor Crowell discussed the importance of “pull[ing] together as a community” to make the downtown project work. Supervisor Abowd thanked staff and the consultants for all their hard work. She expressed the belief that the downtown project has changed the redevelopment vision. Mayor Crowell called for a vote on the pending motion.

RESULT:	Approved [4 - 1]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bonkowski, Abowd, Shirk, and Mayor Crowell
NAYS:	Supervisor Lori Bagwell
ABSENT:	None
ABSTAIN:	None

12. BOARD OF SUPERVISORS NON-ACTION ITEMS:

FUTURE AGENDA ITEMS (1:04:12) - Supervisor Bagwell requested to create a policy on “naming rights.” (1:05:21) She requested to begin working on “setting up our special events policies.” (1:07:41) Supervisor Shirk requested an agenda item “that would deal with redevelopment funding that currently reimburses car dealerships.” (1:09:07) Supervisor Abowd requested to agendaize discussion items regarding high speed internet from Airport Road out to Deer Run Road, as well as the condition of the roads that are off of Arrowhead.

STATUS REVIEW OF PROJECTS

INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS

CORRESPONDENCE TO THE BOARD OF SUPERVISORS

STATUS REPORTS AND COMMENTS FROM BOARD MEMBERS (1:04:36) - Supervisor Bagwell advised of having worked with the local Ford dealership on a fleet designation, which was recently conferred. She reported on a recently-attended NACo training session. (1:06:10) Supervisor Shirk expressed the opinion that signage should designate the Bob McFadden Plaza. He requested the Information Technology Department to make the “Contact Us” portion of the City's website available to the public. He reminded everyone of the MAC ribbon cutting ceremony scheduled for December 30th at 2:00 p.m. (1:08:15) Supervisor Shirk advised of having talked with Information Technology Department staff about #Carson Proud, and expressed satisfaction with CIO Eric Von Schimmelmann's proposed solutions. Supervisor Shirk wished everyone Merry Christmas.

STAFF COMMENTS AND STATUS REPORTS FROM STAFF

RECESS AND RECONVENE BOARD OF SUPERVISORS (1:10:05) - Mayor Crowell suggested deferring the time to reconvene. He recessed the meeting at 1:10 p.m., and reconvened at 1:50 p.m.

13. PARKS AND RECREATION DEPARTMENT

13(A) POSSIBLE ACTION TO PROVIDE THE CULTURAL COMMISSION AND CITY STAFF COMMENTS ON THE DRAFT CARSON CITY ART AND CULTURE MASTER PLAN (1:51:12) - Mayor Crowell introduced this item, and Senior Park Planner Vern Krahn provided an overview. (1:52:31) Cultural Commission Chairperson Elinor Bugli provided background information and reviewed the staff report. (1:56:18) Idea Factory Circuit Rider Consultant Kendall Hardin reviewed the draft master plan, copies of which were included in the agenda materials.

Mayor Crowell entertained public comment. (2:10:39) Carson-Tahoe Health Foundation Director of Development Kitty McKay read into the record a prepared statement highlighting the health and wellness benefits of arts. She expressed support for the master plan.

(2:14:28) Pets of the Homeless President Genevieve Frederick advised of having reviewed the master plan, and requested the Board's support.

(2:15:08) State of Nevada Indian Commission Program Officer Chris Gibbons read into the record a letter of support from Executive Director Sherry Rupert. Ms. Gibbons provided a copy of the letter to the Clerk for inclusion in the record.

(2:17:33) The Change Companies Founder and CEO Don Kuhl discussed the benefits of investing in art, both privately and corporately. He expressed the opinion that private corporations "when asked, would have a great deal to invest in this."

(2:21:08) Gloria Dyla discussed the benefits of art in education.

(2:22:11) Carson City School District Superintendent Richard Stokes expressed support for music and art in the community, and support for the master plan.

(2:23:27) Brewery Arts Center Board Member Jean Barra commended the vision outlined in the master plan, and expressed agreement with previous comments. She noted the importance of art helping to build community.

(2:24:25) Mayor Crowell commended Stephanie Arrigotti on her leadership of the Western Nevada Musical Theater Company. Ann Hanson expressed support for the master plan. Ms. Arrigotti expressed support for the arts, and discussed the importance of improved visibility for art events. She expressed further support for the master plan.

(2:30:21) St. Peter's Episcopal Church Father Jeff Paul expressed his support as well as the support of St. Teresa's Roman Catholic Community Father Chuck Durante.

(2:32:06) Amy Clemens expressed support for the master plan.

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(2:33:42) Nevada Day Marketing Director Dana Freund commended the master plan, and expressed her support.

(2:39:48) Nevada Day Executive Director Ken Hamilton expressed support for the master plan.

(2:41:23) Cultural Commission Member Barbara D'Anneo advised of having been asked to contact business leaders to receive feedback. She reviewed the list of businesses which representatives had expressed support for the master plan.

(2:42:36) Gina Hill, representing the Brewery Arts Center, commended the master plan's "alignment of all the communities."

Mayor Crowell entertained additional public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to provide the Cultural Commission and City staff comments on the draft Carson City Art and Culture Master Plan, including the comments submitted as late material. Supervisor Bonkowski seconded the motion.** Mayor Crowell entertained discussion on the motion. Supervisor Bonkowski commended everyone involved in the master planning process. Supervisor Abowd also commended everyone in consideration of the six-month time frame allowed for the process. Supervisor Bagwell reviewed comments she had submitted as part of the late material. Mayor Crowell called for a vote on the pending motion.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Karen Abowd
SECOND:	Supervisor Brad Bonkowski
AYES:	Supervisors Abowd, Bonkowski, Bagwell, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

Mayor Crowell thanked everyone for their attendance and participation, and recessed the meeting at 2:47 p.m. Mayor Crowell reconvened the meeting at 2:59 p.m.

13(B) POSSIBLE ACTION TO APPROVE A LEASE AGREEMENT, BETWEEN THE CITY AND THE FOUNDATION FOR CARSON CITY PARKS AND RECREATION, INC., FOR THE USE OF THE WUNGNEMA HOUSE (2:59:15) - Mayor Crowell reminded everyone that this item had been deferred to a future meeting.

13(C) POSSIBLE ACTION TO ADOPT, ON SECOND READING, BILL NO. 113, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE, CHAPTER 2.16, PARKS AND RECREATION COMMISSION; SECTION 2.16.010, ORGANIZATION; SECTION 2.16.030, TERM OF OFFICE; SECTION 2.16.040, MEETINGS AND OFFICERS, LEGISLATIVE PROCEDURE, REMOVAL OF COMMISSIONERS, NO COMPENSATION; AND SECTION 2.16.050, DUTIES AND RESPONSIBILITIES (2:59:24) - Mayor Crowell introduced this item, and inquired as to revisions since introduction, on first reading. Parks and Recreation Department Director Roger Moellendorf advised of no requests for revision. Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Bagwell moved to adopt, on second reading, Bill**

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No. 113, Ordinance No. 2015-13, amending the Carson City Municipal Code, Chapter 2.16, Parks and Recreation Commission, Section 2.16.010, Organization; Section 2.16.030, Term of Office; Section 2.16.040, Meetings and Officers, Legislative Procedure, Removal of Commissioners, No Compensation; Section 2.16.045(2) and (3), Non-substantive changes to language for grammatical consistency; and Section 2.16.050, Duties and Responsibilities. Supervisor Abowd seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Lori Bagwell
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bagwell, Abowd, Bonkowski, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

14. FINANCE DEPARTMENT

14(A) POSSIBLE ACTION TO ACCEPT THE REPORT ON THE CONDITION OF EACH FUND IN THE TREASURY AND THE STATEMENTS OF RECEIPTS AND EXPENDITURES, THROUGH DECEMBER 3, 2015, PURSUANT TO NRS 251.030 AND NRS 354.290 (3:00:48) - Mayor Crowell introduced this item, and entertained questions or comments. When no questions or comments were forthcoming, he entertained a motion. **Supervisor Bagwell moved to accept the report on the condition of each fund in the treasury, and the statements of receipts and expenditures, through December 3, 2015, pursuant to NRS 251.030 and NRS 354.290. Supervisor Bonkowski seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Lori Bagwell
SECOND:	Supervisor Brad Bonkowski
AYES:	Supervisors Bagwell, Bonkowski, Abowd, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

14(B) POSSIBLE ACTION TO ACCEPT THE CARSON CITY COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2015 (3:01:19) - Mayor Crowell introduced this item. Chief Financial Officer Nancy Paulson reviewed the staff report, and introduced Eide Bailly, LLP Partner Dan Carter. Mayor Crowell reviewed the late material which was distributed prior to the start of the meeting. Mr. Carter reviewed the Comprehensive Annual Financial Report (“CAFR”), which was included in the agenda materials, in conjunction with displayed slides. Mr. Carter and Ms. Paulson responded to questions of clarification, and discussion took place throughout the presentation.

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Mayor Crowell entertained public and Board member comments; however, none were forthcoming. Mr. Carter acknowledged satisfaction with City management's response to reported deficiencies. He reviewed a Government Accounting Standards Board directive to be implemented in 2016.

Following a brief discussion, Mayor Crowell entertained a motion. **Supervisor Bagwell moved to accept the Carson City Comprehensive Annual Financial Report for the fiscal year ended June 30, 2015. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Lori Bagwell
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bagwell, Abowd, Bonkowski, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

14(C) POSSIBLE ACTION TO ADOPT THE CARSON CITY PLAN OF CORRECTIVE ACTION FOR THE FY 2014 - 15 STATUTORY VIOLATIONS INCLUDED IN THE ANNUAL AUDIT (3:27:31) - Chief Financial Officer Nancy Paulson introduced this item, reviewed the agenda materials in conjunction with displayed slides, and responded to questions of clarification. Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Bonkowski moved to adopt the Carson City Plan of Corrective Action for the FY2014 - 15 statutory violations, included in the annual audit. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bonkowski, Abowd, Bagwell, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

15. CITY MANAGER - POSSIBLE ACTION TO APPOINT FOUR MEMBERS TO THE 9-1-1 SURCHARGE ADVISORY COMMITTEE; ONE POSITION TO FILL AN UNEXPIRED TERM ENDING ON DECEMBER 31, 2016; AND THREE POSITIONS, EACH FOR TERMS EXPIRING ON DECEMBER 31, 2017 (3:32:20) - Mayor Crowell introduced this item, and Mr. Marano reviewed the agenda materials. (3:33:18) Robert Stanford introduced himself for the record and, at Mayor Crowell's request, discussed his interest in serving. (3:35:22) Denise Bauer and Anne Keast introduced themselves for the record, and acknowledged their interest in reappointment.

Mayor Crowell entertained Board member questions or comments and, when none were forthcoming, a motion. **Supervisor Bonkowski moved to appoint Robert Stanford to the 9-1-1 Surcharge Advisory Committee to fill an unexpired term, ending on December 31, 2016; and to reappoint Anne Keast and Denise Bauer to the 9-1-1 Surcharge Advisory Committee, each for terms that will expire on**

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December 31, 2017. Supervisor Abowd seconded the motion. Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Brad Bonkowski
SECOND:	Supervisor Karen Abowd
AYES:	Supervisors Bonkowski, Abowd, Bagwell, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

RECESS AND RECONVENE BOARD OF SUPERVISORS (3:39:12) - Mayor Crowell recessed the meeting at 3:39 p.m., and reconvened at 5:28 p.m.

16. COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION - POSSIBLE ACTION ON A HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF A REQUEST FROM JEFF FRAME (PROPERTY OWNERS: MARK TURNER AND SEAN RICHARDS) FOR A SPECIAL USE PERMIT TO ALLOW MULTI-FAMILY APARTMENTS IN A RETAIL COMMERCIAL ZONING DISTRICT, ON PROPERTY ZONED RETAIL COMMERCIAL - PLANNED UNIT DEVELOPMENT, LOCATED ON GS RICHARDS BOULEVARD AND COUNTRY CLUB DRIVE, APNs 007-461-22 AND 007-461-23 (SUP-15-077) (5:28:25) - Mayor Crowell introduced this item, and explained the quasi-judicial nature of the hearing. He read into the record CCMC 18.02.060(2) and 18.02.060(4)(b), and provided direction with regard to the format for the hearing. He read into the record possible considerations for the appellants and the respondents in each of their presentations.

Planning Manager Susan Dorr Pansky reviewed the agenda materials in conjunction with displayed slides, and responded to questions of clarification. Mayor Crowell entertained additional Board member questions or comments and, when none were forthcoming, called for the appellants' representatives.

(5:40:10) Brenda Wipfli read into the record a prepared statement, a copy of which she provided to the Clerk for inclusion in the record.

(5:52:09) Judy Shallenberger distributed documentation to the Board members and to the Clerk. She and Mrs. Wipfli responded to questions of clarification regarding whether Dr. and Mrs. Shallenberger were included in the appeal. Mayor Crowell reiterated the quasi-judicial nature of the hearing, and advised that Mrs. Shallenberger's testimony would not be allowed. Mrs. Shallenberger expressed the opinion that "it wasn't appropriate and it was in violation of regulation that, as property owners and members of the Silver Oak Commercial Association, we were not informed by the Planning Department. They have an obligation to do that. I was not informed by the applicant ... of a special use meeting ...; that they were going to put a 90-unit building right across the street from us." In response to a question, Mayor Crowell advised that Mrs. Shallenberger's documentation could not be accepted as part of the appeal process. At Mrs. Wipfli's request, Mayor Crowell recessed the meeting at 5:59 p.m. Mayor Crowell reconvened the meeting at 6:05 p.m.

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(6:05:40) Attorney Steve Hartman provided historic information on the development of the Silver Oak Planned Unit Development. He advised “there was never, ever, ever a discussion of apartments. Not once. And the reason behind that was that the project that was attempted to be developed on the Hartoonian [property], before we became involved with it, was a large apartment complex that was essentially where Sierra Place would be today. It was generally in that area, in terms of the project layout, and that room that's to the east here was full of people and they weren't happy. And that project died. So, the representation that was made to the Planning Commission that this was considered at the beginning; that's not true.” In response to a comment, Mr. Hartman stated, “... the PUD is driven by the documents that create it. It's driven by the application. It's driven by the CC&Rs. It's driven by that approval. There is not anything that was ever mentioned in that approval process that dealt with multi-family units.” In response to a question, Mr. Hartman stated that there “doesn't have to be” a prohibition against multi-family units. “When you make a representation, as this project did to the community, that this was going to be the product. ... that representation was it was going to be that way and it was going to be built this way and it would have this look.

“If you'll remember, this community had just gone through a visioning study and we spent a lot of time in this community going through that visioning study. And it was well received by the community. ... It's always been hard, in the planning world, to write something down and say, 'Well, do you think this will look good?' Because people can't visualize it. So ... I think we got a really good representation of what folks wanted their community to look like. Our design guidelines were driven by that study. That was a big piece of why we did what we did. And ... the density issue was driven because we wanted to keep the higher intensity uses surrounded by golf course. That's why they are where they are. If you take a look at the matrix and the pieces of it, it never talks about apartments. It never talks about multi-family. It talks about cluster homes, zero lot line homes, common wall homes, townhomes. But it never talks about multi-family in the sense that you've got a rental apartment. Nowhere. It's not in here. Nowhere to be found in any of the documents that created the Silver Oak community.”

In response to a question, Mr. Hartman advised that the language used was “accessory and compatible thereto. And, when I think back to some of the ones that we did, we had a special use permit for the temporary clubhouse because it was accessory. We didn't want to build it. It was inappropriate, at that time, to spend that kind of money at that location so we asked for that and we were able to bring a mobile in ... it was like a construction trailer. But we went through the process. ... we came through the process. And whenever there was a major, like the addition of those additional units in '95 or whatever it was, we also made changes in the variances. We had been a little too tough on ourselves in terms of what we thought we could get in terms of the geometry and so we didn't do that. It wasn't working. We came back. We went through an amendment ... of the Development Agreement and the PUD to change that.”

Mayor Crowell read into the record Article 1.1, Permitted Land Uses, of the CC&Rs, and suggested that the area is designed to not preclude any use that's otherwise permitted under Carson City ordinance. Mr. Hartman advised of having conversed, with former Open Space Administrator Juan Guzman and former Planning Department Director Walter Sullivan, “relative to the planning piece of this.” With regard to mixed-use zoning, Mr. Hartman advised that the “mixed use zone ... was the new traditional thing we were looking for in the commercial area. And it didn't exist. We didn't have it. So we were stuck with these traditional zone districts but they were always with a PUD.” Mr. Hartman expressed the view, “You can't take a conditional use out of the pot pourri that's there and essentially rezone that retail commercial PUD to a zone that was never discussed, a zone that was never dealt with in its entirety because it amounts to

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a spot zoning. You've essentially, basically just gone against everything you did in the PUD which was try and have a cohesive, compatible design in your project.” He expressed the opinion, “there's a way to do this project and do it right, but it can't be the only use there. ... You're going to violate the entirety of the concept of the planned unit development. And the flip side of it is, you've got to deal with the density issue. That density issue is very specific. ... there was a time when we were trying to figure out a way, because of the geometry of fitting units in these cluster areas, of how can you move those densities between cluster areas, but it was never beyond cluster areas. It was always within cluster areas. That ... went to the Planning staff, somewhere along the way, and they said, 'No, that's your number.’” Mr. Hartman cited NRS 278A as the “governing statute; it's not 278. You've got to deal with what is a little more amorphous kind of document. ... to the degree you start tying it down to very specific things, you might as well have a subdivision.”

Supervisor Bonkowski suggested that the mixed uses are allowed within the commercial village, “and you could have a single use on a parcel but the overall village is designed to have multiple uses within the village.” He requested Mr. Hartman to explain “why that would not be accurate.” Mr. Hartman explained, “... if you do that, you're violating the zone. ... you have to have a retail piece and you have to have a commercial piece and you can have something else that's conditional, but you have to have those two pieces in the mix. It has to be mixed-use. ... What you're trying to do is create that within that property so they all have that characteristic. And ... it goes back to the neotraditional stuff. When planning began in New England, ... it was always typically around the town square. And around the town square, you had the restaurant and the shoe shop and all that, and above that, somebody lived. Or there was an office and above that, they lived. Those were the old, traditional design standards around ... the commercial village. ... That's what we were trying to do in that.” In response to a comment, Mr. Hartman advised that “the master plan at Silver Oak is the PUD. It's a carve-out. It says, 'We're going to govern here.’”

Supervisor Bagwell referenced “exceptions that you put in as variances to the Carson City Municipal Code. They're very specific in here.” She inquired as to “where the PUD excluded that use that was allowable by the Code at the time that you did this ...” Mr. Hartman explained that “all of those variances ... that we subsequently came in and modified ... in '95, we were fortunate enough to have a land planner who was also an architect, who was also a landscape architect that gave us a lot of guidance. What we were trying to do was deal with a lot of the variances in the practical construction site, building setbacks to back lots, front, depth of driveway, sidewalk on one side, not on the other, widened sidewalk throughout the community as a way to access open areas. ... our focus was really on the nuts and bolts of that. We really believed that when you looked at the design guidelines and when you looked at the CC&Rs, that was the vision of the PUD and it's all there. The Mayor asked, 'Is that an appropriate place to go?' I don't think so.” Mr. Hartman advised that, at the time, the District Attorney's Office approved the CC&Rs. “But that's not normal.” Mr. Hartman expressed the opinion that enforcement of the CC&Rs should not be the City's responsibility. He expressed the opinion, “it's appropriate to deal with the architectural review committee. There was a provision that we made in the documents that said, because we didn't want the Planning ... Department to be stuck ... So that they only had to look at the prima facie. Here's the stamp. If it's got a stamp on it, it's been approved by the architectural review committee for Silver Oak. And that provision was placed in that document.”

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Mr. Hartman referred to the issues raised by the members about notification. "There's very specific provisions in the CC&Rs ... This isn't a private little club that you get to run. You have all the owners and they've all invested a lot of money in that. ... that's not an issue for you, in my opinion, but ... it's an issue for somebody and they probably have a black dress."

Supervisor Abowd read into the record a portion of the first page of the original application, and requested Mr. Hartman's explanation of the "thought process behind this." She further inquired as to who makes up the architectural review committee and whether everyone in the village went through that process. Mr. Hartman was uncertain as to who makes up the architectural review committee. He expressed the understanding "that it's Mark [Turner] and Sean [Richards] ... One needs to exist because there's been a lot of stuff built." Mr. Hartman assumed "somebody's been stamping stuff for Planning Department purposes." He expressed doubt that "all uses are allowed. ... You wouldn't have a mobile home park in that project." He expressed the opinion that the bigger question ... at the core is, could you take a conditional use and make it the use? ... that's the antithesis of what was done in the layout. All you have to do is look at it and then look through this document. You won't see any mention ever of multi-family. That doesn't mean that you couldn't have some condo or townhome worked in with it. ... that, functionally, is where you want to go in the commercial village. ... you need that synergism of full-time living ... We were way out in front and ran into a big recession. But ... the plan was viable. ... it's still viable." Mr. Hartman expressed no opposition to "what the guys are trying to do in terms of having multi-family." He expressed a preference for condos, and the belief "that product is in demand." He expressed the further belief "that demand is moving like a freight train through here right now because of all the activity that's around us. ... and so, at the end of the day, you want the project to survive and be viable for the future. That's kind of what you try to do with PUDs. You want to look at the bigger sense of things."

Mr. Hartman acknowledged that a hotel-casino complex was permitted in the PUD. In response to a question, he advised that the location was at the corner of Eagle Valley Road and Highway 395. "There was a change made in that zone to accommodate ... some of the thoughts that the folks that owned that had in terms of how they might want to do that development." Mr. Hartman recalled "at the clubhouse, there was always envisioned to be a small, limited license kind of concept at the clubhouse and ... that had a TC [tourist commercial] zone. The property that's the subject of this was envisioned, at that time, to be ... a boutique, little transient occupancy hotel, an inn ... which is probably a use that's needed in the community still today." In reference to Mrs. Wipfli's concerns expressed over increased traffic in the round-about, Mayor Crowell inquired as to how a hotel-casino complex would affect traffic. Mr. Hartman pointed out the proposed location for the hotel-casino complex and advised "that traffic would not come in this location ... It has the ability to access onto ... Medical Parkway." A brief discussion followed.

With regard to the density allocation, Mr. Hartman advised "it's replete in multiple places that we went through and we listed it and we were very specific about those numbers." He expressed the opinion "that's pretty clear ..." He was uncertain as to "how you can have any property completely consumed by a conditional use and that not amount to a spot zoning." In response to a question, he expressed the opinion that multi-family "as a conditional use in a zone, is allowable as long as it isn't the only use in that zone. You can't use it to rezone because you defeat the whole purpose of having a PUD. You could have it as a part of the project. Absolutely. I've never argued that. That's where we were headed. You want those compatible kinds of uses. There's nothing wrong with that. But you can't have it be the only use." Mr. Hartman acknowledged that an apartment complex should have built into it a commercial or an office. He reiterated "it's doable." In response to a series of questions, he stated, "It's making it compatible with the

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overall PUD. I don't know what that number is. Ultimately, that's a function of an architectural review committee in that community that's dealing with that that says, 'You know, that's a good use; that's a good mixed-use. We like that. We like the way it looks.' That's what it's for. That's what the associations do. They should have done that long before they came to you because that's how you do it to avoid this.”

In response to question, Mr. Hartman referred back to the special use permit. “When you take a look at your special use permit requirements for conditional uses, the one that struck me ... is the first one. 'How will the proposed development further and be in keeping with, and not contrary to the goals, of the master plan?' Except it's not the master plan. It's the PUD because that is the master plan. That's how you deal with that issue. Is it complimentary to, is it contrary to those goals? And they're there. You just gotta sit down and read them. They're there and that's why you have a valid, viable architectural review committee. You don't just ... close the sale, got your deed ... You can't do that. You just can't. You get yourself crossways with lots of things.”

In response to a question, Ms. Dorr Pansky was uncertain as to whether other commercial plans had stamps or not. She expressed the understanding that “the commercial buildings before were not required to go through an architectural review committee because one didn't exist for that area until the last couple years when they created an association to take care of the improvements of the Ivy Baldwin Circle. As it relates to the requirement of the architectural review committee stamp for City approval, per the Second Addendum to the Development Agreement, we have a provision that requires us to ask for the architectural review stamp in the areas where the variances were granted specific to that Development Agreement only. We don't look at the architectural review stamp for any area that doesn't have a variance. We don't look for it for specific design guidelines because we don't have the authority to do that under the mechanisms that have been approved to date.” Mr. Hartman stated, “That would be why you typically would have a ... viable association with the ownership involved so that you don't run afoul of those design guidelines.”

With regard to the density allocation, Mr. Hartman expressed the opinion “it's very clear that there's 1,181 units. There are places where they're called lots and then there's places where they're called sites. But, at the end of the day, when you look at the analysis that was done and that's in and part of the application, it's very specific in the analysis portion.” Mr. Hartman acknowledged having read staff's analysis on density, and advised of his disagreement. “I just don't see that you can do that. ... I don't think you can put the 160 acres of mixed-use over anything to do with Silver Oak ... unless you amend the PUD. You don't get to just pick and choose from the bucket. That's not allowable. This is a PUD that's on this property and you've got to stay within the general bounds of it. Now, it's not meant to be a straight jacket, but it's got concepts and theories and a theme ... It's all there. It's all in the application.” In response to a question, Mr. Hartman advised that the applicants were not in the meetings that he was in. “And these are the documents that came as a result of those meetings. And these are the documents that came as a result of those approvals. And my answer to that question is, I agree you can have multi-family. It just can't be the only use because it defeats the purpose of the PUD designation that goes after whatever zoning designation you want.”

(6:48:02) Mayor Crowell recognized Richard Wipfli, who provided background information on the architectural review committee. “... when the commercial area was established, my understanding was, after 40 percent of the lots were sold, that there would be an architect committee to handle this situation so it wouldn't be a problem. And, when we built our building, we did go to Garth [Richards] and we did go to Mark Turner and we sat over there. I can't remember if he signed it. I can't remember if he stamped

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it, but I went over there to show him the project, get it approved before I brought it to the City. I don't know exactly what they did. ... and this gets to a bigger point and this is a point that I think Judy Shallenberger was trying to make and this is a point that was addressed slightly at the Planning Commission. ... we've really been excluded from this.”

In response to a request for clarification, Mr. Wipfli explained, “... most of all of the property owners in that commercial subdivision. We have not received ... notification. Only thing we get, so I know they know my address, is every quarter I get a bill to pay for the water, pay for the maintenance for the (inaudible). So, I know they know how to get hold of me and, in ten years, not invited ... nothing.” Mr. Wipfli advised of having been part of a number of homeowners associations and “in quite a few meetings. This is not right. ... then you get to the special use permit. That irritates me more because you say special and you have the discretion to say what is special. Is it special that the building doesn't look anything like what the owners of the property that sold it put in the guidelines for us? ... it doesn't look like the design lines they requested. Is it special that none of the property owners have been informed, or ... most of them? ... at least enough to where there's a pattern. Is that special? ... if you look at the design, the color, do you believe that is compatible? ... special use. I remember sitting on that Planning Commission a dozen times and somebody came to special. If I've got something special, I'm going to go to my neighbors and say, 'This is special.' I'm not going to ignore them. I'm not going to just all of a sudden show up at the Planning Commission and some of us are out of town, some of us are some other place. I mean, is that special? Is that what your town wants? I've ... been here for 40 years and volunteered for everything. I don't think this is what we need. These are my friends. I've worked with Sean and I've worked with Mark and, because of this confrontation with the Planning Commission or whatever's happening with the Planning Department or the City not ironing this out before here, I'm stuck in this situation. To be honest with you, I don't really want to be here and the only reason I even appealed it was because I thought it stunk. It stunk. You're going to simply say, 'Sure, let's just do it.' Does that mean that down the road, let's just say the 14th fairway becomes open game too for apartments. I mean, at what point does a PUD just get thrown out the door? And when we first went to the Planning Commission, we were really told, we can't find the PUD. ... and I spent hours and other people spent hours reconstructing or finding it, trying to get it printed, find out where it is. That's not right. ... if this is something you think is special, if you can look at that picture and say, 'That is special and that is compatible,' then we have an honest difference of opinion.”

In response to a question, Mr. Wipfli expressed the opinion that “at least it should be thrown back and say, 'We need to look at this more serious.' If an architectural review committee was there, this would have been cleaned up and the neighbors could have said, 'Can you make it look French? Can you make it blend into the buildings that are next to it?' But I don't want to insult the structure. You either know what you see or you don't know. But that isn't compatible. ... We're all for having neighbors. We're all for you ... building apartment units ... but do it right. ... It scares me to just throw the PUD out and simply say, 'That's it.’” Mr. Wipfli encouraged the Board to do what is right.

Ms. Dorr Pansky responded to questions of clarification regarding density and noticing requirements. (6:59:21) In response to a further question, Brenda Wipfli stated, “We are supposed to have a property owners association.” Mrs. Wipfli advised that Mrs. Shallenberger had attempted to distribute the “minutes from these meetings which are very sketchy. They ... are supposed to be held yearly. We're supposed to be notified. In ten years, I've never received any type of notification. I think the law says I don't just have to be notified, they have to actually contact me and let me know. If you ... read those minutes, you will see that at almost every property owners association meeting, there were three people present. They were the

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Board of Directors. I believe you can see who the three people are and no one else was ever included.” Mrs. Wipfli advised that she receives a bill every quarter which she pays “and so they know my address, but I’ve never received any kind of notification on this project or anything else. So, no notification. ... I’ve never been to a meeting. I’ve never been asked to come to a meeting and, to be honest ..., I would go to those meetings and I would participate in those meetings and I would think that we would have an architectural review committee and a lot of these problems, possibly, would have been dealt with at that level. So, no notification. The problem that I had is I contacted most of the property owners in our association ... and a lot of them are medical doctors and the mail comes to their professional office and they are not the ones that open the mail. They have told me that they do not believe they’ve ever been notified ... but they can’t swear on a Bible because they don’t open their own mail. And if you look at those minutes, you’ll see that some of those meetings are held, I just noticed one was held at 3:00 in the afternoon. We’re a group of professional offices. Most of those doctors work from 8:00 in the morning ’til 5:00. It doesn’t seem logical to hold a meeting at 3:00 ..., but we have never been notified, ever.”

(7:01:35) In response to an earlier question, Mr. Hartman advised “there are two sets of CC&Rs.” Mr. Hartman referred to a citation read into the record earlier in the meeting from the commercial CC&Rs. “... in there at [Section] 1.3 is a whole litany of things; the project design theme discourages the use of Spanish, Mediterranean, Southwestern. Mass and scale are important considerations in larger structural projects. And the project preference is to emphasize classical French country, craftsman English country, and similar design themes. That is throughout. The building design and construction shall be architecturally harmonious and compatible with the other buildings and improvements, from time to time, located in the Silver Oak Commercial Area.” Mr. Hartman was not familiar with the architectural review committee. He expressed the belief “it was always envisioned that there would be one. ... There should be two sets of associations with meetings. ... that’s the normal thing and, particularly, in the sense of a common interest ownership committee in communities which we passed that law ... many years ago was prior to this ...” In response to a question, Mr. Hartman advised that it’s up to the owners to determine whether they want an architectural review committee. In response to a further question, Mr. Hartman reiterated the belief that the Board has no purview over architectural issues. He expressed the opinion that the Planning Department “can be notified of those issues if they’re in violation of the CC&Rs ... but, at the end of the day, that is a matter for the associations; whether it’s the one dealing with the residential or the one in commercial.” Supervisor Bonkowski emphasized that Section 1.3 uses the word “discourages.” Mr. Hartman acknowledged the accuracy of the statement. He stated, “Again, you don’t usually prohibit things unless they’re really draconian. It’s just not the nature of a PUD.”

Mayor Crowell recessed the meeting at 7:04 p.m., and reconvened at 7:13 p.m. He called for the applicant.

(7:14:12) In reference to the previous testimony, Mark Turner expressed the opinion that “what’s down in writing is what ... really should carry this hearing ...” He advised that Mr. Hartman was involved in drafting the PUD document nearly 25 years ago. “Things are significantly different. ... when we contemplated this project in the beginning, we saw a need for a product that’s not present in Carson City in adequate amounts right now. And we began the process the way you should begin the process which is to consult with the Planning Department to ask the questions, to be given the guidance, and proceed along the path. That’s why we have a Planning Department. They do a good job of advising people on how to carry out development plans here in Carson City. We did, we feel, dot our i’s, cross our t’s, look at what was in writing and follow what was in writing. We began the process and notifications were sent out and people responded. People showed up at the meeting. We had a meeting, we had a hearing, the SUP was granted. And then it was appealed.” In reference to Mr. Wipfli’s comments, he advised of having worked with the Wipflis in the past

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and that “unfortunately, we do have a difference of opinion on this matter here. But, we harbor no hostility. It's a business matter the way we look at it and we want to keep it focused on facts. As far as the due diligence that was done, through the process of considering this development, we did commission traffic reports. They were completed. They were submitted. They were analyzed. It was determined that the information that was contained in those draft reports was sufficient that we could move forward. ... We fulfilled the requirements for analyzing the traffic and ... the report was reviewed and we moved forward from there.

“As far as the architectural review committee question is concerned, ... [Mr. Hartman] left Silver Oak prior to 2000. It's been a long time. Early in the days of Silver Oak, [Mr. Hartman] played an integral part in architectural review. As [Mr. Hartman] left and things changed and the economy slowed down, some of those responsibilities fell into my lap, and I don't believe that we've ever had an architectural review committee for the commercial buildings that exist in the commercial village. The actual association, the commercial association, which ... it's important to draw a very clear distinction between association guidance and rules that fall under Chapter 116 and a commercial association. It is not a residential association in the commercial village. It is a commercial association. The commercial association was put together and we began charging dues in 2008. Prior to 2008, the declarant, us, Silver Oak, we foot the bill for all of the costs associated with the commercial area. We paid for the maintenance of the landscaping that you see in Ivy Baldwin Circle ... and in 2008, we formed the association primarily for the purpose of helping to fund the care and upkeep of ... that property down there that benefits the commercial property owners. ... as far as an architectural review committee is concerned, as far as my knowledge, no commercial structures have been built since we actually formed and began operating the commercial association in 2008. So, prior to that, there really wasn't an association to convene. There wasn't an architectural review committee to convene and debate a particular project before it was sent off to a plan checker or whatever the next step was at the time.

“Going back to our working with the Planning Department on this project, we followed their guidance. The guidance that we got from the Planning Department was to utilize the special use permit process so that's what we did. And that's where we are here today. Other projects in Silver Oak have been approved through a special use permit. Mr. Wipfli's building is a nice building ... was approved through a special use permit. Sierra Place, the retirement facility, was approved through a special use permit. The Super Kmart was approved through a special use permit. Three very different uses. Sierra Place has 63 apartment units in it on two acres and they were not required to bring any density in when they were approved. Mr. Wipfli's building has two residential units. He was not required to bring any density in when he was approved. So, it is our opinion, ... that there is no requirement for us to bring density for this proposed multi-family complex.

“In regard to the PUD document, we've heard discussion about whether multi-family was allowed or whether it's not allowed or whether it should be combined with some other use. There was a lot of time and effort put into the PUD document when it was drafted, as Mr. Hartman has ... chronicled for us tonight. And if it was intended for multi-family to be excluded as a use, there was ample opportunity and it should have been excluded in writing. It was not and that's one of the reasons why we're here tonight. And we feel that the document needs to stand on its own. You read the language, see what's in it, see what's permitted, you see what's not. Multi-family, as we know, is not a permitted use in a tourist commercial zone but we're not in a tourist commercial zone.”

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Mr. Turner advised of having read the reports provided by staff, and of the applicants' concurrence. He introduced Architect Jeff Frame, and advised that he has designed other structures in the Silver Oak area, in the medical complex area. He advised of having selected Mr. Frame "based on his expertise and the type of work that he does. We went to the trouble to hire a professional architect who has a good reputation and has done good work, not only in the Reno area but also in our own community of Carson City." Mr. Turner also introduced Attorney Kristen Martini.

(7:23:00) In reference to the public notification issue, Mr. Frame stated, "Normally, historically, public notification on a special use permit, zone change, land use, whatever it is, that is done by ... the local Planning Department. You don't have the applicant do that and the reason you don't is because you want to make sure all the surrounding property owners, within a certain distance, in this case ... 1,150 feet, get notified. 1,125 or 1,150 feet ... is a wide range. Usually ... in other cities, it's like 600 feet. So here we are twice the distance here." Supervisor Abowd expressed the opinion that the confusion lies in the fact that "PUD follows everything in this designation. So, do the rules change? Does it have to go under a different scrutiny? And ... that's what it comes down to ..."

Mr. Frame acknowledged that these are "higher end apartments." In response to a further question, Mr. Frame expressed the opinion that "what constitutes a higher end apartment is there's style in there, of course. There's amenities, some of the amenities on the inside that the client has wanted to add in there. We don't put them in our ... production apartments ... or student apartments. ... the one-bedroom units are about 800 square feet ... and are going to rent for about \$1,100 a month. It's over and above normally what you'd see for an 800 square foot apartment. There's usually more amenities in the complex as a whole, usually more green space that you have and that's what we tried to accomplish here." In response to a question regarding the architectural design, Mr. Frame acknowledged "it doesn't look like anything that's there. And, to be as tactful as possible, that was our goal. ... We don't really design buildings to blend in. We design our buildings to get noticed. ... Our goal was to design a project where we invite younger, this millennial-type generation who doesn't want to own a house. You've got a bunch of medical professionals just up the street who are not permanent in nature in that they're going to rent an apartment for one, two, maybe three, four years ... and then they're going to move on. And that's what this project is for."

Mr. Turner acknowledged there is no architectural review committee for the commercial area. "There have been no commercial buildings built in the area since the formation of the association in 2008. And, if you look at the governing documents which we reviewed earlier in the week, the association is on a percentage basis. ... in looking at the document, once ... in excess of 75 percent of the land has been transferred from the declarant to others, then there's a shift in the control from the declarant to a body that would be formed of the property owners. Well, we're not at the 75 percent threshold yet. We're very close, but we still retain that threshold and, in doing the math, we are not over the threshold."

(7:27:56) Ms. Martini commended Mr. Turner's articulation of the applicant's points. She reaffirmed agreement with the staff report, the District Attorney's memorandum, and the memorandum from Ms. Dorr Pansky, dated December 7, 2015. Ms. Martini expressed the opinion that the Planning Commission's decision should be affirmed. In reference to Mr. Hartman's statements "about what was envisioned, what the drafters and the parties thought something should look like or should be excluded, that isn't really a proper consideration here because this is a legal document. It's a written instrument. It's not ambiguous.

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... So, it needs to be construed according to the four corners of the document and, because it doesn't expressly exclude it, as articulated in [Mr. Woodbury's] memorandum, then we should follow the four corners of the document and that permits the special use permit in this case."

Ms. Dorr Pansky responded to questions of clarification regarding the provisions of the Carson City Municipal Code relative to special use permits and building requirements. Mr. Turner responded to questions of clarification regarding density and architectural style. In response to a further question, Ms. Dorr Pansky advised that a special use permit was required for Sierra Place, and that a density transfer did not occur. Community Development Director Lee Plemel provided additional clarification. "The special use permit was for a congregate care facility. That's terminology in the zoning where there's common eating facilities. But they are, in fact, individual living units within that facility." In response to a question, he advised there is nothing in the documentation to indicate that residential units were removed elsewhere in Silver Oak as a result of the Sierra Place special use permit approval. In response to a question, Ms. Dorr Pansky advised that the Sierra Place parcel has a neighborhood business zoning designation. Congregate care is a conditional use in the neighborhood business zoning district.

In response to a question, Mr. Frame expressed the opinion that the architectural design of the proposed project "meets the condition [that] it is not Spanish, Mediterranean or French country, which the PUD discourages. ... in that regard, yes, I think it does meet the conditions of the PUD." Mr. Frame acknowledged that an alternate color scheme was prepared for the client. In response to a question, Mr. Woodbury expressed concurrence with Ms. Dorr Pansky's analysis that no density transfer is required.

Mayor Crowell offered the appellants the opportunity for rebuttal. (7:38:56) In response to a question, Mr. Hartman recalled having met with the people who purchased the Sierra Place property. "They liked the fact that it was on the main drag and it was close to Kmart and what was going to be a grocery store. ... In those days, they were more ambulatory than perhaps what that facility has ended up being." In response to a question, he advised that there was no density transfer associated with the development of Sierra Place. He expressed the opinion that congregate care doesn't impose "the same kinds of burdens on the community that you do in multi-family ..." He noted that the Fire Department "shows up there quite a bit." He expressed the opinion that "when you deal with a residential use, that's a unit. ... By virtue of some documents, I can create deeded interest in that. I'm not buying into that argument. I think that, clearly, it's a residential use. That's what we capped that number, whatever that number is today ..."

In response to a comment, Mr. Hartman stated, "In a planning context, particularly in the last 40 to 50 years, the fact remains that good plans are still good plans." He expressed the opinion that "Silver Oak is still a good plan. ... this doesn't help in that categorization. ... We have a very advancing planning situation and it's the ebb and flow." Mayor Crowell read into the record a premise of contract law, "When you construe a document, a thing omitted from enumeration must be held to have been omitted intentionally." Mr. Hartman agreed with the statement "in the context of contract law." He disagreed with the statement "in the context of planning, in the PUD sense, because you're trying to build in flexibility. ... We, at one time proposed, that the density that wasn't used, ... that density didn't go away; that it could be moved as long as it only went to clusters because we were trying to buffer that more intense use. And that was always the thought; that was never going to go away. Those units were not going to go away because the project was planned for 1,181 or whatever that number was. And, as long as you kept them buffered, it was okay. And then they told me, 'Well, no, we're not going to do that.' I think that's wrong. I think the project was a plan for 1,181. I don't know how many of those units weren't used."

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In response to a question, Mr. Hartman expressed the opinion that the project should be remanded back to the Planning Commission “so that it doesn't amount to a spot zoning. ... Conceptually, I don't have a problem with having multiple family use in the context of a commercial use and a retail use. I just think when you supplant a conditional use and wipe out the retail commercial PUD designation, I just think that's wrong.” In response to a question, Mr. Hartman expressed the opinion that the association becomes important relative to the specificity of the PUD documents. He reiterated that the matter should be remanded to the Planning Commission, as outlined in his letter, “there was not an adequate addressing of the four things that you need to look at: how the proposal will impact the immediate vicinity. There's significant impacts to the immediate vicinity just by nature of narrow streets. ... it may fit a traffic engineer's calculation of a service level C or D ..., but that doesn't mean it doesn't impact the immediate vicinity. How does the proposal support the goals, objectives, recommendations of the master plan concerning land uses and related policies for the neighborhood where the subject property is situated? Well, that brings in the PUD in my opinion. And, again, I don't think that was done. I don't think that was shown down below. I understand that the market's changed ... I've lived in the same house since 1979. But, the fact of the matter is that didn't get addressed ... to a satisfactory level. Will it impact properties within that use district? Absolutely it does. I don't think that was addressed either. It was just, 'Well, it's just one of the uses and so ... that's the way it goes. We're going to make the whole thing that.' And I think that's where the violation of the PUD comes. And are there impacts on public services and facilities? You can argue that all day long. I mean, yeah, there's probably enough sewer capacity, and you crank up the pressure on the water and you can get enough water there, but I think it's going to impact public services and facilities in that area. Just my opinion. I don't think that was handled down below. I do believe there's a way to make that project work. But it can't be the only zone because you just throw the PUD out the window. ... I can still read the CC&Rs for the area in question, for this commercial village, and it ties it back to compliance with the master drainage plan, the architectural design and landscaping plan, approvals by Silver Oak. It goes through the reciprocal easements and, subsequent to these being done, you had another master drainage amendment that went on the property. ... But you go back to the issues of ... eye of the beholder. And I get that. ... It's not my idea of what I believe is appropriate in the capital city that's been here for well over 100 years, but I understand beauty is in the eye of the beholder. But, in this case, we are very specific in the CC&Rs and, again, I understand that's not your bailiwick. Mass and scale are important. The preferences to emphasize, it doesn't say 'mandate,' it says 'emphasize' classical French country craftsman, English country, and similar design themes. Now, most of the people that have bought and put a lot of money, there's millions of dollars invested in that area, ... there are some of them who don't want to have “pop.” We want it to be quality and nice and not be Vegas where you tear it down every 20 years and go put something else up. That's not been Carson City's model. And, again, I go back to the visioning study which is all part of this.

“So, when you look at what is in the CC&Rs, the impact to this site; when you look at what was supposed to be done to deal with a special use condition, I don't think they made it. And the other thing is, I don't think that you can grant a singular use that's a conditional use without that being a spot zoning. That's my opinion.”

(7:51:40) Mr. Wipfli clarified earlier comments regarding opinions over the aesthetics of the proposed design. “As far as the architect review committee, Mark Turner implied or said, they're just about at that 75 percent that would constitute that we would need an architect review committee or they should do that. My understanding is the CCMC 17.09.110 says 40 percent ... constitutes that there will be moving to a community architect review ... It's shifted at that percentage.” Mr. Hartman reiterated the suggestion to

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remand the matter to the Planning Commission. With regard to density, Mr. Wipfli advised that “right now, the density is so tight that ... there's no accommodation for snow removal other than dumping it in to the golf course. Now, is that compatible? I don't find that compatibility that you made it so dense that you don't even have a place. Everybody in this town that has commercial property has a place to put their snow. I'm not getting away without drainage and snow but theirs ... it seems like they kind of pushed the density about as hard as you can get.” Mr. Hartman expressed the belief that the PUD and the application are very specific, and that “they're entitled to whatever units they didn't use in the clusters. I don't know how many of those units there are, but that was part of the overall package. ... Should it be here? I'm not real keen on that because we tried to keep it internalized in the clusters.”

In response to a question, Mr. Hartman expressed the opinion “it's the magnitude of the change. If you put ten or fifteen units in this or five units or something that's not the dominate use, ... but to be the only use. I think you've got to find the units someplace. Either get them from ... what stuff already got thrown away when the projects weren't dense enough to use up all the clustered densities that were assigned. And it's all there. It's all in the PUD. All of those densities were assigned to those clustered areas and they got dropped off because they just couldn't make the geometry work to make it happen. ... they're entitled to that density, whatever that density is.”

Mayor Crowell entertained additional comments from the appellant and the applicant and, when none were forthcoming, entertained comments from the Board members. Supervisor Bonkowski advised of having taken “pages of notes,” but that he kept coming back to “there have been precedents set, and I don't know how we can just pick and choose. ... The fact is that we have two properties that have been developed through a special use permit that have residential use that were not required to bring density.” He expressed the personal preference to see the density transferred, but was uncertain as to how to make that decision “when we've already allowed two other properties to be developed that have residential and didn't have to bring density to the table.” He expressed the opinion that he has to “stick with the overall facts that are in writing here and not with intent. And the fact is that multi-family was not prohibited. In fact, it says just the opposite. 'The allowable land uses for the property shall be as set forth in the Carson City Municipal Code, as modified by the Silver Oak Development Agreement. While subsequent deed restrictions may exclude certain uses otherwise available by law, it is not the intent of this declaration to exclude any uses allowable pursuant to the current Carson City ordinance.' What that says ... is there were ample opportunities to restrict multi-family and it wasn't done. ... I just don't see anything in here that prohibits the project.” He expressed dislike over the proposed design, but acknowledged this is not within the Board's purview. “That goes to the architectural review committee. Whether it exists or doesn't exist is an issue for the property owners to deal with.” He reiterated the position to “go with what is in writing.”

Supervisor Shirk complimented both sides on their compelling arguments. He expressed the opinion that the Planning Commission followed the letter of the law “and if we weren't, I believe the DA would say something that this isn't per the legal ramifications that we could protect the interest of the community.”

Supervisor Abowd advised of having spoken to many people “on both sides of this issue. The DA and Planning Department have been an invaluable resource for us in providing clear direction. We've met with them extensively on this issue. Precedent has dictated this special use permit process so I don't know how ... we pick and choose ... And, in order to uphold the appeal, we have to circumvent the direction of our DA and our Planning Department. That troubles me because they have looked into this extensively and reviewed it completely and we have quizzed them at length on every single aspect of this. With regard to

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the project itself, the original documentation states the guidelines cannot be all encompassing and are meant to encourage rather than restrict creativity. And I see the project as that. There are other buildings within that development that reflect a similar architecture. ... But, I do think that it can be compatible, something that needs to be worked out within Silver Oak itself. And, lastly, the original application ... speaks to flexibility. The original PUD was done 21 years ago. Every decision we've made here today has been about future, things that have changed, things that have moved on. I think this is something that, what is being proposed, reflects the flexibility that needs to happen here now. We are in a different time when a different sort of living situation is needed. So, in that respect, ... I have to deny the appeal.”

Supervisor Bagwell advised that one of her “original questions was about the fact that you did, in your application, put the variances to the Carson City Municipal Code. You were specific to talk about setbacks and I agree that they were mechanics, but that also leads me to believe that you were reviewing the Code to determine what you did not want or wanted to do differently in your PUD. And, at the time of the PUD, it did allow, in RC, by a special use permit, the opportunity to put a multi-family. So the absence of you not taking it out of the PUD, I can only read what is here and, because you went to all the trouble to list every other variance to Code, and it may be that you actually drew the intent yourself with the PUD, but it's not evident in the document to me. And Brad's comment was specific in here also that said you were not limiting the use, pursuant to the Code. Don't like the architecture.”

Mayor Crowell expressed agreement that the architectural design “is in the eye of the beholder. It's not precluded. And, frankly, ... when I first heard of this project, I would have fallen right down Steve Hartman's analysis. But, when I start looking at the documents and looking at what's going on, to do anything other than uphold the Planning Commission is to deny a land owner the right that they have under the Development Agreement, under the documents for this planned unit development. ... We've had this before, talking about developments in the historic district. There comes a time when ... as much as you may or I may want to say, 'Hey, I don't think it fits,' not my call because I'm not the land owner. So I don't see this as being precluded as a special use under the documents that we've been provided. ... I've tried every which way I can to get to there but I can't.”

Mayor Crowell clarified that, although Mrs. Shallenberger's documentation could not be included in the appeal, they should be included in the record. He entertained a motion. **Supervisor Abowd moved to deny the appeal and uphold the Planning Commission's approval of the special use permit, SUP-15-077, to allow multi-family apartments in a retail commercial zoning district, on property zoned retail commercial / planned unit development, located at G.S. Richards Boulevard and Country Club Drive, APNs 007-461-22 and 007-461-23, based on the findings and subject to the conditions of approval outlined in the staff report. Supervisor Bonkowski seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

RESULT:	Approved [5 - 0]
MOVER:	Supervisor Karen Abowd
SECOND:	Supervisor Brad Bonkowski
AYES:	Supervisors Abowd, Bonkowski, Bagwell, Shirk, and Mayor Crowell
NAYS:	None
ABSENT:	None
ABSTAIN:	None

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17. PUBLIC COMMENT (8:10:15) - Mayor Crowell entertained public comment; however, none was forthcoming.

18. ACTION TO ADJOURN (8:10:36) - Mayor Crowell adjourned the meeting at 8:10 p.m.

The Minutes of the December 17, 2015 Carson City Board of Supervisors meeting are so approved this _____ day of February, 2016.

ROBERT L. CROWELL, Mayor

ATTEST:

SUSAN MERRIWETHER, Clerk - Recorder