

# CARSON CITY BOARD OF SUPERVISORS

## Minutes of the December 1, 2016 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 1, 2016 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Mayor Robert Crowell  
Supervisor Karen Abowd, Ward 1  
Supervisor Brad Bonkowski, Ward 2  
Supervisor Lori Bagwell, Ward 3  
Supervisor Jim Shirk, Ward 4

**STAFF:** Nick Marano, City Manager  
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 Recording Secretaries Division of the Clerk's Office, during regular business hours.

**1 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE** (8:30:47) - Mayor Crowell called the meeting to order at 8:30 a.m. Ms. King called the roll; a quorum was present. Good Shepherd Wesleyan Church Pastor Nick Emery provided the invocation. At Mayor Crowell's request, Undersheriff Steve Albertsen led the pledge of allegiance.

**5. PUBLIC COMMENT** (8:32:10) - Mayor Crowell entertained public comment. (8:32:22) With regard to the Vintage at Kings Canyon, Hope Tingle expressed the hope that any Board member with a "potential conflict of interest as to whether or not ... if this project is approved, that they make financial gain from part of this project, that you would abstain from a vote on that." Ms. Tingle expressed the belief that the Vintage at Kings Canyon doesn't "fit the neighborhood ..." She discussed concerns over the "environmental and ecological impact of the development," particularly relative to water supply. She responded to questions of clarification. Supervisor Abowd advised that she and Supervisor Bonkowski serve as members of the Carson Water Subconservancy District Board of Directors. "We pay very close attention to this. Carson [City] has been very prudent in what they're doing and in not mining their groundwater and, yes, there are other basins that have and there are serious issues of more paper water than real water."

(8:39:06) Public Works Department Director Darren Schulz introduced Senior Center Executive Director Courtney Warner and provided background information and a status report on repairs to the subfloor in a portion of the Senior Center building. Mr. Schulz anticipates the repair project will take six to eight months to complete. Ms. Warner reviewed the relocation plan to accommodate the repair project. In response to a question, Mr. Schulz explained the length of time necessary to complete the repairs. In response to a further question, he advised that the insurance adjuster has evaluated the damage, and that he is awaiting a response regarding possible coverage. He acknowledged that a determination has yet to be made with regard to a design flaw or a construction defect, and that the outcome will be followed up, as appropriate. Mayor Crowell thanked Ms. Warner for her service.

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(8:44:24) Bruce Scott offered assistance regarding factual information relative to water. "It's an emotional subject. People are taking things out of context. There are legitimate concerns out there that cover basins that are not part of our water supply." Mr. Scott commended Carson City staff on management of "a very complex water system," and expressed confidence "in the ability to deliver water that's wet, not just paper water." Mayor Crowell thanked Mr. Scott, and entertained additional public comment; none was forthcoming.

**6. POSSIBLE ACTION ON APPROVAL OF MINUTES - November 3, 2016 (8:45:42)** - Mayor Crowell entertained suggested revisions to the minutes and, when none were forthcoming, a motion. **Supervisor Bonkowski moved to approve the minutes, as presented. Supervisor Abowd seconded the motion. Motion carried 5-0.**

**7. POSSIBLE ACTION ON ADOPTION OF THE AGENDA (8:46:02)** - Mayor Crowell introduced this item, and entertained modifications to the agenda. Mr. Marano advised of the need to defer items 18(D), 24 and 28. In consideration of deferring items 24 and 28, Mr. Marano suggested deferring item 22 as well. Supervisor Shirk recommended deferring items 30(A) and 30(B) until such time as an evening meeting can be scheduled. Mayor Crowell considered Supervisor Shirk's recommendation as a motion and called for a second. The motion failed for lack of a second.

Mayor Crowell entertained a motion to approve the agenda, as modified. **Supervisor Bonkowski so moved. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote. **Motion carried 4-1.** At Supervisor Bagwell's request, Mayor Crowell entertained discussion. In response to a question, Mr. Marano advised of having received "significant public comment. All of those letters and emails are reflected in your packet. I didn't have one person request an evening session, though." Community Development Director Lee Plemel advised of having received one request for an evening meeting. Discussion followed.

**8. SPECIAL PRESENTATION OF A PROCLAMATION FOR "WORLD AIDS DAY," RECOGNIZED ON DECEMBER 1, 2016 IN CARSON CITY, NEVADA; LOOK TO THE PAST TO REMEMBER, AND TO THE FUTURE FOR HOPE (8:50:50)** - Mayor Crowell introduced this item and, at his request, the Board members joined him on the meeting floor. Mayor Crowell read into the record the language of the Proclamation, the original of which he presented to Health and Human Services Department Director Nicki Aaker. Ryan White Treatment Adherence Counselor Frances Ashley expressed appreciation to the Board for the Proclamation, and discussed the importance of awareness. Ms. Ashley advised of free testing available today at the clinic, from 1:00 p.m. to 3:00 p.m.

**9. RECESS BOARD OF SUPERVISORS MEETING (8:57:29)** - Mayor Crowell recessed the Board of Supervisors meeting at 8:57 a.m.

### LIQUOR AND ENTERTAINMENT BOARD

**10. CALL TO ORDER AND ROLL CALL (8:57:31)** - Chairperson Crowell called the Liquor and Entertainment Board to order at 8:57 a.m. Mayor Crowell noted the presence of a quorum; however, Sheriff Furlong was absent.

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**11. PUBLIC COMMENT (8:57:35)** - Chairperson Crowell entertained public comment; however, none was forthcoming.

**12. POSSIBLE ACTION ON APPROVAL OF MINUTES - October 20, 2016 (8:57:39)** - Chairperson Crowell entertained suggested revisions to the minutes and, when none were forthcoming, a motion. **Member Bonkowski moved to approve the minutes, as presented. Member Abowd seconded the motion. Motion carried 5-0.**

**13. COMMUNITY DEVELOPMENT DEPARTMENT, BUSINESS LICENSE DIVISION - POSSIBLE ACTION TO APPROVE PAUL BRYCHEL, JR., AS THE LIQUOR MANAGER FOR BLAZIN WINGS, INC. DBA BUFFALO WILD WINGS, LIQUOR LICENSE NUMBER 17-30770, LOCATED AT 3815 SOUTH CARSON STREET (8:58:05)** - Chairperson Crowell introduced this item. Senior Permit Technician Lena Reseck reviewed the agenda materials, noting staff's recommendation of approval. (8:58:36) Paul Brychel, Jr. invited everyone to Buffalo Wild Wings and listed the various restaurant amenities. In response to a question, Undersheriff Albertsen advised of "no concerns or problems."

Chairperson Crowell entertained questions or comments of the Board members and, when none were forthcoming, a motion. **Member Abowd moved to approve Paul Brychel, Jr., as the liquor manager for Blazin' Wings, Inc. dba Buffalo Wild Wings, liquor license number 17-30770, located at 3815 South Carson Street, subject to the condition that the liquor manager must complete a server training course acceptable to the Sheriff's Office within 120 days, pursuant to CCMC 4.13.060. Member Bagwell seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

<b>RESULT:</b>	<b>Approved [5 - 0]</b>
<b>MOVER:</b>	<b>Member Karen Abowd</b>
<b>SECOND:</b>	<b>Member Lori Bagwell</b>
<b>AYES:</b>	<b>Members Abowd, Bagwell, Bonkowski, Shirk, and Chair Crowell</b>
<b>NAYS:</b>	<b>None</b>
<b>ABSENT:</b>	<b>Member Ken Furlong</b>
<b>ABSTAIN:</b>	<b>None</b>

**14. PUBLIC COMMENT (9:00:20)** - Chairperson Crowell entertained public comment; however, none was forthcoming.

**15. ACTION TO ADJOURN LIQUOR AND ENTERTAINMENT BOARD MEETING (9:00:26)** - Chairperson Crowell adjourned the Liquor and Entertainment Board meeting at 9:00 a.m.

**16. RECONVENE BOARD OF SUPERVISORS (9:00:27)** - Mayor Crowell reconvened the Board of Supervisors meeting at 9:00 a.m.

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**ORDINANCES, RESOLUTIONS, AND OTHER ITEMS**

**17. FINANCE DEPARTMENT**

**17(A) POSSIBLE ACTION TO ACCEPT THE REPORT ON THE CONDITION OF EACH FUND IN THE TREASURY, AND THE STATEMENTS OF RECEIPTS AND EXPENDITURES, THROUGH NOVEMBER 18, 2016, PURSUANT TO NRS 251.030 AND NRS 354.290 (9:00:30) -**

Mayor Crowell introduced this item and, in response to a question, Chief Financial Officer Nancy Paulson explained a necessary transfer to Fund 240, Traffic / Transportation. She responded to additional questions of clarification. Mayor Crowell entertained additional questions or comments and, when none were forthcoming, 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 November 18, 2016, pursuant to NRS 251.030 and NRS 354.290. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

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

**17(B) POSSIBLE ACTION TO ADOPT BILL NO. 115, ON SECOND READING, AN ORDINANCE AUTHORIZING INSTALLMENT - PURCHASE AGREEMENTS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING, IMPROVING, AND EQUIPPING BUILDING PROJECTS, AND AUTHORIZING THE EXECUTION OF THE AGREEMENTS AND OTHER DOCUMENTS RELATED TO THE AGREEMENTS (9:03:02) -**

Mayor Crowell introduced this item and, in response to a question, Chief Financial Officer Nancy Paulson advised of no proposed revisions since introduction, on first reading. Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Bonkowski moved to adopt Bill No. 115, on second reading, Ordinance No.2016-16, an ordinance authorizing installment - purchase agreements for the purpose of acquiring, constructing, improving, and equipping building projects, and authorizing the execution of the agreements and other documents related to the agreements. Supervisor Bagwell seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

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

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**18. PURCHASING AND CONTRACTS**

**18(A) POSSIBLE ACTION TO AWARD CONTRACT NO. 1415-123B, PERFORMANCE BASED CONTRACT TO AMERESCO, INC., FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$4,170,786, TO BE FUNDED FROM THE CONSTRUCTION - ENERGY PERFORMANCE CONTRACT FUND, AS PROVIDED IN FISCAL YEAR 16 / 17 (9:03:55)** - Mayor Crowell introduced this item, and Purchasing and Contracts Administrator Laura Tadman reviewed the agenda materials. Mayor Crowell entertained questions or comments of the Board members and public comments. When no questions or comments were forthcoming, Mayor Crowell entertained a motion. **Supervisor Abowd moved to award Contract No. 1415-123B, Performance-Based Contract to Ameresco, Inc., for a total not-to-exceed amount of \$4,170,786, to be funded from the construction - energy performance contract fund, as provided in FY 16 / 17. Supervisor Bonkowski seconded the motion.** Mayor Crowell entertained discussion on the motion. Supervisor Bonkowski commended staff on negotiation of the contract. Mayor Crowell entertained additional questions or comments and, when none were forthcoming, called for a vote on the pending motion.

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

**18(B) POSSIBLE ACTION TO APPROVE THE PURCHASE OF FOUR POLICE VEHICLES FROM MICHAEL HOHL MOTOR COMPANY AND TSA CUSTOM CAR AND TRUCK, THROUGH THE STATE OF NEVADA'S COMPETITIVE BID LIST, FOR A NOT-TO-EXCEED COST OF \$189,164.91, TO BE FUNDED FROM THE VEHICLE REPLACEMENT PROGRAM, AS PREVIOUSLY APPROVED IN THE CAPITAL IMPROVEMENT PLAN AND THE FY 2016 / 17 BUDGET (9:05:53)** - Mayor Crowell introduced this item, and Purchasing and Contracts Administrator Laura Tadman reviewed the agenda materials. Supervisor Bagwell expressed appreciation for everyone's efforts to get "some local dealerships on the bid list." Ms. Tadman acknowledged the item as having been budgeted. Mayor Crowell entertained additional questions or comments and, when none were forthcoming, a motion. **Supervisor Bonkowski moved to approve the purchase of four police vehicles from Michael Hohl Motor Company and TSA Custom Car and Truck, through the State of Nevada's Competitive Bid List, for a not-to-exceed cost of \$189,164.91, to be funded from the Vehicle Replacement Program, as previously approved in the Capital Improvement Plan and the FY 2016 / 17 budget. Supervisor Bagwell seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

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

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**18(C) POSSIBLE ACTION TO AWARD CONTRACT NO. 1617-080, TECHNICAL SUPPORT FOR PHASE 4 OF THE ENERGY PERFORMANCE CONTRACT, TO CELTIC ENERGY, INC., FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$42,400, AND TO APPROVE AMENDMENT NO. 1 TO CONTRACT NO. 1516-013, TECHNICAL SUPPORT FOR THE ENERGY PERFORMANCE STUDY CONTRACT DEVELOPMENT WITH CELTIC ENERGY, INC., FOR AN ADDITIONAL \$18,400, TO BE FUNDED FROM THE PROFESSIONAL SERVICES ENERGY PERFORMANCE CONTRACT FUND, AS PROVIDED IN FISCAL YEAR 2016 / 17 (9:07:18)** - Mayor Crowell introduced this item, and Purchasing and Contracts Administrator Laura Tadman reviewed the agenda materials. Supervisor Bonkowski explained the purpose of the contract “for a third-party consultant that will keep an eye on the actual construction of the energy-efficient items under the Ameresco contract. ... what we've done is put a third-party independent expert in place to make sure that the Ameresco contract is fulfilled under the terms ...”

Mayor Crowell entertained additional questions or comments of the Board members and public comment. When no additional questions or comments were forthcoming, Mayor Crowell entertained a motion. **Supervisor Abowd moved to award Contract No. 1617-080, Technical Support for Phase 4 of the Energy Performance Contract, to Celtic Energy, Inc., for a total not-to-exceed amount of \$42,400, and to approve Amendment No. 1 to Contract 1516-013, Technical Support for the Energy Performance Study Contract Development, with Celtic Energy, Inc., for an additional \$18,400, to be funded from the Professional Services Energy Performance Contract Fund, as provided in FY2016 / 17. Supervisor Bagwell seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

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

**18(D) POSSIBLE ACTION TO AMEND THE SIEMENS HEALTHCARE DIAGNOSTICS, INC. CONTRACT NO. CARSON DAS FOR AN ADDITIONAL THREE YEARS, AND TO MODIFY THE QUANTITY AND COST OF TESTS PER YEAR, TO BE FUNDED FROM THE ALTERNATIVE SENTENCING DRUG TESTING ACCOUNT, AS PROVIDED AFTER AUGMENTATION IN FY 2016 / 17 - Deferred.**

**19. PUBLIC WORKS DEPARTMENT - POSSIBLE ACTION TO APPROVE A NON-EXCLUSIVE EASEMENT AGREEMENT, BETWEEN THE STATE OF NEVADA, DIVISION OF STATE LANDS AND CARSON CITY, FOR THE VICEE CANYON RECHARGE SYSTEM LOCATED ON APN 007-091-81, SOUTH OF TIMBERLINE DRIVE (9:09:40)** - Mayor Crowell introduced this item. Real Property Manager Stephanie Hicks reviewed the agenda materials, and responded to a question regarding the purpose of the easement. Mayor Crowell entertained additional questions or comments of the Board members and of the public. When no further questions or comments were forthcoming, he entertained a motion. **Supervisor Bonkowski moved to approve a Non-Exclusive Easement Agreement, between the State of Nevada Division of State Lands and Carson City, for the**

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**Vicee Canyon Recharge System located on APN 007-091-81, south of Timberline Drive. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

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

**20. COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION**

**20(A) POSSIBLE ACTION TO ADOPT A RESOLUTION TO INITIATE THE PROCESS FOR DECLARING A MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF PLANNING OR OTHER APPLICATIONS FOR THE CONSTRUCTION OR OPERATION OF MARIJUANA ESTABLISHMENTS, AS CONTEMPLATED BY THE REGULATION AND TAXATION OF MARIJUANA ACT, PASSED BY NEVADA VOTERS DURING THE NOVEMBER 8, 2016 GENERAL ELECTION (9:11:48)** - Mayor Crowell introduced this item. Community Development Director Lee Plemel reviewed the agenda materials, and responded to questions of clarification. Ms. Fralick provided additional clarification relative to the associated time line. Mr. Plemel responded to additional questions of clarification regarding the effect of the subject moratorium, and discussion followed.

Mayor Crowell entertained public comment and, when none was forthcoming, entertained a motion. **Supervisor Bagwell moved to adopt Resolution No. 2016-R-29, a resolution to initiate the process for declaring a moratorium on the acceptance and processing of planning or other applications for construction or operation of marijuana establishments. Supervisor Abowd seconded the motion.** Mayor Crowell entertained discussion on the motion and, when none was forthcoming, called for a vote.

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

**20(B) POSSIBLE ACTION TO APPROVE THE TRANSFER OF THE GAMING LICENSE OF THE CARSON HORSESHOE CLUB, FROM NEVADA TREASURE CHEST TO SILVER BULLET OF NEVADA, LLC (9:21:43)** - Mayor Crowell introduced this item, and entertained disclosures. Supervisor Bonkowski read a prepared disclosure statement into the record, and advised that he would abstain from participating in discussion and action. Mayor Crowell read a prepared disclosure statement into the record, and advised that he would abstain from participating in discussion and action. Mayor Crowell entertained additional disclosures. Supervisor Shirk advised of having abstained from participating in discussion and action, during the November 17<sup>th</sup> Board of Supervisors meeting, “because

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I thought there was a conflict of interest from donations to my campaign. This is more or less a Carson City Municipal Code. I will not be abstaining from this. I believe I am entitled to vote on this and there is no conflict of interest.” Mayor Crowell entertained additional comments and, when none were forthcoming, passed the gavel to Mayor *Pro Tem* Karen Abowd. Mayor Crowell and Supervisor Bonkowski stepped away from the dais.

Mayor *Pro Tem* Abowd provided an overview of this item, and reviewed the format by which testimony would be received. In reference to the recently-distributed District Attorney's opinion, Ms. Fralick suggested taking a break to provide the interested parties an opportunity for review. In response to a question, District Attorney Dan Yu advised that counsel for both parties had been provided a copy of the opinion. Ms. Sullivan advised of having emailed the opinion to counsel for both parties at 8:00 a.m. She and Mr. Yu responded to questions of clarification. Mr. Yu further clarified that counsel for both parties were provided a copy of the opinion last evening.

(9:27:18) In response to a question, Attorney Sev Carlson, representing Silver Bullet of Nevada, LLC, advised of having reviewed the District Attorney's opinion. Attorney Garrett Gordon, representing the Carson Nugget, Gold Dust West, Casino Fandango, and Slot World, advised of having received the opinion last evening “at approximately 5:35 p.m. ...” and that he had met with his clients at 8:00 a.m. He requested the opportunity to continue this item in order to provide a response to the District Attorney's opinion. Supervisor Shirk expressed the opinion that the item should be continued. Mr. Gordon responded to questions, and advised of having been “a bit surprised by the tone and the conclusion of the opinions based on a conversation we had with the DA's office this week.” He reiterated the request for the opportunity “to review and respond, in writing, so we have a clear record of our concerns.” In response to a question, Mr. Carlson reviewed the time line associated with the subject transfer. Supervisor Shirk suggested scheduling a special Board of Supervisors meeting to accommodate the request for continuance as well as the transfer time line.

In response to a comment, Mr. Carlson stated, “We're on a time line and we've had a discussion about this at the last meeting on the appeal about the grandfather provision under the local ordinance, the local municipal code of 24 months. So, we're running up against the deadline. ... Silver Bullet has moved expeditiously since being in contract to purchase the grandfathered rights. We've gone through the SUP process, we've gone through an appeal that we did not file, and we looked at December 1<sup>st</sup> or December 15<sup>th</sup> to come before you on this application. We had discussions with state regulators and so, to have a special meeting, when Silver Bullet has put in significant time and money to date, through this entitlement process, we think potentially jeopardizes us just from a running out the clock standpoint.

“To make a clear record, Mr. Gordon and his clients repeatedly referenced Title 4. They've had ample opportunity to understand what is entailed in Title 4 because they brought those arguments, not only at the SUP appeal, but for the original SUP hearing in front of the Planning Commission, wanting the Planning Commission to apply Title 4.” Mr. Carlson expressed the opinion, “it's disingenuous to say that they're not familiar or intimately familiar with the provisions of Title 4 when they've been making arguments to try and defeat this project at least, in part, based on Title 4.”

Ms. Fralick reiterated the suggestion to recess the meeting to provide all interested parties the opportunity to review the District Attorney's opinion. She pointed out the District Attorney's responsibility to provide advice to the Board of Supervisors. She suggested the additional options of deferring this item to the



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afternoon session, and scheduling a special meeting. Mr. Yu assured the Board there was no intention to deliberately withhold the opinion or “sabotage any of the proceedings today.” In reference to Mr. Carlson's statements, Mr. Yu stated, “The analysis of ... CCMC 4.14 ... is something that's been in the works for several weeks or months now. All of the parties that are involved in these proceedings are well aware of the facts, the analyses, the legal issues. As Mr. Carlson also alluded to, that was part of the proceedings at the SUP stage of this matter as well.” Mr. Yu expressed the opinion that “it is fair and reasonable to say that everyone does have a full recognition of the legal issues that are before this Board. ... our office, we always do try to endeavor to get our analysis out as quickly as possible. Unfortunately, ... we can't always do that.” Mr. Yu apologized for not being able to issue the opinion until last night, and pointed out “there's no recommendation being made in the memorandum. It's just a conclusion. It's really nothing different from, for example, if certain questions were to pop up during this hearing today. So, if somebody had a question for me on the record as to my analysis or my objective opinion as to how [CCMC] 4.14 operates and how it should be properly interpreted, my opinions verbally on the record would not deviate from what's written ... in this memo.”

Community Development Director Lee Plemel advised that the District Attorney's opinion “affirms ... staff's interpretation as it's been represented thus far. So there's nothing new in the DA's memo in terms of how the City has handled Title 4, as it relates to the transfer of the gaming license. So, as you look at it, it does affirm staff's conclusions and position regarding Title 4 and the transfer of the gaming license.”

Mr. Gordon stated, for the record, “we certainly don't believe that this was a sabotage at all.” He expressed respect for District Attorney Woodbury and his staff. He expressed the opinion “there needs to be some mutual respect on our end as well given, in my original appeal letter on the special use permit, I brought up Title 4. That was weeks ago. I was told at the Planning Commission I couldn't discuss it. When we appealed to this body, I brought up Title 4. I was told we couldn't discuss it. So this has been an issue that has been out there and we haven't gotten a response on the City's position until late last night. ... We met with the DA this week and they asked us, 'Have you found any cases on this. It's pretty unique.' No, we haven't either. There was not one case that was discussed at our meeting at that point in time. I looked last night to this morning. There's eleven cases referenced in here and only one ... that I'm familiar with. They've taken a unique position and I would say it's not just ... a memo but the conclusion says, 'It's the opinion of this office,' and I think the 'opinion of this office' comes with some weight. ... we're not trying to run the clock out. A special meeting, I know my clients will move their schedules around if it accommodates the applicant but we would respectfully ask ... to recommend a special meeting to give us an opportunity to respond, in writing, given the unique circumstance over this. This is the first time I've been able to argue Title 4 and we've been ready and I just got the City's response last night. We would like some additional time, if at all possible.”

In response to a question, Mr. Gordon advised that, after having met with the District Attorney's staff earlier in the week, “our understanding was it was more of a neutral memo that would have laid out a ... defensible justification no matter what decision you made ... We were a little surprised to see that there was an opinion made for the two issues that we are adamantly against. Granted, the last paragraph still says that [the Board has] full discretion to interpret it differently, but ... I would not be doing my clients service right now if I didn't ask for some additional time to respond to the DA's opinion about the good standing given we don't believe that opinion is correct.” Mr. Gordon advised he was fully prepared for this meeting, but that he wouldn't be able to address the cases or legal arguments outlined in the District Attorney's opinion. He reiterated the request to postpone this matter to a future meeting.

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(9:40:23) Based on his experience, Mr. Carlson advised that most of the cases listed in the District Attorney's opinion "are statutory construction cases and so it's essentially enlightening the reader on how an ordinance or a statute should be read. ... none of these cases provide any definitive opinion from the Nevada Supreme Court on how to read a grandfathering ordinance or a grandfathering statute specifically with respect to a gaming license."

Supervisor Shirk reiterated the opinion that the matter should be deferred to a future meeting. Mayor *Pro Tem* Abowd expressed a preference to recess the meeting until 10:30 a.m. to provide an opportunity to review the District Attorney's opinion. Ms. Fralick advised of having heard from District Attorney Jason Woodbury who, suggested disregarding the opinion and moving forward. Mayor *Pro Tem* Abowd reiterated her preference to recess the meeting. Supervisor Shirk commended the District Attorney's opinion, but expressed the opinion "it's wrong to bring this forward at this juncture and, to have the DA say, 'don't read it or don't have it apply is totally wrong now. Now we're really going down a pathway which we're never going to recover from and ... if I was on that opposing side, I would actually file a lawsuit against this Board for bringing this forward and doing what we're doing today and not giving you ample time to look at this and make your argument. ... December 5<sup>th</sup> is the best solution to come back to this Board where each side is given ample opportunity to respond to the DA's legal opinion. And when this opinion comes in and it says, 'Conclusions,' ... that's wrong."

Ms. Fralick expressed the opinion that "the DA was pretty fair across the board. Normally, as your counsel, we could meet with you in private under an attorney / client privileged meeting and give you the advice. It was the DA's decision to actually make this a public memo for everyone to read and to give all the parties an opportunity to respond. ... we've been very fair and ... a recess in order for everybody to read and respond ... is reasonable."

Mayor *Pro Tem* Abowd recessed the meeting at 9:44 a.m. to provide everyone an opportunity to review the memo. Mayor *Pro Tem* Abowd reconvened the meeting at 10:30 a.m., and re-reviewed the format by which testimony would be received and the item would be deliberated and voted upon. Supervisor Shirk reiterated the opinion that the matter should be postponed to a future meeting. In response to a question, Ms. Fralick reviewed the chair's discretion to table the item, reschedule it to later in the day or to a future meeting. Mr. Marano advised that the earliest a special meeting could be scheduled would be December 7<sup>th</sup> due to the Nevada Open Meeting Law noticing requirements. Following discussion, Mayor *Pro Tem* Abowd expressed the opinion that the matter could be decided at this meeting. In response to a question, Supervisor Bagwell expressed the opinion that all the parties have had sufficient time to put forward legal arguments, and agreed with proceeding. Supervisor Shirk expressed opposition to actions by other Supervisors which took place during the recess, and discussion followed.

Planning Manager Hope Sullivan reviewed the agenda materials, and noted staff's recommendation of approval. Ms. Sullivan emphasized that the applicant was seeking transfer of ownership of the gaming license, "not a transfer of location." Mayor *Pro Tem* Abowd entertained questions or comments of the Board members; however, none were forthcoming.

(10:38:12) Mayor *Pro Tem* Abowd invited the applicant and his counsel to the meeting table. Attorney Sev Carlson discussed the importance of considering suitability, and requested the applicant, Mike Pegram "to speak about his background and his intentions as a licensee here in Nevada." (10:39:00) Silver Bullet of Nevada, LLC Majority Owner Mike Pegram provided background information on Silver Bullet of Nevada,

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LLC and its construction and operation of Bodine's Casino; the acquisition and operation of the Carson Valley Inn and Sharkey's Casino. "We feel, as operators, we are someone that takes advantage of the opportunity that market provides and that's the reason that we have seen the opportunity to transfer this license." Mr. Pegram advised that there are 600 employees "among the three casinos. We have never had any issues with gaming so we feel like we're a good corporate citizen when it comes to our reputation ... We've been very successful at marketing to our local markets to take advantage of tourism and traffic generators that we're able to have synergies with around our locations."

Mr. Pegram advised that transfer of the gaming license would mean "over a \$7.5 million investment in a redevelopment zone. We'd be talking about 100 new employees. We'd be talking about a major construction project ... in a redevelopment zone, and we're talking about giving our residents and visitors to Carson City more options. So more options means better business ..." Mayor *Pro Tem* Abowd entertained Board member questions or comments of Mr. Pegram; however, none were forthcoming.

Mr. Carlson commended Mr. Pegram as a client and expressed the hope that he would "continue to invest in this community if the opportunity presents itself and we can get this first step ... taken care of today and then, obviously, we'd have to seek a transfer to move into the redevelopment zone at a later date. With respect to Title 4, ... the key piece that we need to focus on, understanding that these licenses get renewed quarterly, ... that you look at the expiration of that last quarterly payment of December 31, 2014 and then you look at the 24-month grandfather provision. ... when you look at the 24-month grandfather provision, it talks about operations, not a license. So there's at least an argument ... that the grandfather would push into January but ... for purposes of today, we're comfortable with staff's interpretation.

"... when you look at Section 4.14.046, this is the grandfather ordinance, and you really have to look at the first word in this ordinance. 'If gaming operations at any location for unrestricted gaming, under the provisions of this code are discontinued for 24 consecutive months, the exemptions set forth in 4.14.045 do not apply unless ...' And we can get to what's behind that 'unless' in a minute. But the first part says, 'If gaming operations, for unrestricted gaming, have been discontinued for 24 months.' Gaming operations at the Horseshoe Club have not been discontinued for 24 months. We're less than that. So that means that the exemption provisions, under 4.14.045, apply to the 100-room requirement because we're not at 24 months of ceased operations.

"Further, I anticipate that we'll have some public comment today about making an argument that in order to receive the benefit of the 24-month grandfather, ... the quarterly license must be maintained for that 24-month period. That creates an absurd result. If we're going to make a licensee continue during that 24-month period to pay a license fee, what's the purpose of the grandfather? To use language from the Nevada Supreme Court, that would deem that code, the 24-month period, superfluous, meaningless. And ... it creates some unintended consequences if the opposition's argument is adopted. What happens if any non-restricted operator in Carson City, without 100 hotel rooms, fails to make a quarterly payment? If they fail to make a quarterly payment, they're not entitled, if you follow their logic, to claim the 24-month grandfather. And so, in order to reopen after they've missed a payment, whether it's on purpose or not, are we going to then require them to build 100 hotel rooms? I think that's an absurd result. That wasn't the intention of the Board of Supervisors in 2002 when the body adopted this ordinance."

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In response to a question, Mr. Carlson advised of no specific examples of anyone not having paid in the 24-month period. He noted, in the District Attorney's memo, that it acknowledges factually that there have been missed payments and that the City has not taken any adverse action as a result of that. Mr. Carlson responded to questions of clarification regarding his reference to Section 4.14.046.

In reference to Section 4.14.046 and, in consideration of the December 31, 2014 date, Mr. Carlson pointed out that the 24 months "would then hit December 31, 2016." Mr. Carlson further pointed out "even though records are not abundantly clear, but I have come up with at least two examples in recent history, of where non-restricted licenses have either changed ownership after a closure or have been transferred from one location to another. The first example is a change in ownership, after a closure, and this is the original Silver Dollar Casino on Edmonds [Drive] that Clete and Georgette Wandler were the licensees for. ... I believe they received gaming approval in June of 2001 and they operated in that location and closed the business at some point in 2009. After closing the business, they sold the assets to an entity owned by another operator and that operator then commenced operations after there had been a closure for that non-restricted license. The second example ... is a little more recent. ... In the Carson Mall there had been Slot World's Smoke Shop, which was also subsequently known as the Golden Nickel. That was a non-restricted license that they had prior to 2010 in that location. In August of 2010, the State Gaming Control Board approved a transfer of the location of that license, from the Carson Mall to East William Street in the shopping center where Tito's is located across from the Smith's. Subsequent to that transfer of location being made, Slot World's Smoke Shop ... sold to another non-restricted operator, the same operator who purchased the Silver Dollar from the Wandlers and now is operating as a dba, Lucky Strike, and the corporate entity is Woody's Entertainment, Inc. So we have at least two instances, in fairly recent history, that we have either a transfer keeping the same location but with doors having closed to a new owner, as well as a transfer from one location to another and I've looked at it. The Lucky Strike location is in the redevelopment area so that does comply with state law requiring a move into a redevelopment area if you're changing a location for a non-restricted license.

'Finally, ... it's important to point out, I spoke with Georgette Wandler yesterday and she indicated that I'm free to share that with you. The reason they closed the doors prior to the sale, in 2009, was that was really at the height of the downturn and they took advice from their accountant to close their doors to no longer take a loss on that location and then, ultimately, they were able to sell the remaining asset that was there. So this isn't anything new. We don't get it very often but we've had the concept of preserving grandfathers in Nevada for quite some time now and it happens extremely often in southern Nevada where we have more non-restricted operators than we do here. We've even had instances in Reno. Tamarack Junction is an instance of a grandfather as well, not requiring hotel rooms. ... it's also important to point out that, even though the circumstances are different with the retrack project, but we've had a recent move in Reno just in the last few weeks of a grandfathered license. And I'm not claiming that any of these instances are identical to what we have here, but ... it's important to lay that foundation that the concept of having the grandfather and the ability to preserve the grandfather, to change ownership with respect to a grandfather, and to change location of a grandfather is nothing new. And so, when you look back at the time that your predecessors, in 2002, adopted these ordinances, that was the mindset throughout Nevada of preserving this asset for whatever non-restricted licensee had at that point in time. ... even if there's a policy decision to say, 'We want resorts or we want hotel rooms, we're not going to steal an asset from an existing non-restricted licensee moving forward. We're just setting new ground rules moving forward, but an existing non-restricted license that falls within the 24-month grandfather provision is valid, can be transferred.'

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“And so that's what we're asking for today is that Silver Bullet can enjoy the benefit of that non-restricted grandfather license and that Nevada Treasure Chest, the company that has owned the Horseshoe and has operated up until January of '15, they can receive the benefit of having that asset at the time the Board of Supervisors passed the hotel requirement in 2002.”

Mayor *Pro Tem* Abowd inquired as to the number of non-restricted gaming licenses in Carson City and whether Mr. Carlson considers the request as “opening the door to abuse with regard to these unrestricted licenses.” Mr. Carlson was uncertain as to the number of non-restricted gaming licenses in Carson City. He estimated “between eight and a dozen ...” He was uncertain as to hotel rooms for each of those. He expressed the opinion that the request does not open the door for abuse. “We have this limited number of non-restricted licenses. We have the understanding of the grandfather provision and so, if operations were to cease at any of these locations for 24 consecutive months, the grandfathering provisions wouldn't apply once they get beyond that 24 month period unless ... we had some sort of natural disaster, some sort of fire ..., or perhaps, under the Code, you could interpret another need to remodel or reconfigure the property that would allow the licensee to conduct those repairs and refurbishments beyond the 24-month period. But really, we're confined with the limited number of licensees. You can't get a new non-restricted license today. ... So, all the non-restricted licenses that exist today, maybe they stay exactly where they're at; maybe they stay with the exact same ownership. Only time will tell, but they all, if they obtained those licenses prior to the 2002 ordinance, all of them enjoy the grandfather provision that this City passed in 2002.”

Supervisor Bagwell pointed out that the Horseshoe Club “has admitted to operating through January 19, 2015 and the license fee was only paid through December 31<sup>st</sup> which, to me, means they operated without a license which is a purpose and an opportunity for revocation which the City did not exercise ..., but I do not believe it waives the fees. I don't find anything in our Code that says that license fee for that operation is still not due the City.” Supervisor Bagwell inquired as to how to consider the license in good standing “when the fee for that quarter has not been paid in any delinquency.”

Mr. Carlson expressed the opinion that “up to December 31, 2014, the license is certainly in good standing, both with respect to the right to operate, which is the quarterly piece of the license and, therefore, also having the right to grandfather under the other section of Code for 24 months. The question ... becomes ... what is the City entitled to from Nevada Treasure Chest ... based on the fact that they were operating without having renewed.” Mr. Carlson expressed the opinion there is no impact to the ability to transfer the grandfather, “but if there's a concern that Carson City has been harmed from a lack of revenue, based on the Code provisions for the license fee, ... either through Silver Bullet, we can bring that current or we can insist, as a part of the requirements under our Purchase Agreement with Nevada Treasure Chest to bring that current.” Mr. Carlson reiterated the opinion there is no impact to “the lawfulness or the right with respect to the grandfather through December 31, 2014 because there was a paid up license fee at that point with operations taking place on December 31, 2014. So, there's still a 24-month window there. ... where we could run into jeopardy is if we were arguing for a January 19<sup>th</sup> date to start counting the 24-month grandfather ...”

Supervisor Bagwell expressed the opinion that a license is not in good standing when it has delinquencies. She expressed the opinion that Silver Bullet of Nevada LLC has “done what they were supposed to do,” and the belief that the licensee, “who is requesting the transfer and the sale of their asset is in good standing

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because any licensee would be required to pay its delinquent taxes, fees, etc.” She expressed appreciation for Mr. Carlson's previous statement “that may be in something you'll have to cure.”

Mr. Carlson expressed understanding for Supervisor Bagwell's position and the opinion that “from a grandfather standpoint, whether we agree or disagree, the license was in good standing on December 31, 2014 and, if the application is approved, to transfer that grandfathered right to Silver Bullet, so long as Silver Bullet opens at the Horseshoe location by December 31<sup>st</sup> of this year, then we can preserve that grandfather moving forward ... regardless of the fee issue.”

(11:05:49) Mayor *Pro Tem* Abowd entertained additional questions or comments of the Board members and, when none were forthcoming, invited Mr. Gordon to the meeting table. Mr. Gordon expressed appreciation to Supervisor Bagwell for having pointed out that “the license for the Horseshoe was paid through 2014 and operated illegally for 19 days. ... We believe there's three ... major arguments here. One is that the application is incomplete. I'll go through that the application is in violation of both local and state law. Two, the potential transfer is in violation of local law and, three, ... we have violations of state law wound through this whole process.

“... here's the application package that was part of the staff report and that was part of their submittal. Number one is we have the wrong applicant here. We have Silver Bullet of Nevada LLC.” Mr. Gordon referred to “the major provision we've been discussing which is the exemption, it says, 'Who holds the exemption? Who holds the grandfathered license with respect to not doing hotel rooms?' Here it says 'the entity which holds the unrestricted gaming license on the date the ordinance codified in this section became effective.' So the applicant before you should have been the Horseshoe Club. They're not here and I appreciate Mr. Pegram's testimony here. I can speak for all my clients, I believe he's a great operator and certainly suitable but this should be a discussion with the Horseshoe Club and they should be answering your question, Supervisor, of why they operated illegally for 19 days and how, potentially, they're going to cure that.

“Number two, attached to this application is a Purchase and Sale Agreement. This Purchase and Sale Agreement is between Silver Bullet of Nevada LLC and Nevada Treasure Chest, Inc. What this Purchase and Sale Agreement attempts to convey is a Nevada State Gaming Control Board license numbers 05464-1 and 00213-9. Those are defined as the assets and 'Seller' which is Nevada Treasure Chest hereby attempts to sell, assign, transfer to Silver Bullet these two licenses. In talking to the State Gaming Control Board, these two licenses have been finalized. What does that mean? Number one is the 00213-9 was finalized. That was the non-restricted license at the Horseshoe Club property. That has been finalized, that is dead, that's abandoned, that's surrendered. It can never be resurrected and the evidence of that is counsel mentioned they had to go to the State Gaming Control Board this month. On that agenda is a new license number ... so that license can't be conveyed. The other number I referenced, 05464, is an identification number for Nevada Treasure Chest, Inc. You can't transfer an entity number from one entity to another. That lives and rests with the State Gaming Control Board. So, ... the basis of this application and the evidence put forth of transferring State gaming licenses cannot be transferred.

“Moreover, NRS 463.220 ... says, 'No state gaming license may be assigned, either in whole or in part.' So the basis for this transfer is, number one, with an applicant that doesn't hold the ... purported license. Number two, this document is attempting to sell two licenses that can't be sold ... But, finally, given all those deficiencies, let's look at the state law, this is an unlawful agreement. You cannot, under state law,

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assign a gaming license. What's also lacking is we're here before you today to transfer a local license. Where's the purchase agreement for the local license? Where's the lease for Silver Bullet to operate at this location with a right to be there? In my experience, and I believe your Code requires, when you submit an application, you need to have a basis of why Silver Bullet has standing to apply for this and the Purchase and Sale Agreement that's attached to it is attempting to sell a state license, which is unlawful, and there's no reference at all to any purported state licenses. So, just by virtue of that, we believe the application is incomplete and that approving this application today would be ... arbitrary given the application does not have the requisite information for this Board of Supervisors to make a decision to approve this transfer.”

Mr. Gordon pointed out that the provisions of CCMC 4.14.060 “requires every licensee to pay three months in advance of their license fees. Here, that happened in 2014. It has not happened since. We believe that is critical to this discussion. ... counsel brought up other examples of how this has been done. I didn't hear him put on the record that those folks didn't pay their fees. I didn't hear that there's any evidence on the record, and we've asked this and ... myself and our clients haven't been provided any information with respect to an analogous situation where you have licensees not paying their fees and attempting to transfer the license. So we ... are concerned about those examples. So right now, we have a license that hasn't paid for seven quarters, it's expired and, before that happened, they operated illegally for 19 days.

“So now we go to the good standing argument. Does that mean they're in good standing? Well, looking at the DA's opinion which ... has now been brought into the record and two things popped out at me. One is good standing is if the license conducts its operations in accordance with Title 4 and maintains its license by remitting required payments to Carson City, its quarterly payment. Number one, they operated illegally the last time they had the privilege of operating in this City. Number two, they haven't paid for seven quarters. And the opinion continues to go through ... the decision can't lead to an unreasonable or absurd result.” Mr. Gordon read from the November 30, 2016 District Attorney's opinion.

Mr. Gordon stated, “The critical thing here is, number one, no other place in Code are the words 'good standing' except in this grandfathered ... section that grants the grandfather. That's very, very critical. We're not arguing it would be absurd if a licensee missed a day, all of a sudden, they lose their license or a quarter. But for seven quarters? And ... who should we look to for some guidance on this? ... how does the state handle this? Well, under ... Regulation 9, if you quit for a month, your license is gone. But, even further, ... you're authorized to close for longer periods; however, such extension will not permit closing for an entire calendar quarter. So we have some guidance now that we can rely upon of good standing from how the state handles it ... No one's arguing a day, no one's arguing a month but one quarter seems to be the general consensus and a reasonable business practice of how to interpret that. Maybe two quarters, maybe three, maybe four, but five, six, seven quarters and operating illegally for 19 days leading up to that? We don't believe that that warrants good standing at all. And if you look at the plain meaning of the statute as has been mentioned in the DA's opinion, the plain meaning of the statute, if your license is expired, you are not in good standing.

With regard to the 24-month time period, Mr. Gordon read from the applicable Code section. “It doesn't say if the license is out of good standing for 24 months. It doesn't say if the license is expired for 24 months. It says, 'if gaming operations stop.' Counsel made the distinction. He almost wanted to argue the opposite. They stopped paying their license in December but they wanted the benefit of a date 19 days later of when gaming operations stopped. There is a distinction there and ... if you have the ability for 24 months to stop gaming operations but not to stop paying the fees to preserve that license; not to have Silver Bullet

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... check the box 'new license' and be given a new license number; not to get a new license number at the State of Nevada. ... I'd rather be having the conversation with the Horseshoe today who ... should have been the appropriate applicant. You can stop gaming operations because the economy's down. There's a 24-month window. I would acknowledge there's a grandfather. That doesn't mean that the City doesn't get ... their fees. It doesn't mean that you get to ... have an expired license on the record. ... You gotta pay your fees. Every operator knows. You gotta stay in good standing. You can stop gaming operations and, of course, your fees will go way, way down because you're not using all the machines anymore ... There still ... has to be an active licensee during that period. Here, there was no active licensee and ... Dean [Dilullo] has more of a history of ... the woman who owned the Horseshoe and why she did this. It wasn't some concerted effort to shut it down and transfer it one day. She just went out of business, didn't want to do gaming anymore.

“So ... in [Section] 4.14.046, not saying there's not a grandfather, not saying there's a public policy that supports grandfathering. They just did it wrong ... just like ... the Purchase and Sale Agreement was done incorrectly as well. How can we transfer a local license today when we have a Purchase Agreement that's illegal to transfer to state gaming licenses. So, I would argue the 24-months grandfather is there, but it relates to gaming operations not of going out of good standing or expired.

“I would also say for the revocation that was mentioned by the DA, there was an attempt to distinguish between is this revoked or is this not in good standing. Well, just because you commit a felony doesn't mean it goes away if you don't get revoked. I mean it's a cause for doing it. And this wasn't mentioned in the DA's opinion. It says, 'When a license is sought to be revoked for non-payment of license fees, the above-described procedure has been applicable.' So you don't even have to go through all your due process requirements. It is such an important piece of this fact pattern that the license fees weren't paid and aren't paid. This revocation proceeding is not required in order to revoke it. So it says the Board may revoke it but you don't have to have any hearings or due process. That's ... a fact. If you don't pay your fees, you're expired, not in good standing and it can be revoked or not revoked. It's a basis for revocation.

“So, we believe, under Code, as I walk you through these procedures it would not lead to an unreasonable or absurd result if it was the decision of this Board that the license expired by non-payment for seven quarters; the last time it operated, it operated illegally. And I would put on the record, I object it can be cured at this point. And it should be the Horseshoe up here curing it not the licensee. And there's nothing in the record about curing it. ... they're out of good standing; that gaming operations ceased but ... it was coupled with the license fees not being paid.

“And let me just turn to the state quickly. ... why don't we look to how maybe the state handles this. And, again, as I mentioned, never past a quarter. Past a quarter is kind of the bright line test and this is, again, just in the narrow context of keeping your grandfather license. The City of Carson City, the Supervisors created these exemptions for a reason and had hard dates for a reason. And there's a limited pool of these licenses out there and ... they all know they gotta pay their licenses or they're going to be out of good standing. This isn't going to be a slippery slope or create some precedent where any licensee misses a day and they get yanked. No. ... the facts here that are before you certainly would lead to an absurd result if this transfer was approved.



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“So, in conclusion, ... it would lead to an unreasonable, absurd result (1) if you approve the license based on an application to Silver Bullet. I think it's the wrong applicant. It should be the Horseshoe; (2) Based on the Purchase and Sale Agreement transferring state licenses which are finalized, can't be transferred, there's no reference to City of Carson City licenses that are attempting to be transferred; (3) There's no consideration but for the bigger issue ... you cannot assign or sell a state gaming license. So this is unlawful on its face. So the whole application ... it's the fruit of the poisonous tree. If there's one bad piece of fruit, the whole thing has to go away and we believe that this whole application can't be approved today for that. It would be absurd to approve the application based on those facts; (4) It would be absurd to transfer a license that's expired; transfer a license that's been illegally operating for the last 19 days before it's attempting to be moved. And, again, it's absurd if you look at all this in its totality ... not using ... common sense. ... when you've got two operators here who have done it the right way who, as you heard at the last hearing, are not afraid of competition. ... this is a very, very big decision because it could be used in a lot of other circumstances and we believe the situation and the facts before you warrant that you recommend denial today.

(11:24:17) Mayor *Pro Tem* Abowd recognized Gold Dust West General Manager Jonathan Boulware, who expressed the opinion “it's not about competition. Mr. Pegram mentioned that options are good. ... options are good. I think that they have a wonderful product, good for the City. We've all talked about development moving to Carson City. I think it would be very important. I think they'd do a fine job there. I think we would compete effectively with them as we do now.

“That's not the issue for me. ... The problem for me is that, imagine it this way, if the Gold Dust West didn't have rooms and I ... didn't want my license anymore. If we allow this to go forward, what could happen is I could stop paying my fees. I could, apparently, run my operation for ... 19 days ... I could do that and I could call Dean ... and say, ... 'I've got this license here. I want to transfer it but you've got to do it before 24 months. But I'm not paying fees; don't worry about it.' He can come in, theoretically, take that license but I don't really like the Gold Dust West location. I'm going to take it someplace else. That could happen.

“My concern is we open the door for that type of abuse all over the place. So, to me, the solution is ... have the Horseshoe people, I mean, if we want to prevent abuse, if we want to do this the right way, we want to stop the legal arguments, I would say have the Horseshoe people come forward, argue before you to say we should get our license back, get their license back because they are the licensee ..., you make the decision that you're going to grant them their license back, reinstate it, ... and then, if they're within that 24 months, they show you they satisfy Ordinance 46, and then it's a valid transfer in good standing. And, at that point, Silver Bullet can do what they please. They'll open for a day 16 machines. At least it's done the right way. ... they're going to build a beautiful casino. We'll support it because it's done the right way. It doesn't open the door for other people to do this. And ... the Ormsby House is a great example because they've ceased gaming operations but they've done it the right way. They've kept ... 16 machines ... open. I'm sure they've paid their license fee. They've done it right and the examples that the attorney gave for Silver Bullet, ... my guess is they did it right. When they transferred, they did it right. So let's do it right ... so it doesn't open the door for other folks to come in, follow suit, and then we just have this pattern ... Just do it the right way. ... In my opinion, if the license expired, they haven't paid their fees, give them a chance ... to reinstate it. Hear their arguments, do it the right way and, if Silver Bullet obtains that license the right way, fine. Then, I'm a hundred percent supportive. I just don't want to see this open the door ... It is very clear that this will set a precedent for people to go forward. And if we do it the right way, ... everyone can get what they want.”

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In response to a question, Mr. Boulware expressed the opinion the Board should allow the Horseshoe Club to cure the license deficiencies. Discussion followed. (11:32:34) Carson Nugget General Manager Dean Dilullo expressed admiration for “what the Silver Bullet's trying to do,” and commended Mr. Pegram as an operator. “But today has nothing to do with that. It has to do with the law.” Mr. Dilullo briefly reviewed his education and work history, and expressed the opinion “there's some smoke in the room ... it comes down to common sense today.” Mr. Dilullo commended Mr. Gordon on “identifying that this just isn't legal,” and provided historic information on his interaction with the Horseshoe Club's owners relative to their operation. “They abandoned their license. ... They gave up that right and they ... weren't out of options. I could've helped keep the license going. Jonathan could've helped. The Silver Bullet could have stepped in, as a white knight, and kept their license active. So we all know, in the gaming industry, the most important thing is to keep your privileged gaming license active.” Mr. Dilullo expressed admiration for “what the Horseshoe's [sic] trying to do legally, but it just can't be done ... The Horseshoe didn't do them any favors. They operated illegally for 19 days. Why this is not an issue with the Gaming Control Board at the state level is beyond me. And, based on this hearing, it might be. ... I can't believe that the state gaming operators are going to allow any of us to violate any rules without any fines, without any fees, without any consequence. ... Jonathan and I are two of the most investigated, licensed guys in the state. So is Mr. Pegram. We have to live by a higher standard of following the law, paying our fees and, today, the Horseshoe's not even here. You're hearing from a company that's trying to help the Horseshoe correct its ways.

“... getting on to common sense. Good standing.” Mr. Dilullo displayed his driver's license, and requested the Board members to “think of it as the Horseshoe license.” He related an analogy, using his driver's license and a friend's driver's license, to illustrate his position. “I don't know how the Silver Bullet could prove that this is not a new license. ... They brought up the ownership of a couple different properties. One kind of hits home. It's Slot World and, based on my knowledge, both of these transfers, everything was still in good standing. Both of these transfers, the people were still the same people and then the transfer happened afterwards. Both of these transfers, it was done legally. ... No one from the public, none of the casino operators came up and argued them. They were done right. ... casino operators just want a fair playing field. We just want the laws to be interpreted the right way and we want them to be followed.

“So, to bring it home, I think Garrett did a great job identifying that this is just simply not legal. ... there's some common sense on good standing. You don't need an attorney to figure out what good standing is. You're either in good standing or you're in bad standing. I think it's really easy to determine old or existing and new. ... that's just black and white.” Mr. Dilullo related details surrounding revocation of the Alystra Casino's gaming license, and stated, “It's a gaming precedent. You follow the law, you pay your fees on time, you keep your license.”

In response to a previous question, Mr. Boulware clarified, “I wouldn't simply just have someone just pay fees and then they're current. If they're that delinquent and it's expired, I would have the person ... come forward and have a conversation where they convinced the Board of Supervisors ... there should be a process not just a simple, 'Here's a check ...’” Supervisor Bagwell expressed agreement, but suggested “our Code is weak in the processes for reinstatement, late fee, how do you cure them. ... our Code doesn't address any of it and so I'm left with a quandary of what to do. ... since we did not move to revocation, pursuant to the rule, ... why is it not that they can then just cure. I should have moved to revocation to make them come before me and answer why I should not take their license for non-payment. And since I didn't do that, they can come in and cure the seven quarters.”

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Mr. Gordon agreed that “we're looking ... for some help in connecting the dots of this Code and we believe, number one, that's an inherent problem in itself of not going through a development code or a Title 4 amendment to resolve this. And now you're put in a tough position. It's the eleventh hour, December 31<sup>st</sup>. You don't have Code that we believe supports a decision to approve this and you're being asked to find a way to connect the dots when, really, there is no way in our opinion and you shouldn't have been put in this position at the eleventh hour. Number two, with respect to your point about revocation, I think it's clear that there's no requirement for revocation. And the due process requirements don't apply to not paying license fees. Pretty black and white. That word 'good standing' is only used in respect to this grandfathered license. That's why it's so important. Those exemptions were put in to preserve it and you had to make sure ... to preserve it. ... It says 'good standing,' and ... it's a reasonable interpretation that good standing means not expired. And ... I would have expected ... Silver Bullet to come up here and have already paid the seven months or tried to resolve the 19 days or Horseshoe up here with a check, submitted with their application, to resolve it. So, ... it's almost as if we're trying to help them get over the goal line when they, frankly, didn't do it themselves.

“There's no record today of the fees being paid. There's no record today of resolving the 19 days. The Horseshoe Club isn't here arguing. So, ... it's a very good point and ... that's not an opposition issue. ... it's the burden of the applicant to connect those dots and I believe that ... there is not substantial evidence on the record for you to connect those dots and grant this. ... If we couldn't bring it up at the Planning Commission and I finally got my day here to go through all of this, I imagine by the time we had this hearing, they would have had their check ready to go or maybe amended their application and had a co-applicant of the Horseshoe. ... but, at the end of the day, we're at the eleventh hour. It's not our fault that the dots weren't connected correctly and we don't believe it's your fault, and you ... shouldn't have been put in this position, but there can't be any fault of you to deny this based on the record. ... We would argue the record ... today is insufficient to approve this transfer ...”

Mr. Boulware suggested that “since there are no ordinances ... that say once a license is expired you can reinstate for seven quarters, since there's nothing written to say how you would do that, ... it's just the right thing to do to have a process by which people have to come argue why they should get their license back ... It should not be an easy process to get it back ... and it certainly shouldn't be another company coming in and trying to get the license. It should be the person that had their license expire, the operator, coming back through a process, coming before you going through that process ... That just sets another precedent as well.”

Mr. Dilullo suggested that “if the Horseshoe were here today asking for you ... to reinstate their license, there'd be a whole checklist of questions that they'd have to answer. And, in order for you ... to make a decision whether you would reinstate it, you would have to know how many slot machines did they have on the floor at the time of closing, was the paper work filled out correctly ..., where are the current slot machines now. There's a lot of legal things and that's why ... this process is ... backwards. ... it should be the Horseshoe in front of you a long time ago. They've had 24 months to get this thing cleaned up. They wait to the eleventh hour and put all the pressure on you three to make an historic decision. This is history in the making. ... If this process were done correctly, the Horseshoe, 24 months ago, would have been in front of you giving you their arguments, answering your questions, you would be able to make sure that they paid their fees, that they are not expired, that they don't get their license revoked, what the fines are. ... Now, the Silver Bullet is trying to be the white knight to fix the problems that the Horseshoe created and is putting pressure on you ... and us, for that matter. We've had to spend legal fees to make you aware and

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to defend this and ... it's a very unfair situation that you've been put in; very unfair to the Planning Division ... It should never have even gone to them before the Horseshoe license is put in good standing 24 months ago. Then, Silver Bullet legally figure out how to transfer it. Then it goes to the Planning [Commission], and this is ... completely backwards and we're missing the biggest step of it all. Where's the Horseshoe? I don't see them fighting for the license. ... This is wrong. ... my two cents is ... that this process ... needs to be re-evaluated and streamlined. ... it's poorly written but ... today a decision can't write that law. It would be very unfair to set a precedent and write that law today with a decision, based on limited information and a short timeline.”

In response to a question, Mr. Gordon advised “they are two distinct licenses. ... the Purchase and Sale Agreement attached to the application is to transfer the state licenses. ... you can't transfer the state licenses so, on its face, it's unlawful. But there should have been a Purchase and Sale Agreement ... for the Carson City licenses. So you made my exact point. We have an incomplete application because there's nothing on the record ... showing an agreement to actually attempt to transfer the expired license. So, ... the application's incomplete and you can't rule on it today because there's no nexus between Silver Bullet and Nevada Treasure Chest.”

In response to a question, Ms. Sullivan reiterated “this is the transfer of a gaming license, not a new gaming license. ... Section 4.14.040 identifies the application requirements for a gaming license. I don't see where in that Code section it asks for a Purchase and Sale Agreement. It's my estimation that we have received the complete application and the applicant has submitted the materials we've requested.”

In response to a question, Community Development Director Lee Plemel advised that the Business License Division was once part of the Treasurer's Office. “In fact, when this ordinance was written, it was ... through the Treasurer's Office.” Mr. Plemel was uncertain as to the point regarding the “lapse in payment.” He recalled a transfer of the ownership for the Silver Dollar Casino, but was uncertain as to any lapse in discontinuing gaming operations and paying or not paying the gaming license. In response to a further question, Mr. Plemel advised that the Board of Supervisors approves transfer of a gaming license. “A gaming license does not get approved by the Board. So, initially, gaming licenses do not come before the Board. They are administrative. It's ... only within the Code that you're required to approve any transfer of ownership or transfer of location. So, the question on this one, ... we think they have the application appropriate ...” In response to a question, Mr. Plemel advised that he could not compare the subject transfer to a past transfer. “It was long enough ago where I wasn't part of that.”

Mr. Gordon expressed the opinion that “the question of the checklist for submittal requirements may be a different one than the argument I was making. To me, this is kind of like submitting your taxes to the IRS. ... all the pages you submit to the IRS, they're going to review and consider when weighing their decision. ... They submitted this whole package and this body ... has the obligation to review it in its entirety and consider it. And I believe they submitted it because the question was going to come up, why isn't the Horseshoe the applicant? And you would have gleaned from this package, ... because they're buying a license from the Horseshoe. You've got to make that connection. So the document they submitted to get the Horseshoe out of becoming the applicant is a document ... that does not ... attempt to convey the local license. So ... why is the Silver Bullet here when there's no documentation showing that they're attempting to buy the Horseshoe license? ... it's not on them that they've accepted an incomplete application but it's

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the package that they got. ... it's not connecting the dots and ... we're still trying to help them connect the dots and the information they're providing is making it, in our opinion, harder to connect the dots than easier.”

Mr. Carlson commented on “Mr. Gordon's review of a Purchase and Sale Agreement that he was not involved with drafting. My client and Nevada Treasure Chest negotiated that agreement with the assistance of a transactional partner in my office. When you look at the way 'asset' is defined, it certainly does reference state licenses, but it also indicates that the seller desires to sell to buyer, Silver Bullet, all of seller's rights with respect to the asset because there was a common understanding that whatever grandfathered right associated with the Horseshoe was the right that Silver Bullet was purchasing. There's a purchase price, there's no local ordinance that requires Silver Bullet or Nevada Treasure Chest to disclose what that purchase price is. ... And we have a Section 6, Gaming Covenants, that talks about all the grandfathered rights yet again. And we have a section of conditions precedent which require, before this transaction can close, so as to be in compliance with state law which is different from the local ordinance, that we have all approvals in place before we close. So there has been no transfer of a license illegally through this agreement because we are still subject to your approval, the Gaming Control Board's approval, and the Gaming Commission's approval. No transfer, no hypothecation, no sale has taken place because we have these conditions precedent that must be met.

“... it's important for the Board of Supervisors to remember State Law Regulation 9 ... is something that the Gaming Control Board and the Gaming Commission will handle later this month. ... that provides confusion to the issue at hand which is now two-fold. Do you want to change the rules of the game, as seems to be urged by our opponents, from those rules that were set in 2002? And we're talking about this 24-month period. And I understand Supervisor Bagwell has raised some issues with respect to the Code, with respect to the quarterly licenses, and ... we need to look for a fair resolution because we cannot change the Code today. But ... in assisting in finding that fair resolution, it's instructive to look at the December 6, 2001 minutes of this Board.” Mr. Carlson reviewed said minutes relative to the “ordinances that we're talking about today.” He pointed out, “The Horseshoe Club was an existing operation in 2001 and in 2002, when the ordinance ultimately passed.” He quoted former Treasurer Al Kramer, “... from the minutes, 'He had not considered any exemptions or variances beyond those contained in the ordinance, i.e., less than a 24-month lapse in the license.’” Mr. Carlson expressed the opinion, “... that's at least helpful of the mindset of what good standing could mean; that you could have lapse in the license. You could have a cease in operations for a 24-month period and still have a license that is in good standing. I think that helps you create a fair result today.

“If Title 4 needs to be reviewed, I'm assured by my client that we would participate in a process so that, moving forward, everyone understands clearly what is meant by good standing. But today, that's not a defined term. My opponents have come up and provided what they think is good standing. We've provided you with what we believe is good standing. I think the former Treasurer's comment provides some guidance. But, at the end of the day, we're looking for fairness; not a change in the rules of the game today. If we need to cure that time period, we will do that. We can quantify that. But ... for some comfort for all of you, there's also a back drop; that if our opponents' accusations are correct, and I disagree with them entirely, we still have two layers of review, between the Gaming Control Board and the Gaming Commission; two entities that have a world-renowned reputation for fairness and properly vetting licensees.”

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In response to a question, Mr. Carlson expressed the opinion that “in terms of a mathematical quantification, because we have a per machine number that's in the Code, that if we had a condition of approval in addition to Gaming Control Board, Gaming Commission, that the quarterly fee for the first quarter of '15 is paid, we could quantify that with the assistance of Nevada Treasure Chest and staff. I'm confident in that.” In response to a further question, Mr. Carlson expressed the opinion that “the way the present Code is written, and the fact that we use different terms, license and operations, if we, under the current way that it's written, we're given a 24-month grandfather, there is no explicit language that says, 'You must keep paying on a business that you are not operating; that you are not generating any revenue from.' And if we're going to say that, then what's the purpose of the grandfather? The grandfather is tied to operations. It's not tied to a license or an expiration date. It says, 'If gaming operations at any location for unrestricted gaming, under the provisions of this code, are discontinued.' Operations discontinued for 24 consecutive months. It doesn't talk about anything with respect to a license. The trigger is the discontinuance of operations for 24 consecutive months.”

Supervisor Bagwell expressed agreement “that this Code needs some help and ... we're the three up here now trying to say what does it all mean. And I have to listen to everyone's voice on what this means. And I find it difficult ..., but ... I think it was to say we won't go revoke you, we won't insist that you have ten employees there, we won't insist that you incur expenses to operate because the economics aren't there and we'll protect you for 24 months. But I don't know that I read it to say I protect you from not having to maintain your minimum license. And that's the distinction ... and, again, I think I'm trying to be reasonable and say you can cure that because I also agree with you, I can't write new code today. That's not fair either. And that's why I think that Jonathan [Boulware] was very honest to say, 'You're right, a cure has to be possible'; that he would expect the same thing for the Gold Dust. So the question is, is the cure one quarter or is the cure seven quarters?” Mr. Carlson expressed the opinion “there's a distinction between the two time periods. Today, I don't know how many machines were on the floor at the Horseshoe up to January 19<sup>th</sup> ... We can find that out. Moving beyond that, with operations having ceased at that point, would we make a determination using that same number of machines in the first quarter or would we reduce that down to 16 which is the minimum for a non-restricted license. ... from rough math, ... if we're talking about seven quarters with the minimum number of machines for a non-restricted, we're under \$5,000. I don't think that's unreasonable. I think when you take a look ... why is Silver Bullet on the application? Because we need to be found suitable for this location.”

Supervisor Bagwell expressed understanding, and clarified she was considering the issue of good standing. She suggested that Mr. Pegram “speak to that himself of whether or not there should have been a license every quarter.” Mr. Carlson expressed the opinion, “We can have a legal disagreement” on what “curing the license” means. “We can move forward on participating in amending the Code if this Board feels that's appropriate, but if we need to cure this, I think that's a fair resolution for the City, for the owners of Nevada Treasure Chest who have had this asset. We know that the Horseshoe's been here since 1975 and you have an operator who the Sheriff has deemed suitable and who has been a part of this community for a number of years. Even our opposition has commended him as an operator but I think that would be a fair resolution.”

Mayor *Pro Tem* Abowd recognized Mr. Gordon, who referred to Mr. Carlson's reading of “some minutes of legislative intent. Never provided to us. We've been arguing this point for six weeks, never got part of the staff report. He reads a blip of the minutes. I don't have in front of me the whole minutes, the whole meeting ... so I hopefully wouldn't give much weight to that. With respect to the cure, I know Jonathan

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[Boulware] mentioned ... it has to be fair. ... But I think ... that he didn't believe it was fair or equitable just to allow them to cure, as a condition of approval, to pay six quarters. Because what happens when the next person comes in and this is good standing, if this is what we're talking about, is it two months, is it five years, is it ten years? Where does it stop to be able to cure it? I mean, today we're talking about at the time of transfer and this is today's hearing and I appreciate counsel continuing to say this is an argument for another day. We tried to argue this at special use permit. It's an argument for Title 4. Now, we're focused on gaming and now it's an argument at the state. Here, at this snapshot in time, the record before you does not have a license in good standing. And I continue to say we are trying to connect the dots for them when they've had 22 months, 23 months, two years to resolve this. ... it's tough that we're trying to, every kind of step, help them get where they need to be but it's at the detriment of, we believe, what it says in code and how all these operators have themselves paid and maintained their licenses.

“So, we would argue that this snapshot in time, there is not a good standing and it cannot be cured and Silver Bullet is not the entity to cure it. I respect that they have to be found suitable but I think that's a question ... there should have been a hearing to bring back the Horseshoe license to talk about games. And let me add one other point. We don't know how many games they had. We talked about this at the special use permit stage ... how many games do they intend on operating? ... this license should be capped on the number of games that the Horseshoe operated before they stopped. It can't be a windfall ... after all of this, now they have a license and now they get to transfer it and now they get to turn that into 500 games. I mean, if we're going to start talking about curing and ... if we're going to start talking about conditioning this license, it should be conditioned on the number of machines that the Horseshoe operated illegally. Let the Horseshoe come back or let Silver Bullet come back and attempt to ask for more but you can't expand non-conforming uses. You can't expand ... what's in good standing. And good standing was, if they're attempting to cure, the number of machines at that point in time and, if there is an effort to try to do that, which we wholeheartedly disagree, it should be capped with the number of machines that were operating at their last go January 19<sup>th</sup>.”

In response to a question, Mr. Gordon explained “there are two licenses ... There's non-restricted at the state level and Carson City calls it an unlimited. At the state level, I disagree with counsel about the redevelopment area analysis. That only applies to counties over 100,000. It doesn't apply to this situation. They have a right to go get a state license. I'm not arguing that. But at the local level, you have discretion, to condition ... (a) go back and cure it; (b) we're going to cap it at the Horseshoe number and you can come back and ask for more. You have that discretion to do and, in this argument of equity and fairness, we would say an open-ended, unlimited gaming at the local level, you control. ... state looks to local. ... they want local before they go to state. If you put a condition on there that says we think this location where you want to go and this applicant, at this point in time, should be capped at 100 machines, the state would respect that as a local decision. You wouldn't be trumping state law.”

Mayor *Pro Tem* Abowd offered Mr. Carlson the opportunity to respond. Mr. Carlson stated, “First, with respect to the City's minutes, we are not in a judicial proceeding. The Nevada Rules of Civil Procedure don't apply. The minutes are available on Carson City's website. With respect to the fairness, again, we have moving forward, if this Board wants to amend the Code with respect to revocation, late payments, ... you have an ordinance opportunity to do that. In the interim, you could give direction to staff on how they intend to monitor and make sure that licensees, business licensees, liquor licensees, gaming licensees are in compliance if you feel that there's been some miss on that front. But to change the rules on us, to punish Treasure Chest and, particularly, Silver Bullet at this point in time doesn't speak of fairness, particularly

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given the language in the Code. Clearly, there's a disagreement on how to read it. We have some guidance from those minutes. And then, finally, with respect to state law, Mr. Gordon referenced population, but ... I don't know that he's reading the full section of the state statute. And this doesn't apply ... you're looking at City Code. But I want to make the record clear.

“With respect to redevelopment, NRS 463.302(1), ... we're focused on subsection (a). So, notwithstanding any other provision of law and, except as otherwise provided in this section, the board, meaning the Gaming Control Board, may, in its sole and absolute discretion, allow a licensee to move the location of its establishment and transfer its restricted or nonrestricted license, subsection (a), a location within a redevelopment area created pursuant to Chapter 279 of NRS, if the redevelopment area is located in the same local government jurisdiction as the existing location of the establishment. And then, there are two other places. The third one has the population requirement, but it's not tied to option a. Option a does not have a population requirement. So even though Carson City may not require it to be in a redevelopment area, if we attempted to move this license to a non-redevelopment area and you approved that, well we'd hit a roadblock when we get to the state level based on this state statute.”

In response to a question, Mr. Carlson advised that he did not know the number of machines the Horseshoe Club had “in its heyday.” Mayor *Pro Tem* Abowd offered Mr. Gordon the opportunity to respond. Mr. Gordon advised that he would “agree to disagree on the state questions but, back to the Code, that is a great question and that's a question for the Horseshoe to be answering. And why we believe they need to be here to attempt to reinstate their license. And we're talking about changing things. There's no provision in code about reinstating and curing and coming back into good standing. So, ... if we're all trying to find a solution, ... it's fair to say, again, we're all put in this tough position to try to find a solution. ... how do you reinstate to go back into good standing? It's just not there and it's certainly not there today to have to deal with. “Horseshoe should have been here. We should have been dealing with a license in good standing. Then Silver Bullet could have attempted to have it transferred to them. But, the dots just don't line up to get them there ... evidence on the record today.”

Mayor *Pro Tem* Abowd offered Mr. Carlson the opportunity to respond. Mr. Carlson stated, “what's also lacking in the record, ... is any attempt, under Section 4.14.180, with respect to any sort of enforcement. And if the City has chosen to exercise its discretion which it has quite a bit of discretion, to date, why do we want to cease exercising that discretion today because we have business competitors who have shown up at every step of the way, in Silver Bullet's process, saying, 'This isn't about competition. It's about following the rules. But stop exercising the discretion you've been exercising at least the last 23 months and start hammering people today.' That's not equitable, that's not fair.”

Mr. Gordon stated, “Counsel has mentioned [Section] 4.14.180 that there was some process that's missing here about revocation.” Mr. Gordon read into the record subsection 8, and inquired, “Why would you have a revocation hearing when they've already closed down? Revocation is for if they're not paying and keep trying to operate and getting away with something. So, here, you have a licensee who has abandoned the Horseshoe, stopped paying their fees. There was no reason to come in and [revoke] it because they've ended it. It was done, they've given up, they're not operating. ... We're talking about two situations. Horseshoe abandoned it, didn't pay their fees, gaming stopped. There was no reason to go [revoke] because the gaming operations weren't ongoing and they were operating without the requirement to pay. But, here,



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we have ... rather than, as we've heard, you pay your fees, stop gaming operations, and come back in 24 months. But I don't think that the revocation, given that language, where it's pretty much a bright line test about non-payment of fees should be given as much weight as maybe being introduced to you.”

Mayor *Pro Tem* Abowd advised that she considered it differently. “... if the City has stepped in and revoked the license, we wouldn't be here debating this issue. And they hadn't stepped in to revoke the license so there's still a license in existence and so that's why we are here today to discuss this.” In consideration of the previous comments, Supervisor Bagwell suggested “there might be some of your operators, at some point in time, that potentially, pursuant to our code, would be operating illegally because they paid their fee a day or two late, which means they didn't have a license at the time. And ... that's the cure question and the reason that I asked the other operators. And I agree that our code is silent in how to do this but, under general practice, this City has allowed all of the gaming operators to just make up their payments.”

In response to a question, Ms. Sullivan advised that staff reviewed records over a 12-month period. “We did find that there were a handful of gaming operators who did pay late. They paid for the quarter and there were no penalties, no attempt to revoke permits. It was business as usual.” In response to a further question, Ms. Sullivan recalled a “handful” as five, but advised that she would need to verify the number.

Mr. Gordon expressed appreciation for the question, and the belief that the decision today would not be absurd “because it doesn't apply to all. It doesn't even apply to all non-restricted. It applies to the narrow ... circumstance where an operator has a grandfathered license without the hundred hotel rooms. And it applies to when they're trying to transfer the license on the day of the hearing, is that license in good standing? And we would argue that everything you said is a hundred percent true for all but, when you narrow it down to what we're talking about today, at this point in time, as the clock strikes many, many hours of discussing this issue, that it is not in good standing at this point in time. And ... the potential to cure or the Horseshoe to cure should have happened, not at the last hearing before they go to gaming.”

Supervisor Bagwell reiterated the issue of good standing, and emphasized not putting “a different process in place that we've exercised in the code that all the applicants that are with you are privileged to. ... that's what I want to know. Am I exercising the same due diligence or the same rule that I'm using the current code? We already have all discussed that it needs some help. But would I be giving the same privilege to the Gold Dust and I want to grant the same privilege. That's all. I want whatever I would give to the Gold Dust, I'm going to give to the Horseshoe Club under the same code. That's what I'm after.”

Mr. Gordon stated, “There are two arguments ... One's procedural and one's substantive. The procedural issue is that they have not followed the procedures to get that license in good standing by today at the time of transfer. So when you look at the other licensees, I don't think that they would say it's unfair, inequitable, etc. if, at the day of the hearing, there is no license in good standing. It's just not. I think we could all agree that's a fact. Today, at this point in time, ... there's no license in good standing. Procedurally, I don't think that can create a precedent to effect all the other licensees.

“Now, the substantive part is a little different in that you asked if the Horseshoe came back, ... we still have concerns about the ability to bring it back in good standing if you stop paying the fees and abandon the situation and ... that's important as well in the limited context of that word 'good standing' as it applies to the situation. But, to your point, procedurally, today, ... I don't believe that you're harming any other

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licensee, any other grandfathered licensee, anyone in that 24-month period. I think it's a reasonable interpretation of how the law sits today and the process that should have been followed and, again, ... good standing at the time of the transfer. That time of the transfer is today when the gavel comes down and we don't have a license in good standing.”

In response to a previous question, Ms. Sullivan confirmed that five businesses paid their fees late in the last 12 months.

Mr. Carlson expressed the opinion “there's certainly a disagreement on the facts, for purposes of the record as to whether the license is in good standing. We do not agree with our opponents' position. Second, at the time of application, a quarterly payment was made by Silver Bullet. So that's what creates, under our reading of the ordinance, good standing at that point in time because you pay it in advance. If we're going to get into the concept of what might be fair for all operators, in terms of a missed payment, I think right now, under the ordinance and under the former Treasurer Kramer's statement in 2001, you have a 24-month lapse. I don't know that that's good policy for a City to say you have a 24-month forgiveness period for missing but that's at least what we have in the code today.”

Mayor *Pro Tem* Abowd recognized Jonathan Boulware, who stated, in reference to Ordinance No. 2002-46, “that was put into place to say, at times there are gaming operators that need to close their doors for remodeling, demolition, whatever the case may be. So I think that ordinance was put in place to protect those businesses that, for whatever reason, had to stop their gaming operations to demolish ... and still maintain the grandfather status of 100 rooms as long as they can demonstrate, with a building permit, that that's the reason why they did it. I think that ordinance is being manipulated to say, 'Well, it's grandfathered.'

“... back to the other point, I think the fair process is, since it's not written, ... just like you ... have an expired driver's license, you just can't simply go and pay a fee. You have to go back, take the driver's test, you've got to go through the whole process and you can get it back but there is a process. So, I think the fair thing ... have the Horseshoe people come back, have them argue to you that they should get their license reinstated. If you agree to reinstate it, you reinstate it. Then it's back in good standing and then, at that point, then they can transfer and all that stuff falls into line. That way, it protects all other operators from this type of scenario happening again where a license can get expired. ... I agree with Garrett that, as of today, I don't think anyone can argue that a license that expired ... how could that possibly be considered in good standing. But I also would say that we shouldn't just shut the door because you never know when this will happen to somebody else.

“So, let's create ... there should be a process but it shouldn't be an easy process but there should be a process for people ... to come back ..., not Silver Bullet going and paying their fees. Horseshoe coming and saying, 'We want our license back.' You grant it, they pay the fees, they cure it. ... to me, that's the fair thing. At that point, Silver Bullet can get involved, transfer the license, everything is in good standing and it protects the integrity of the process. That's my only concern, it protects the integrity of the process.”

Mayor *Pro Tem* Abowd expressed understanding, and the concern that “in the absence of that process being spelled out, that's what we're dealing with today. ... I do understand that this Code needs to be looked at and the process needs to be defined. It's seriously lacking and so, with that being said, ... that's the conundrum we're faced with right now. But, given the current license and given the fact that this process

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isn't in place, kind of hand ties us.” Mr. Boulware suggested, “If that's the case, then it's pretty clear that there is no ordinance that allows you to reinstate an expired license. ... So, if we're going to go with the strict interpretation, there's nothing that says, once your license expires, you can bring it back. Nothing. ... even in that clause, 'licensee' twice, meaning that it's an active license. So if we want to go strictly by that, then there is no way this license is in good standing. It's impossible.” Mayor *Pro Tem* Abowd pointed out that the license was never officially revoked. “That's the other part of this argument and that's what makes it hard. Had the City initiated that process, we wouldn't be having this discussion.” Mr. Boulware inquired as to whether a license has to be revoked in order for it not to be in good standing.

Supervisor Shirk suggested that “if the City did not enforce the Code, it should not be a prelude to someone being granted rights down the road. Because the City didn't do their job does not exclude the right or wrong. So, just because somebody didn't do their job doesn't allow someone to continue in that pathway.”

Mayor *Pro Tem* Abowd entertained additional questions of the Board members and additional public comment. When no additional questions or comments were forthcoming, Mayor *Pro Tem* Abowd entertained a motion. Supervisor Bagwell stated, “This decision is really difficult and ... good points have been ... brought up by both sides of this. All I can really do is look at the Code and the practice that we have done. The practice, as I see it and as staff has confirmed, is we have always allowed the operators to pay late and come in and cure. ... we've never revoked anyone. We don't charge a late fee. We don't penalize. It's really poor Code but I cannot change our practice here today based on that. The Code has to change. ... I don't think that I can change that practice today. I don't think that's fair because that's what we were all discussing. And so, if I would let Jonathan or the Nugget or somebody walk in and pay with no penalty, no losses, then how can I not do so for the Horseshoe Club.

“... I agree that it says you can cease operations, but I do not see or read that language that says that the license does not have to be paid or active; that you're still a licensee. And ... I agree that it'll go down to only 16 machines in the minimum but that maintains your license portion to be a gaming operator in Carson City. ... I'm leaning towards ... that the first quarter, they actually have to verify and validate the machines and pay the appropriate fee for the first quarter of 2015 and then they have to pay the minimum 16-machine for the remaining quarters to be considered a license in good standing because I think the license piece that they're asking to transfer is what we're discussing today. I don't think I'm discussing grandfathering and all those other pieces. I'm talking about transferring a license and that's all we're really talking about and it has to be in good standing. There are no definitions in the Code and so, for me, for a license to be in good standing, it must be paid. ... I think all seven quarters need to be cured.”

Mayor *Pro Tem* Abowd expressed agreement with Supervisor Bagwell, and stated, “... in the absence of the definition of good standing, ... all seven quarters need to be cured. That would just make common sense to me. As far as the transfer of the license, it is a non-restricted gaming license so I don't see restricting machines. That doesn't make sense to me because that ... would be putting a different condition on than what we're talking about here today.” Mayor *Pro Tem* Abowd expressed agreement that “we'll need to work forward with staff ... on this Code so it's more definitive and such that it defines the process because it makes it hard on everyone without the proper definition in these sort of matters.”

Supervisor Shirk expressed the opinion that “how this has been handled in the past ... doesn't have any bearing at this meeting today. What staff has done is done. I don't think it should even come into the conversation as to what was granted to one should be granted to another. I think we're looking at the

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Municipal Code. I think we're looking to arguments from both sides and I appreciate the argument from both sides, but there's not a compelling argument to convince me to grant this to the applicant because I did not hear a compelling reason to grant this. And I don't think either side really won and ... it's still an issue that has not been resolved at today's meeting. And if you cannot resolve anything, I'm convinced ... how do we grant the applicant this. I don't see how we can do it because there's not a compelling argument to do so.”

Mayor *Pro Tem* Abowd entertained a motion. **Supervisor Bagwell moved to approve the transfer of the gaming license of the Carson Horseshoe Club, from Nevada Treasure Chest to Silver Bullet of Nevada LLC, with the requirement of the payment of seven quarters of their gaming license; the first quarter of 2015 being based on a validation of the machines and the appropriate payment for that; the remaining six quarters can be paid at the minimum required as it had ceased operations; and the license transfer cannot be effective if the payments are not made prior to December 31<sup>st</sup>. Mayor *Pro Tem* Abowd seconded the motion.**

<b>RESULT:</b>	Approved [2 - 1 - 2 - 0]
<b>MOVER:</b>	Supervisor Lori Bagwell
<b>SECOND:</b>	Mayor <i>Pro Tem</i> Karen Abowd
<b>AYES:</b>	Supervisor Bagwell, Mayor <i>Pro Tem</i> Abowd
<b>NAYS:</b>	Supervisor Shirk
<b>ABSENT:</b>	None
<b>ABSTAIN:</b>	Supervisor Bonkowski, Mayor Crowell

**21. RECESS BOARD OF SUPERVISORS MEETING (12:45:35)** - Mayor *Pro Tem* Abowd recessed the meeting at 12:45 p.m. Mayor Crowell reconvened the meeting at 12:51 p.m., and commended Mayor *Pro Tem* Abowd and Supervisors Bagwell and Shirk for handling item 20(B).

**REDEVELOPMENT AUTHORITY**

**22. CALL TO ORDER AND ROLL CALL** - The Redevelopment Authority was not called to order as item 24 was withdrawn from consideration.

**23. PUBLIC COMMENT**

**24. SUPERVISOR SHIRK - POSSIBLE ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A REVENUE SHARING AGREEMENT, BETWEEN CARSON CITY, CARSON CITY REDEVELOPMENT AUTHORITY, AND DAVID PEDDER, WITH REGARD TO A NEW AUTO SALES BUSINESS WITHIN CARSON CITY REDEVELOPMENT PROJECT AREA NO. 2; AND TO FURTHER CONSIDER ALLOCATING THE CITY'S PORTION OF THE SALES TAX REVENUE GENERATED FOR CITY-WIDE STREET REPAIRS AND MAINTENANCE**

**25. PUBLIC COMMENT**

**26. ACTION TO ADJOURN REDEVELOPMENT AUTHORITY**

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**27. RECONVENE BOARD OF SUPERVISORS**

**28. SUPERVISOR SHIRK - POSSIBLE ACTION TO CONSIDER APPROVING A REVENUE SHARING AGREEMENT, BETWEEN CARSON CITY, CARSON CITY REDEVELOPMENT AUTHORITY, AND DAVID PEDDER, WITH REGARD TO A NEW AUTO SALES BUSINESS WITHIN CARSON CITY REDEVELOPMENT PROJECT AREA NO. 2; AND TO FURTHER CONSIDER ALLOCATING THE CITY'S PORTION OF THE SALES TAX REVENUE GENERATED FOR CITY-WIDE STREET REPAIRS AND MAINTENANCE - Withdrawn.**

**29. BOARD OF SUPERVISORS NON-ACTION ITEMS  
LEGISLATIVE MATTERS**

**FUTURE AGENDA ITEMS**

**STATUS REVIEW OF PROJECTS**

**INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS**

**CORRESPONDENCE TO THE BOARD OF SUPERVISORS**

**STATUS REPORTS AND COMMENTS FROM BOARD MEMBERS (12:52:09)** - Supervisor Bagwell read into the record email correspondence from Tim Hope, commending Streets Division staff on their prompt response to a request regarding a problem with a sidewalk. Supervisor Shirk advised of having sent an email “to Bill Miles and to City staff about the MAC building being completed. The punch out list ... is back at the MAC completing it.” Supervisor Shirk further advised of having emailed the District Attorney “about a couple of things. One, we have City staff participating in podcasts and on social media, Facebook, and posting things. In his response to me, 'It is within the authority of the City Manager or the Board of Supervisors to adopt a policy that would regulate an employee's participation in podcasts or prohibit the employee's participation altogether in other means such as Facebook.'” Supervisor Shirk advised of having emailed Community Development Director Lee Plemel “about a business that has, out on the sidewalk, displays of merchandise and I think we need to look at this.” “... Also, in the downtown area where we had just narrowed the street and we had two-hour parking along both sides, I talked to ... Mark Smith, the owner of the jewelry store, ... He has, in front of his business, switched from the two-hour parking to 20-minute parking. I have emails to him that he gave to City staff as to why he wanted that but, when this was presented to us, the downtown expense was to be for two-hour parking. How we went from two-hour parking to the 20-minute parking, he has valid reason and valid emails to City staff arguing why he wanted that switched, ... and I understand it and I see the arguments for it but, if he's granted this, than other businesses should be allowed the same ... opportunity to switch that two-hour parking to 20-minute parking if they so desire that in front of their business.” Discussion ensued with regard to parking and snow removal.

**STAFF COMMENTS AND STATUS REPORTS**

**RECESS AND RECONVENE BOARD OF SUPERVISORS MEETING (1:02:34; 2:00:30)** - Mayor Crowell recessed the meeting at 1:02 p.m., and reconvened at 2:00 p.m.

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**30. COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION**

**30(A) POSSIBLE ACTION TO APPROVE A MASTER PLAN AMENDMENT, FROM LUMOS & ASSOCIATES (PROPERTY OWNER: ANDERSEN FAMILY ASSOCIATES), TO ALLOW A CHANGE IN THE MASTER PLAN LAND USE DESIGNATION OF A 5.6 ACRE AREA, AS DEPICTED IN FIGURE 3 OF THE APPLICATION FOR A MASTER PLAN AMENDMENT: VINTAGE AT KINGS CANYON, DATED AUGUST 18, 2016, FROM MEDIUM DENSITY RESIDENTIAL TO MIXED-USE RESIDENTIAL, LOCATED AT NORTH ORMSBY BOULEVARD AND 1450 MOUNTAIN STREET, APNs 007-573-06 AND -08; and 30(B) POSSIBLE ACTION TO APPROVE A REQUEST FROM LUMOS & ASSOCIATES (PROPERTY OWNER: ANDERSEN FAMILY ASSOCIATES) FOR A TENTATIVE PLANNED UNIT DEVELOPMENT (TPUD-16-092), ON 78.2 ACRES FOR THE PROPOSED VINTAGE AT KINGS CANYON DEVELOPMENT FOR (1) TENTATIVE MAP APPROVAL TO CREATE 212 SINGLE-FAMILY RESIDENTIAL LOTS RANGING IN SIZE FROM 1,690 SQUARE FEET TO 17,000 SQUARE FEET; (2) A ZONING MAP AMENDMENT TO REZONE 5.6 ACRES OF LAND, AS SHOWN IN FIGURE 8 OF THE APPLICATION FOR A TENTATIVE PLANNED UNIT DEVELOPMENT: VINTAGE AT KINGS CANYON, DATED AUGUST 18, 2016, FROM SINGLE FAMILY 6,000 AND SINGLE FAMILY 12,000 TO NEIGHBORHOOD BUSINESS ZONING; AND (3) A SPECIAL USE PERMIT FOR CONGREGATE CARE HOUSING IN THE NEIGHBORHOOD BUSINESS ZONING DISTRICT, ON PROPERTY LOCATED AT NORTH ORMSBY BOULEVARD, 1450 MOUNTAIN STREET, AND 1800 KINGS CANYON ROAD, APNs 007-573-06 AND -08 (2:01:22) - Mayor Crowell introduced these items, and entertained disclosures. Supervisor Bonkowski read a prepared disclosure statement into the record, advising that he would abstain from participating in these items. Supervisor Bonkowski left the dais. Supervisor Abowd read a prepared disclosure statement into the record, advising that she serves as The Greenhouse Project Board of Directors President. Supervisor Abowd advised that the Vintage developer donated \$500 to The Greenhouse Project, and explained that “this donation was not a gift nor a loan,” and that she does not have a “significant pecuniary interest in the Vintage and have no private commitment to any party in this matter.” Because of no disqualifying conflict of interest, Supervisor Abowd advised that she would participate in these items. Mayor Crowell entertained additional disclosures; however, none were forthcoming.**

Mayor Crowell reviewed the format by which the items would be addressed. Planning Manager Hope Sullivan reviewed the agenda materials in conjunction with displayed slides. With regard to the condition of approval relative to the CC&Rs, Ms. Sullivan suggested adding a sentence “that the CC&Rs are to be consistent with the proposed project, the conditions of approval, and the Handbook.” She expressed the hope “that will ... help with clarity should this be approved so that we don't have something in the CC&Rs in conflict with City approvals.” She advised that she would recommend additional language to the Handbook specifying “the maximum height for the single-family residential be 22 feet, measured from existing grade to the highest point on the roof, and for the congregate care buildings, a maximum height of 28 feet.” She further advised that she would recommend an additional condition of approval “that makes it clear that the residential uses are subject to the parking standards of ... Division 4 of the Development Standards.”

Ms. Sullivan referenced modified conditions of approval, as outlined in the November 21<sup>st</sup> memo, and advised of additional modifications, as follows: She suggested adding to Section 1.2 of the Handbook, the following statement, “The allowable uses identified in this handbook may only be modified by the Board of Supervisors utilizing the planned unit development process identified in Carson City Municipal Code

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17.09.040; (2) Add a condition that the residential parking requirement is as stated in Division 2 of the Development Standards; (3) Modify condition 19 to add a second sentence stating the CC&Rs shall be consistent with the application, the conditions of approval, and the Handbook;" (4) Handbook Section 1.5.2 should be modified to state, "Minor deviations of ten percent or less may be considered by the Community Development Director, consistent with the provisions of CCMC 18.02.085.10." Ms. Sullivan provided background information on the revision recommended to Section 1.5.2 of the Handbook, and responded to corresponding questions of clarification. Ms. Sullivan further recommended "(5) The Handbook will be modified to state all buildings shall be limited to one story, and that was ... a requirement of the Planning Commission. The applicant did not include that language in the Handbook so that will need to be included. I'd like to also add what the Planning Commission recommended with a maximum height of single-family homes and ancillary buildings of 22 feet, and the maximum height of the congregate care buildings of 28 feet. Measurements shall be from existing grade to the highest point on the roof; (6), and this is clarifying language, to add that if the Handbook is in conflict with the conditions of approval, the conditions of approval take precedence. Prior to approval of the first final map, any identified inconsistencies must be corrected in the Handbook. And that condition is actually primarily in response to a Parks and Recreation item. The applicant, in Chapter 3 of the Handbook, addresses a lot of the Parks and Recreation components, but a lot of those will be details that will be worked out as construction plans become realized. So, I don't want to lock in on that because I want to recognize that that's an evolving situation. And, (7) are some grammatical errors or typographical errors so thank you to everybody who wrote letters. You caught things I missed. So, I'm recommending we correct those."

Ms. Sullivan reminded the Board that "the Planning Commission did review both of these applications at their meeting on the 29<sup>th</sup> and they did recommend approval based on their ability to make the required findings and subject to conditions."

In response to a question, Transportation Manager Patrick Pittenger explained the connections at Lexington and Bolero. He responded to questions of clarification, and discussion ensued. In response to a question, Community Development Director Lee Plemel stated, "In the aspect of just looking at a land use and zoning map amendment, ... just as a planning principle, we would generally agree that with any use allowed in that district. ... spot zoning is about ... consistency with the master plan and it's about compatibility of uses. So it's not necessarily that because it's surrounded by a different zoning district it's spot zoning because then you would never have neighborhood business in the middle of a neighborhood which we do have elsewhere in the City and in other places. So ... spot zoning is more than just about what it looks like on the map." Mr. Plemel stated, "I think we would agree with you if this was just a map amendment and there was no project with other limitations on it that would be an unusual request for zoning for neighborhood business there that may be incompatible with the surrounding neighborhood. In this particular case, they've further limited the uses to ... the congregate care and those ancillary uses."

"So, ... the application ... before you today is to determine if that master plan designation and neighborhood business zoning with those limited uses, whether that is compatible with the adjacent residential uses or not. And, in terms of legal spot zoning, ... if it's compatible and determined to be compatible, ... from a legal standpoint, it's not spot zoning."

In response to a question, and in conjunction with displayed slides, Ms. Sullivan explained, "In SF1A, you have a minimum lot size, absent a PUD, of one acre." She quoted from Section 17.09 of the Carson City Municipal Code. "... because of the mandate for open space ... instead of having somebody's backyard

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fence next to somebody else's backyard fence, you actually have a ... backyard property line and then you have a 30-foot buffer area and then you have the next backyard property line. So because of the open space, what you realize is two units to an acre.” In response to a further question, Ms. Sullivan explained the reason why, “if the property were to be sold ... that additional ancillary services can or cannot occur.” In response to a further question, she advised that underground installation is required for new utility services.

In response to a question, Ms. Sullivan reviewed the procedures associated with responding to email. She advised of having read “every piece of correspondence except for the items that came in yesterday and ... those were, without exclusion submitted by the applicant. ... To the extent somebody brought up a good point, ... I need to fix it. ... I independently check things that people are bringing up and, if I think it's a good point, in my professional opinion, I'm bringing it forward to you.” In response to a further question, Ms. Sullivan explained, “the initial meeting is a conceptual map meeting. That does not have a fee associated with it. The application for tentative planned unit development, which is before you today, ... does have a fee.”

Ms. Sullivan responded to additional questions of clarification regarding project compatibility, the traffic impact analysis, a PUD with a zero lot line. Engineering Manager Danny Rotter responded to questions regarding water availability in conjunction with displayed slides. Mayor Crowell entertained additional questions or comments of the Board members and, when none were forthcoming, invited the applicant to the meeting table.

(3:02:35) Mike Draper, representing Argentum Partners on behalf of Scott Development Companies and the Vintage at Kings Canyon, commended Ms. Sullivan's presentation and expressed appreciation for the Board's time. Mr. Draper provided background information and reviewed details of the project in conjunction with displayed slides. Mr. Draper and Parks and Recreation Department Director Jennifer Budge responded to questions of clarification.

(3:24:46) In response to an earlier question, Mike Raley, representing Rubicon Design Group, advised of an existing bus stop on Mountain Street “very close to the primary entrance” of the project. Mr. Raley commended Ms. Sullivan's presentation as “very good and very thorough” relative to “the planning-related issues.” Mr. Raley suggested that “most of the discussion and confusion that has occurred during the overall public review process is largely associated with the master plan amendment.” In conjunction with displayed slides, he pointed out a “5.6-acre portion of the site, so roughly seven percent of the total project and, through the review process, we've relocated that central to the site so that it's not directly adjoining any existing residences.” Mr. Raley explained that the master plan amendment is necessary “to allow for the assisted living facility and ... for this age-in-place concept that the Vintage includes.” He suggested that although an assisted living facility is usually considered “as a residential use, ... it's classified as a commercial use and that's what's triggering that need for the master plan amendment. Not that we want to put commercial uses in there that are open to the general public but to allow for that assisted living component of the overall project.”

Mr. Raley advised that the developer, Mr. Scott, “has done market studies that show that there is a demand for a greater mix of housing choices that would include this age-in-place concept. And the master plan itself was developed several years ago and, ... since that time, there's been a change and some new concepts that have come in line, including this age-in-place concept that the master plan doesn't quite address. So,



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that's really the justification for the master plan amendment.” Mr. Scott responded to questions of clarification, and discussion ensued.

Supervisor Bagwell reviewed research she had conducted into congregate care facilities, and distributed corresponding documentation to the Board members, the Clerk, and the meeting room. She stated, “When I look at the ones that exist now, the vast majority of them all reside with the residents across the street from it.” She inquired as to the criteria for living in the assisted living / congregate care facility. Mr. Raley and Mr. Draper responded to additional questions of clarification. In response to a comment, Mr. Raley expressed a willingness to include kitchenettes in the assisted living units. Supervisor Shirk expressed the opinion that the proposed congregate care facility “is greatly different than what we have that [Supervisor Bagwell] took pictures of and brought.”

Mr. Raley continued his presentation, and responded to additional questions of clarification. Mr. Draper and Ms. Sullivan responded to questions regarding the phasing plan. (3:49:39) Mayor Crowell invited Mike Bennett, of Lumos & Associates, to the meeting table. Mr. Bennett introduced himself and advised that he represented the design team. In response to a question, he advised that one community meeting and three neighborhood meetings were held. He responded to additional questions regarding the community / neighborhood / citizen meetings. Mr. Bennett reviewed issues “that came to the surface in those meetings, as well as the public hearings that we had here”: storm water utility impacts and traffic. Mr. Bennett and Engineering Manager Danny Rotter responded to questions of clarification.

(3:59:30) Traffic Works LLC Principal Traffic Engineer Loren Chilson reviewed the comprehensive traffic study which was provided in accordance with City standards. Mr. Chilson responded to questions of clarification throughout his presentation. Mr. Pittenger advised that staff agrees with the conclusions of the traffic engineer's study. He further advised that “our original preference ... was to have all four of the roads that currently dead end connect. There are actually four of the two that we spoke of, plus Sunset and La Mirada that actually would have been beneficial, from a traffic standpoint, to do all four. We already compromised and only required two instead of the four and, while we do recognize that there are not a lot of trips going down Bolero ..., connectivity like this, not only is it theoretically a good thing, the lack of connectivity ... is a bad thing and we have numerous examples all over town, particularly on the west side where connectivity hasn't been provided in the past. And the lack of connectivity becomes an issue, after the development, not for these gentlemen but for the City, indefinitely with limited resources ... and not only limited resources financially, but limited options once the development is constructed.” Ms. Sullivan responded to questions regarding connectivity relative to the phasing plan. In response to a further question, she advised “the Ormsby connection is in phase 2 and Bolero connection is phase 3.”

Ms. Sullivan referenced condition of approval 34, “as recommended by the Planning Commission, that the plans must be updated to show the new public trail outside the boundary fence. The graphics you saw this afternoon showed fencing on both sides of the trail so the recommendation from the Planning Commission ... is to have the fencing on the interior of the trail so there's nothing that precludes access from the public to the trail. Secondly, ... condition 78 states, 'The park design will be coordinated with the Parks and Recreation / Open Space Department for review and approval, including construction and inspection. The design will be consistent with the Department's guidelines and development standards, including water conservation design elements.' Supervisor Shirk ... asked about water conservation and that is included in the recommendations from the Planning Commission. I'm bringing this out just because you saw graphics of soccer fields and the like. The design has not been established. It sounds like there's been some

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preliminary discussions but we do recognize that nothing's been decided and this condition just recognizes that there will be that level of coordination.”

In response to a question, Ms. Sullivan advised that the phasing plan has “certain commitments which ... the staff did try to front load ... the parks and recreational amenities and creating those pedestrian linkages from Mountain [Street] to Ormsby [Boulevard]. Should the Board of Supervisors approve this tentative planned unit development with these conditions, different conditions come in to play at different points in time and, as you read the conditions, you saw certain things being required during certain phases. What happens after this ... should they be approved, they'll submit improvement plans and the staff will review those improvement plans, comparing them to all the approvals associated with this PUD to ensure that they are executed according to the PUD. ... There was just an apartment complex, for example, approved recently and there was going to be a clubhouse but there was a variance associated with it from the open space and so we said that the clubhouse has to be first. You don't get to build the buildings because the clubhouse is compensating with all the amenities for not providing enough open space.

“Similarly, they need to demonstrate completion of everything. The conditions are our rules ... and so every plan we approve, the improvement plans have to incorporate those. Things have to happen ... before final map. So they can't record these lots until they've executed on their commitments.” Ms. Sullivan acknowledged that if the project sells, the same restrictions run with the land. “These rules ... we have our zoning regulations ... that apply no matter who owns the land. They just apply and then we're going to have this PUD that's our next layer of rules and that PUD is a combination of your conditions of approval of the application that's before you. And there's the Handbook so that's a whole other layer of rules and all of those rules apply to that land regardless of ownership.”

(4:15:20) Attorney Mark Forsberg, representing Dennis and Kim Collard, the principals in Andersen Family Associates, provided background information on the Andersen family, the subject property, and the proposed development. “... this is the project that shared their vision for the ranch. They're going to preserve the heritage portion of it for as long as they can. Although it's also zoned for development, they don't have intention of doing that. They want to keep that for their own families.” In response to a question, Mr. Forsberg advised that the heritage portion is not part of the subject transaction. He was uncertain as to the number of acres in the heritage portion, and acknowledged that it includes the ranch house. He further acknowledged that the zoning is not proposed for change.

Mr. Forsberg urged the Board of Supervisors to remember “that the baseline for your consideration is not the current conditions. It's not land that's open space and a ranch. The baseline for your consideration of the project and the master plan amendment is really what the current zoning is. And that was important to the Collards as they looked at this too because the impacts of this project are actually less, as you've been told, than the current zoning. There'll be less traffic, less impact on schools, less impact on many different aspects of the services that the City has to provide. ... they have rights, they have entitlements that belong to them just as other people around them do in the neighborhoods that surround the project.

“The master plan isn't a straight jacket. It's not intended to prevent change or to prevent growth. It's a tool to assure that the growth is orderly and that it doesn't overly impact the community. And this project does that. It's reduced the impacts of the current zoning. ... On the spot zoning issue, ... one of the things that ... pushes it away from the concept of spot zoning is that the spot is inside this project. It's not abutting, it's not right up against some other people's property that it's going to impact. The people that move in

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around it won't know it's there and they'll accept it or they won't, but it's there when they get there so ... that's important.”

In response to an earlier question, Mr. Forsberg advised that “the CC&Rs ... are recorded against every lot so you buy the lot knowing that the CC&Rs are in place and what the restrictions and conditions are and they never go away so ... that's a large measure of protection too.” From personal experience, Mr. Forsberg pointed out that people who live in congregate care facilities “don't drive much; many of them don't drive at all. They're there because they need some kind of help with their activities of daily living. They don't travel around a lot. A lot of times, if they go places, they are shuttled or taken by other people and they're very, very quiet. So the idea that this is going to be a huge detriment to the existing neighborhoods ... is demonstrably not true. ... that supports the idea that this is an appropriate master plan amendment that isn't going to have those kind of negative impacts.” Mr. Forsberg encouraged the Board “to consider the rights of the Collards in using their property in the way it's been zoned for many, many years, since the '80's.”

Mr. Raley advised of having been asked “several times why is this project good for the community. Obviously, that's what we've been talking about ... but a more concise answer to that would be a couple of things. Obviously, we did many market studies and feasibility studies to make sure this was financially viable, but one of the things that we understood was that, in Northern Nevada as a whole and particularly in Carson City, there was a need for additional senior services and senior living. That's how we came to the project. The Collards ... really felt that this was a far better project than anything that had come before them particularly the single-family residential and the impact that single-family residential would have on everything from schools to crime to infrastructure. The other part of this is we have engaged in a variety of stakeholder meetings. I've personally had several one-on-one meetings with everybody from all the various emergency services, Sheriff Furlong, and fire and ambulance to businesses ... on Carson Street, in and around the area of the development, the Chamber, to community leaders. We've taken the feedback that they've given us and we're pretty proud of how we've been able to incorporate it. We made many, many, many changes from when this project was initially revealed early this year, everything from ... moving the assisted living facilities and congregate care facilities into the interior of the development to eliminating the wrought iron fencing to even ... a mobile home and trailer where all the adjacent residents can meet with the developer and the contractor on the project to minimize the impact, both during construction but also the long-term impact of landscaping on view corridors ..., the fencing.

“Our commitment is to continue after today to keep working to make sure that this project does everything that we're sitting here telling you that it's going to do. On a community-wide basis, this project obviously generates significant taxes to partly go to schools without impacting the schools. Nobody in this development is going to have kids that are going to k-12 schools. We'll generate jobs. It does adhere to the ... development practice of looking at urban infill before looking at ex-fill.

“So, we understand we can't make everybody happy but we do feel like we've really, really come a long way from the start of the year and this will be a model project ... that's laying before you. We did engage in a survey. ... We engaged a national polling company to commence a survey at the end of October. That survey asked a variety of things but ... the response was that more than half the residents of Carson City felt like there needed to be more services and facilities for seniors. Sixty percent of the respondents supported this project; thirty percent were opposed; ten percent were undecided or ambivalent. ... understand we can't make everybody happy ... we do feel like this is going to be a great project and, after a while, we'll be a model neighbor.” Mr. Raley and Mr. Forsberg responded to questions of clarification.

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Supervisor Bagwell requested that an index and a date be added to the Handbook, together with the previously-reviewed revisions. Mayor Crowell recessed the meeting at 4:26 p.m., and reconvened at 4:40 p.m.

(4:40:59) Mayor Crowell entertained public comment. (4:41:28) Luke Papez acknowledged the Andersens' property rights, and stated "the other side of that coin are the property rights of those immediately next door and anything that they do with their land that may have an impact on ours. That's where this process comes in. For their proposal, it's very well defined in the Carson Code and NRS of what they must do to implement their plans. It's very specific on the findings of fact that must be made in order for that to forward and have a finding that the project is sufficient and meets all of those items."

In reference to the Planning Commission meeting, Mr. Papez expressed the opinion "it was a little bit unordinary ... for a typical public meeting ... just simply because the project is so complex and there's so many components and approvals needed for this to be implemented." Mr. Papez suggested reviewing the Planning Commission video, and stated that "as these Planning Commissioners were stepping through their findings of fact, there were two of them that had problems with at least four findings of fact. One of them was about the commercial aspect of it. ... They spoke around other items but they never really came back to those core four findings of fact that could not be met. Both Commissioner Sattler and Commissioner Salerno made those known. ... Both of those commissioners voted in favor of approving the project. ... The recommendation from the Planning Commission should have been to deny. That's what the [Supervisors] should be considering here today, denial of the project." In response to a question, Mr. Papez advised of having been "aware of" the meeting "that occurred at Fritsch Elementary and I attended that one." He acknowledged having attended the Planning Commission meeting as well.

(4:44:33) Joe LaChew advised of having lived in Carson City "all [his] life," and discussed the history of the area, particularly Treadway Park. He expressed concern over changes to the area impacting the tourist attraction. He advised "there was no local agreement with any of the neighbors," and discussed concerns over construction traffic. He provided an overview of the area residents, and advised that he had "worked [his] whole life to be able to get a house on the historic west side. I finally got the perfect place and when I talked to the real estate guy, he said, '... this is going to be in trust for probably 20 years ...' They haven't talked to us. They don't meet that agreement and do we have to look forward to construction ... to six days a week, twelve hours a day?" Mr. LaChew inquired as to future sale of the residential lots, and potential associated difficulties.

(4:48:03) Sharron Tipton described the location of her property relative to the proposed development. She expressed the opinion, "This is the wrong project in the wrong place at the wrong time. No matter what City Code or master plan elements you should choose, it is not right for Carson City. It does not conform with the existing neighborhood to have street lights in this development west of Ormsby [Boulevard]. There are no lights there now. Deadlines are always extended for Mr. Scott. Lee, Hope, and the entire City staff always bent over backwards to assist Mr. Scott with his PUD so that it would be approved. This development does not provide a diversity of housing for residents of all ages. Again, it doesn't conform with the existing neighborhood, all ages living around it. It is wrong to have a PUD that caters to the inmates of this fenced, gated community instead of developing something that will be a benefit to all of the citizens of Carson City. ... there has never been so many dissenting voices about a housing development in Carson City. I hope you have read all of the letters of the overwhelming opposition to this flawed project. Please deny this project and tell us that you not only listened but that your hearing is not deficient."

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In response to a question, Ms. Tipton advised of never having been invited to any meetings by the developer. "We went to the Fritsch School and the Planning Commission. That's the only meetings we heard about this whole time." In response to a question, Ms. Tipton expressed opposition to "the age-restricted thing because that does not fit in any of Carson City. You don't have an area that's plunked down that has to be a certain age. If you look around the development that they're planning to do, there's families that live there. There's some elderly people that are retired ... there are some that have families, children. ... it's just not older people. I don't like the congregate care." She expressed disagreement that all of the assisted living / congregate care facilities in the City are "to capacity." She responded to questions of clarification.

(4:53:05) Garrett Lepire introduced himself as "a life-long resident of Carson City; been in real estate going on my 17<sup>th</sup> year." He expressed support for growth and acknowledged the benefits of the proposed project, such as "public trails, ... utilities from the mountain down to Mountain Street, ... and a public park ..." He advised of having attended "all these meetings. A lot of these people are 55 and older and they're telling you that they don't want a 55 and older place and they already have their own retirement community within their own community. And they take care of each other. They look out for each other ... and my only concern is we had a 55 and older development on Fairview and Saliman that had to be split in half and have the other side sold as regular homes because they couldn't sell them all. ... I don't want to be left with a half and half neighborhood again over here and I'm sure you ... don't want to have to deal with the fall out of that. ... If you're relying on only out-of-state people to buy your properties, I don't know that that's going to be feasible."

(4:55:14) William Kell introduced himself as "a 26-year resident of Carson City." He advised that "this type of development originated back east in the blighted cities when, after urban development, led to blight from the inner cities. The buildings were all redone so the senior citizens could live like they're describing in Vintage, but they could walk to wherever they wanted. They were already in the middle of the City. Not so in Carson City. We just redid the whole downtown and these people are not going to be able to walk down there. It's too far to walk down to that point. ... we're already buying water from Minden and the ... *Appeal* says that water resources are over-allocated already and these people are assuring us that there's water all over. In the time I've lived in Carson City, I've seen the water running down where they want to put Vintage now, so it looks like a no-good proposition."

(4:56:33) First United Methodist Church Senior Pastor Rob Jennings-Teats advised of "personal experience with several senior communities." He expressed support for multi-phase senior communities, and "serious problems about the viability and ... questions about the experience of the developer." He expressed the belief that "they [don't] really quite know what they're doing. ... Most of the problems with the Vintage plan derive from their stated assumption that this community is designed for active seniors. This assumption is contrary to every multi-phase senior community that I am aware. These kinds of communities are generally populated by single women, well into their 80s; often women who lose their husbands and become widowed, seek a community in close proximity of their existing relatives, and relocate there. Therefore, if the Vintage project is in keeping with most like communities that on average, the people buying into this development will be widows in their 80s who have family in the Carson City area. It will most likely attract people already living here. Considering the average income of people over 50 in Carson City is around \$40,000, this would make the Vintage project unaffordable for the vast majority of seniors already living here. So it would be assumed that they would be people coming, perhaps, from California or from some other urban area where people have more money. However, it would be unlikely,

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as a widow in their 80s that they want to relocate to a community far removed from their relatives. So, I have a question about the very viability of whether or not they have a market for this program.

“And then second, it's very dependent on the homeowners association and I believe that homeowners associations need to have vital, younger people to manage and oversee them and people well into their 80s, they have no real desire to be active in a homeowners association. So if this homeowners association begins to break down because it's so critical to the overall program, who's going to take responsibility for it? And then the third thing, ... most people of this age group, they're looking for someone else to provide social connections for them and this is very important because I don't believe this project adequately addresses the social needs of these particular elderly people and they're going to need to have some organization or structure like most of these communities have ... they're going to need to have some kind of non-profit organization that's going to manage and care for their particular needs of building relationships, having parties, doing programs, ...” Pastor Jennings-Teats questioned the viability of pickle ball and an outdoor swimming pool. Supervisor Shirk agreed with the concerns expressed over the homeowners association.

(5:01:11) Debbie Smith advised of having lived in the area “for a couple of years,” and described the location of her home “right at the end of Lexington.” She discussed concerns over “medical care for all of the people in this vicinity, ... the monitoring of the people in this community, ...”

(5:04:07) John Bullis expressed opposition to the project, and the belief “it could be built ... somewhere else. ... The outcome of the meeting at Fritsch School, the Planning Commission, the people here today who hung around for a couple of hours before they could make any comments, they really don't support this idea, they don't think the density is good, ... but, most importantly, they feel threatened and they feel this is not my town, this is not the way things ought to be.” Mr. Bullis requested the Board to deny the PUD, and “wish the developer the best of everything someplace else.” In response to a question, Mr. Bullis expressed the opinion that the congregate care facility is “just too much, too quick, too fast in the wrong place.” He expressed the belief “there's every reason for that property to be developed in a reasonable, good subdivision approach and ... that would be more acceptable to all these people in the general neighborhood.” He expressed concern over “fighting City Hall. You're having something pushed down your throat that you don't want. And if it's really feasible, then there must be other land in other parts of Carson City that could be just as useful for this purpose, this congregate care, and if the land is cheaper, it'll help their financing.” Mr. Bullis responded to additional questions of clarification.

(5:09:03) Dave Ziegler objected to “the fact that it's a gated community” and expressed the opinion “the traffic analysis understates the impacts on Mountain Street.” Mr. Ziegler advised of having attended the Planning Commission meeting, and that he was a professional natural resource planner and land use planner for the majority of his career. He discussed opposition to the gated community aspect of the proposed development, and expressed a preference for “as much connectivity as possible.” He expressed uncertainty as to why the developer “wants to deviate from the standard development practice of just having the developer build the streets to City standards and then dedicate the streets over to the City ...” He expressed the opinion this would “really knit the project into the west side and make it a part of the fabric of the west side rather than just being some sort of a black box in the middle of the west side.” With regard to Mountain Street, he noted “two schools, ... a lot of vehicular traffic, many, many school walking trips, lots of bicycle trips, lots of children and adults up and down that street all the time, numerous cross walks, ... a rehab hospital, ... medical offices, there's a big, new, large facility going in just south of the rehab

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hospital. There's a brand new stop sign ... at the corner of Mountain and Fleischmann. There's eight or ten driveways in the vicinity of where this project would enter onto Mountain Street.” He discussed the importance of maintaining “a good level of service on Mountain Street,” and expressed the concern that “this proposal would add a lot to that pressure.” Mr. Ziegler urged the Board to “take the time you need to take a real close look at that and make sure that Mountain Street stays at a good level of service.” He urged the Board to “think holistically about this, think of the City as a whole, think of the whole west side as a whole, ... to give it careful consideration and ... my comments their due weight.”

(5:13:19) Brian Smith described the location of his residence relative to the proposed development. He expressed concern over comments that the Board members had not been provided sufficient information. He discussed concerns over “the retail part of this development, ...,” the zoning, the “water issue,” connectivity, and flooding. In response to a question, Mr. Rotter advised of “numerous rotation agreements and purchase agreements with raw water or creek water owners. We don't pay them to not irrigate their land. They offer it to us and then we purchase it because it's raw water and it's a good, clean source on the west side. ... we also have a rotation agreement with the Andersens whereby if, on a bi-annual basis, they have creek water that's available and they're not using it, we can purchase it or we can swap Marlette-Hobart water with them. So, it's a flexibility and an operational standpoint and a cost savings to the City in times where those water rights owners don't want to utilize their water rights and we have the ability to purchase that.” Mayor Crowell advised of having read every one of the pages in the agenda materials “three times, and ... have not seen anything here today that wasn't in here.” Mr. Smith expressed the opinion that “the demographics ... are getting too old for the town to be able to continue and thrive. ... emphasis needs to be brought to bringing younger, thriving families to this community that are willing to pay extra taxes to educate their children in this community because these children are the future of our whole environment.” Supervisor Abowd expressed agreement with an earlier comment that Washington Street “needs to go all the way through.”

(5:20:41) Chuck Knaus described the location of his property relative to the proposed development, and discussed concerns over “inadequate representation.” He advised of having sent an email to “four Board of Supervisors. We got one answer back. The answer that we got back said, 'I have a conflict of interest. I can't vote.'” Mr. Knaus expressed agreement with Mr. Bullis' and previous comments, and the opinion “there really should be some emphasis on how do we get young people here.” Mayor Crowell and Supervisor Abowd assured Mr. Knaus that the Board members had read every email.

(5:23:35) Jason Kuchnicki requested the Board to consider that “when a project draws this much interest, this much controversy, and this much opposition, that's a big, red shiny flag that something isn't right here. And it's not just the project concept. It's been the entire project. The entire project has been frustrating to this entire community that's here tonight and others that weren't even able to make it.” Mr. Kuchnicki expressed the opinion that the developer had been disingenuous and had levied threats “that more money could be made by racking, stacking, and packing and developing according to a typical development fashion ...” He further advised that the developer had “continually contradict[ed] themselves” and was “willing to say seemingly whatever it takes to gain project approval,” and “who won't generally entertain comments from the community and seriously consider altering fundamental concepts that could make the project more acceptable to the community.” Mr. Kuchnicki expressed frustration “to see City staff who are seemingly providing the level of support that they are to this development. It seems like it's just a level above and that this project is intended and is going to be ram-rodged through.” He expressed frustration “to sit through a Planning Commission where many of the commissioners are ill-prepared, who evidently

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didn't understand the process, didn't know what they were voting on, didn't take seriously the grave risk of the project's viability, and who dismissed the heartfelt testimony of the impacted, surrounding neighbors only to be followed up by the development team, when they rendered their decision, to laugh and applaud and cheer and smile over at the community and rub it in." Mr. Kuchnicki expressed the opinion that Supervisors, who had attended the Planning Commission meeting, mocked citizens during their testimony. He acknowledged the Andersens' right to develop the property; "however, the property should not be developed beyond what is currently legally allowable without the zoning change. There's clear detrimental impacts. They've been documented in both the Planning Commission and in your packet. In my mind, ... the tradeoffs simply aren't enough, there's not enough community quality of life benefit associated with this project to approve that zoning amendment change. That's the simple fact." Mr. Kuchnicki expressed the firm belief "that if the project put forth was something more along the lines of Long Ranch Estates, it would not have been met with such vehement opposition. It would have been much more accepted by the community." Mr. Kuchnicki urged the Board to "deny approval of this project, send it back to the drawing board so that the developer can engage in a genuine process with City staff assistance and approve this project, to not just benefit the surrounding neighborhood but the entire City, one that's far superior in advancing the goals and objectives of the master plan and one that is much more acceptable to the community."

(5:27:25) Cathy Kindsfather advised of having been informed that her written comments were included in the agenda materials. She read the same into the record.

(5:34:07) Barbara D'Anneo expressed appreciation to the Planning Division staff for their professionalism, courtesy, and hard work. Ms. D'Anneo discussed support for the proposed project and the Andersen family's "right to sell."

(5:37:14) Ken Stokes provided background information on his property and viewshed. He expressed disappointment "in our community ... in how the Andersens were vilified in the newspaper because they wanted to sell their property and they've actually ... gone to the nth degree to make sure that whoever was buying it was trying to do the best that they could." He commented on the Highlands development and its viewshed. "The Andersens are exercising their rights to sell their property, the developer ... are exercising their right to put down a substantial amount of money to come in here and invest in our community. And our community has acted like it's a conspiracy, like the people that they've hired are liars and that they're ... making this up because they want to make this happen as opposed to the fact that they're professionals and they have to do what they say, they have to follow the law." Mr. Stokes reiterated his support for the project. He suggested asking whether the developer has "the financial wherewithal to pull this off. ... is the developer adhering to a master plan and is he following the zoning and the law? And if that's the case, then he gets to move to the next phase. The other thing is, will it be properly landscaped? Because that's what offsets everything." Mr. Stokes expressed the opinion "this is a technical decision. Are you following the law? Are you doing what you're supposed to do and are you adhering to the technical laws that are going on in the community?" He expressed the opinion, "you ... can't stop this project."

(5:41:20) Cheryl Bowman expressed the opinion that the developers had behaved poorly at the Planning Commission.

(5:43:24) Fred Voltz submitted written comments, which he reviewed. He expressed concern that the proposed project has given "zero consideration about the impact on wildlife or any mitigation efforts that



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could have been done.” He discussed concerns over trail connectivity, the Andersen family's property taxes, and services required by elderly citizens. He advised of never having received any invitation from any developer representative. He advised of having attended the Fritsch School and Planning Commission meetings. He recommended sending the project “back to the developer for compliance with the master plan, no exceptions granted.” He responded to questions of clarification.

(5:48:14) Patrick Anderson described the location of his residence relative to the proposed project, and expressed support for the project. He acknowledged difficulties associated with change, and described the subject process as “brutal.” He described the meeting at Fritsch School as “embarrassing,” and advised of having been invited to the meeting at Glen Eagle's for a follow up meeting. “It was a small room. It was limited in terms of how many people could be admitted, but the intention was to reach out to residents and property owners alongside the perimeter of the project area and get some feedback and do it in a way that was calm and constructive and you could actually have a discussion.” Mr. Anderson expressed the opinion that the developers have “been very responsive to the feedback that's been provided. You have a group of people who just don't want this project to occur, period.” Mr. Anderson expressed the hope that “we don't let this opportunity slip through our fingers this evening because my wife and I are very grateful to the Andersen family heirs that they have been patient and they have waited for the right project. ... This project is in full conformance with every state and local ordinance. ... This thing passes muster and if you don't like it, emotionally, that's tough. I don't know how you address that.”

In conjunction with a displayed slides, Mr. Anderson stated, “... every single one of us that live adjacent to this property is going to have, at a minimum, a ... 30-foot buffer between us and ... another residential home just like the ones we're all currently living in. Those homes are going to be situated to the front of the parcel. Some are zero-lot line and ... that's obviously kind of a foreign concept for a lot of people but it's not unusual in urban planning. The homes are going to be situated to the front of the ... parcels which means you're going to have probably 50 to 60 feet between your property line and the back of the nearest residential home just like the one you're living in now unless you're on that southern perimeter. ... But this is, in fact, a residential development in a district that is zoned for residential development.”

(5:53:56) Mike Lucido provided background information on his residence in Carson City, and advised of having “escaped from California where they have lots of PUDs and they talk about those as being like Nazi camps. Yes, you have the CC&Rs to protect you but you can't do anything about it. You go to the Board of Supervisors ... and they can do whatever they want. ... PUDs are bad. Earlier someone talked about the developments in Reno and Sparks ... Carson City's a different town altogether. It's a small town and we don't need, inside of our small town, another small town. No fences and no PUDs.” Mr. Lucido expressed the opinion that the project “will fail. This is not California. It's not a vineyard ...”

(5:55:52) Molly Bundy-Toral described the location of her residence relative to the proposed project. She advised of a “wider concern about this and about our community as a whole that this kind of represents the 55 and over, and that is our community is getting older. ... Our community, in terms of medical care for older people, is horrible. It's not even that good for younger people. ... this project overloads it even more.” Ms. Bundy-Toral referred to the recent failure of the fuel tax question, and discussed “major problems” associated with the roads. She expressed the opinion that the City should address the transportation issues “before we even consider more development. We have had 3,000 approvals since 2014 of apartments and

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homes. That could bring 7,500 more people here within the next five or six years. We can't handle it well and ... part of your responsibility is to make sure this community, the needs are taken care of first before we have a whole bunch of other people coming in.”

(5:58:11) Tom Hughes advised of having spoken with Assessor Dave Dawley, who informed him that “the Andersens have had deferred taxes on that property for seven years. The taxes on that property that they're talking about right now ..., for the fiscal year 2015 - 16, were exactly \$76.43. ... the Board of Supervisors has a real incentive to approve this project.” Mr. Hughes inquired as to “why they have to have all these changes, a request to amend the master plan, asking for a PUD with three components, a zoning map amendment, special business permit for congregate care, and request to approve tentative map?” Mr. Hughes acknowledged the Andersen heirs' right to sell their property, “but they didn't approve of the people that approached them because it didn't fit in with what they wanted.” He expressed the opinion that “what they wanted was the maximum amount of dollar for the land and for this Board to approve the changes rather than have it developed single-family 12 and 6, ... is just absolutely wrong. ... it's just a little ... disingenuous for this Board, if you do approve this, to let the community think that our statements are going to make one bit of difference.”

(6:00:51) Steven Brenneman expressed agreement with Mr. Hughes, and the opinion “all of us are here fighting a losing cause. ... I've seen the authorities here look the other way when snow removal requirements are not met, parking spaces are not met.” He referred to the Garden Villas as an example. ... this development needs to have two parking spaces per dwelling unit; not that it complies with some Code that can be changed when you hire a traffic analysis guy or a parking analysis guy ...” Mr. Brenneman discussed the importance of encouraging younger people to move to Carson City. “We don't want to turn this into an old folks town.” He expressed the opinion that the proposed project amounts to spot zoning and that the master plan amendment should not be approved. He advised of “a number of errors ... The documents are just shot full of typos and outright errors.” He pointed out several. In response to a question, Mr. Brenneman suggested creating “the zoning regulations and allow people to sell their properties in compliance with the zoning regulations.”

(6:06:43) Suzanne Fox advised of having read a recent *Nevada Appeal* article stating that the Vintage project will have a positive affect on Carson City. She expressed the opinion that construction jobs will be temporary, and discussed concerns regarding sufficient rental property, quality subcontractors, and property tax impacts. She suggested building a senior community in the old prison. “It's vintage, it's 150 years old, it has a fence and a guard tower which will keep the residents from escaping, there will be jobs for unemployed prison workers, it has individual housing units complete with toilets. The bars on one side of each room will allow caregivers to easily check the welfare of residents. There are recreational facilities with plenty of space for shuffle board or pickle ball. If the residents get bored, they can take up a hobby; perhaps making license plates.” Ms. Fox requested the Board to “honor the master plan and the zoning requirements that are in existence now and reject all aspects of this project that do not comply.”

(6:10:05) Paul Sieman described the location of his residence relative to the proposed project. He expressed appreciation for the Andersen family keeping the heritage site. He advised of having met with Ms. Sullivan, and commended her professionalism and cooperation. He advised of having been most concerned about “the Andersen Ranch property remaining as it is and was concerned that if it was viewed as part of the project that, what I referred to as speculative rezoning, would that automatically be part of it. And you have given me adequate evidence to say that ... that part of the property will not basically be

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affected. If something is to happen with that, that would start brand new and not be associated with the Vintage project.”

(6:12:45) Sara Romeo expressed the opinion that most people are unhappy about the number of congregate care residents which will be allowed by the zoning map amendment. She discussed concerns over the proposed use of xeriscape and expressed the opinion that the proposed project does not fit “within the history and the existing homes that are there.” She expressed the further opinion that the poll results should be disregarded. She discussed additional concerns over the proposed cost of the homes, the homeowners association fees, the zoning, and residential diversity.

(6:17:03) Sarah Howton provided background information on her residence in Carson City, and expressed appreciation for the developers' goal of an active lifestyle. She expressed the hope that “it would be an active lifestyle that would be accessible to all.” She described the 55 and older requirement as “a wall policy.” She noted that the proposed project is within a “school zone.” She suggested that “if we're going to replace open space, it would be nice if those friends could access each other with greater ease than heading down to Mountain Street or ... Bolero and Lexington.” She expressed appreciation for the master plan “as is.” She expressed curiosity as to “how much opposition to changing the master plan does the Board or the Planning Commission” consider. She advised of having requested to participate in the citizens meeting and “was told by Mr. Andersen that they had already selected the people who could attend that meeting.” She expressed appreciation for concerns expressed over viability of the project, and inquired as to how the project will sustain itself. She stated that the “threat of litigation comes up continually ... as a reason why this must be voted through and, if that is the reason why you have to vote this through, I would just like honesty in that process. ... Or are you really voting for it because this is going to make Carson City a wonderful place to live for my children as well?” Mayor Crowell assured Ms. Howton that the Board doesn't make decisions with respect to money or the threat of litigation. Ms. Howton pointed out that the senior services won't be available to any senior citizens who don't live in the development.

(6:25:46) Sean Gallagher stated that he is exhausted. “The people of this community want to have a say in how their community looks and feels and it seems as though that concept is crazy and that we're NIMBYs or that we're selfish, rich, west side snobs because we care about how our community looks and feels. Never mind the money that we've invested. Never mind that we pay some of the highest property taxes in Carson City.” He expressed gratitude to the Andersens for having “vetted this and tried to get the best project they could ... That doesn't mean that this is the project. The Andersens tried hard and the developer is not a philanthropist.” Mr. Gallagher advised that he was considering his and his family's interests first and expressed the belief that “you should always care about your neighbor.” He provided background information on his involvement in opposing the project, and his past work experience. He advised of having researched the Code and the master plan before purchasing his home and, “based on that research, I had a reasonable expectation that the land behind my home would likely be developed at some point but that it would be developed as one house per one acre lot.” He expressed the opinion that the developer is “asking for the law to be changed. We shouldn't be changing laws or rules ... It is completely and fundamentally changing the character of a well-established neighborhood and these other senior living complexes, they don't compare.”

Mr. Gallagher expressed the opinion “that rules, if they're to be changed, ... should respect all of the parties impacted by the change. I had a reasonable expectation, when I invested almost \$100,000 in addition to the purchase price of my home, ... when I open my door it would be one house per one acre lot.” Mr.

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Gallagher expressed the opinion that “the Board's first loyalty in these matters is the residents in the area. If the overwhelming majority of people have reasonable objections to some issues, it's pretty clear what you should do. ... The laws are in place to make sure everyone gets a fair deal and no one gets discriminated against. I don't want the developer and / or his team to fail. I want them to make money. ... And I want the Andersens to sell their land and develop it but not at the expense of everyone else's rights and reasonable expectations.” He requested the Board to “follow the rules. ... We should not be changing the rules just so that Vintage can make more money.”

(6:34:08) James Pincock advised of having reviewed the plan since its first availability, and expressed the opinion there are problems with it “in a number of areas.” He discussed concerns over “the effects that approval of this project will have on the public health, safety, and welfare.” He expressed disappointment in the Planning Commission meeting, and the opinion that “it didn't seem like the commissioners really had done their homework; that they knew what they were voting on, procedurally what was happening and I didn't have any confidence at all that they really understood the downstream implications of what they were doing ...” Dr. Pincock urged the Board to “carefully consider those topics and understand that just because ... in the submission it says it'll have no negative effect on the public health of the community that that's true because it is not true.”

(6:39:50) John Barriman discussed concern over “the lack of integrity in the presentations by the developer in the meeting today.” He expressed concern over the impacts of the subject decision on his children. He expressed understanding “it's the Andersens' property but Carson City is landlocked and we need to make sure that we have a plan on how the City is going to develop.” He expressed further concern that “we have a plan and now we're talking about modifying the plan and I'm wondering to what benefit. ... What we're seeing is a presentation that seems to be more on the sell than on the viability. Is it going to be soccer fields or isn't it and, if it clearly wasn't, then why was it presented that way? ... Where's the benefit of isolationism? ... there's a lot of distrust.” Mr. Barriman discussed his skepticism of the reliability of the poll results, and concerns regarding traffic issues in the nearby school zones and the gated community. He expressed the desire that the project succeed “because my kids are going to have to pay for it when it doesn't and the second generation ownership of the housing becomes your problem because you're trying to solve the developers problem through your Code. You're going to have to make sure they're 55 years or older. You're going to have to make sure there's only two people and that's because we don't trust the developer to do their job and we've now ... delegated that to this Board.” Mr. Barriman requested the Board to carefully consider “what the developer's presented, look at the trust. Is this the company you want to do business with? Is this the project you want to spend your limited space on?”

(6:47:08) Tom Hughes provided additional detail of his discussion with Assessor Dave Dawley, and suggested that “the Andersens and the developers knew that this was going to be a done deal before Ann Knowles ever put that article in the paper about the Vintage.”

(6:48:42) Maxine Nietz read a prepared statement into the record, expressing opposition to the proposed project. She urged the Board to vote no “on this application.”

Mayor Crowell closed public comment, and recessed the meeting at 6:54 p.m. Mayor Crowell reconvened the meeting at 7:10 p.m., and invited the developer and one of his representatives and Mr. Forsberg to the meeting table.

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Mayor Crowell requested the developer to discuss “why this project pencils and its economic viability ...” (7:11:54) Project Developer Vince Scott provided background information on the project, and stated, “It is going to be a little bit of a stretch, given the market where we're at right now, but I'm hoping to raise the quality level across the board with this project. And it, in my opinion, it'll double the price per square foot. I hope to build it cost effectively. The things like the water and sewer hookups are considerably less here than a lot of other alternatives. So the soft costs are a little bit less. The hard costs could be a little bit less. The infrastructure costs, because it's flat, are going to be hopefully a little bit less although all the park improvements and all the other requirements there and the flood mitigation will add a little bit more cost to it. ... overall, ... the market is changing, the demand looks like it's there. Carson is now becoming a very viable community for a lot of different reasons.”

Mr. Scott advised of having looked at similar projects “across the nation” in *Builder* magazine, “and the age-in-place community concept is really taking hold and the beauty of it is it can be designed in a very space-efficient manner, energy-efficient manner. The zero lot line concept is new here but it's not uncommon. It creates more open space. It provides for more efficient design and people are looking to downsize from their bigger, high maintenance house to a smaller, more energy efficient home.

“So that was my thought ... let's bring that concept of single-level living, easy, low-maintenance yards, let's bring it here, let's do it right, let's do it in a quality fashion and let's try to pull the market up a little bit so the rising tide will float all boats. And I really think that these, the neighboring properties, are going to see a substantial increase in property value with this project.”

In response to a question, Mr. Scott advised of not having previously developed an age-in-place community. In response to a further question, he advised that “our operator is a long-time Carson City operator, the Childers family, of the assisted living and independent living facilities. I've consulted with several national big-time operators that do these facilities across the nation. I've spent about \$75,000 on feasibility studies and analysis by some of the top, top agencies in the country. It all points to a baby boomer demographic that's continuing to grow, has good discretionary spending money, and is a very strong target market. ... Yes, there is a millennial generation. There is a need for younger housing. I do see that and I'm actually working on another project that will fulfill that need and, ... I would consider moving the portion west of Ormsby [Boulevard] to do those homes as non-age restricted single-family residential houses. That's what I'm hearing now is there's more a need for that, although the [Planning] Commissioners put the restrictions on us to do maximum two people per dwelling and put all the other restrictions. ... now, I'm hearing something different.”

In reference to the public comments, Mr. Scott stated, “I'm a good developer. I want to do the right thing ... but, the first meeting, I got a good feeling of ... what I'm dealing with in Carson City and it was rough and so, when you talk about wanting to hold all these meetings, it's a scary proposition. So, I told myself, let's target the people that are the most vocal, that ... are directly impacted and we can make some changes and we can listen and we can adjust all the things that they wanted. And that's what I've been doing for the last six months is making changes to this plan to accommodate everything I've heard. Now, we know it can be a single-family residential project. That could be my fall-back position but, at this point, I really think this is the right project for this location.”

Supervisor Abowd inquired as to whether Mr. Scott has “the financial wherewithal to pull this off.” Mr. Scott advised that he does not have “all the money right now sitting in the bank ready to go.” He further

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advised that he is continually meeting with investors; that he has several financing commitments. “The appraisal came in a little less than ... what I'm actually paying for the property so we have some hurdles to overcome. I'm constantly trying to justify the value of this property and, on the other side, I'm getting slammed. So I'm right in the middle here trying to do a project that will be sellable and will be marketable and will be successful so you're not left with a project that's half built. I will not break ground until I have the money to ... complete the project and 40, 50, 60 contracts in place with deposits, solid, ready to go, and a forward commitment for construction financing, and a take-out commitment financing option. So, there are all these things that have to line up. After this meeting, if we are fortunate enough to get approval, I'll be hitting the ground running to get all those pieces lined up. ... I don't want to do a project that's going to fail. I've never done a project that has failed. Never. Even in the downturn, I worked it out with the banks. We made sure everything was good. ... I've never done assisted living but I've brought in some experts that have and that's where I'm at.”

Supervisor Abowd expressed support for “across Ormsby [Boulevard] making that a non-age designated development. ... you need to integrate everybody into this. It makes more sense.” Supervisor Abowd inquired as to whether any consideration has been given to “punching Washington Street through.” Mr. Scott advised of the need “to look at the numbers again to see if that's feasible ... if you're looking for the developer to absorb that cost.” He expressed the opinion “there's going to be a substantial tax base generated with this project that could probably cover some of those infrastructure costs and I'm all for that. ... I think the improvement of curbs, gutters, sidewalks, pathway connectivity, parks, trails, it's all good. It's all a benefit for the community and our residents as well. But I don't want to start a project that is not going to be successful. If that's a condition that we need to do that, then let's look at it. I've told everybody from the very beginning, I am willing to work with Parks, with City Supervisors, with the neighbors. I haven't shied away from anything. And ... it hurts me when a reverend attacks my integrity and says I don't know what I'm doing as a developer because I've been doing this for 27 years. I think I know what I'm doing. I've got the best team that money could buy. These guys are good, a top-notch team and the staff has been great. ... We can pull this off.”

In response to previous comments, Supervisor Abowd pointed out that the contractor proposed to be engaged “has to be accountable for what he's building ...” Mr. Scott advised that he “chose to work with Carson City locals and the contractor that I've selected ... has a good reputation. They've been very up front and very straightforward with me and I think they have unlimited bonding capacity and I think they're the right choice for the job.”

With regard to community sustainability, Mayor Crowell discussed the importance of “family-aged folks moving in here, workforce-aged folks moving in here so that we can be able to take care of our senior folks.” He stated, “... one of the things that really bothers me ... that we are allocating one of most prime pieces of property to an age group that maybe doesn't contribute to the sustainability over time ...” Mr. Scott agreed, and stated, “sustainability ... if you're talking about discretionary spending and money to support infrastructure and tax base to sustain the improvements long term, ... If that's really going to put a huge impact on the availability of doctors, I look at it as creating opportunity for doctors to come in. I look at it as creating opportunities for all of the doctors, optometrists, people that are on Mountain Street, to have another client base, another wave of people coming through to be their clients. ... it's not a bad thing, it's a good thing. It's a good thing to create that. And ... if we need to hire more doctors, let's get out there with a campaign, let's find them, let's get them in here.”

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In response to a question, Ms. Sullivan suggested a development agreement “where [the developer] would have to show you evidence of certain assets ... prior to issuance of permits. ... the DA's office would have to weigh in on the legality of that. I've never heard of that occurring in a private context.” Mr. Plemel explained that each phase before a map is recorded ... “they have to complete all the street, water, sewer improvements, all of that infrastructure improvements or post a bond for them. So they have to have the wherewithal or convince a bank that they have the wherewithal to, at a minimum, post that bond ...” In response to a question, Mr. Plemel advised that the bond would be in favor of Carson City. “... if they do not complete that first phase, then there's money available that the City could go in and they could complete those improvements which would be the streets, water, sewer, etc. That's in place now. That is not above and beyond a solution for this. That's in place now.”

Mr. Raley suggested considering “this is not the only project currently active in Carson City. Between Schulz Ranch and Lompa Ranch, there's the potential for thousands of new units that ... are geared towards attracting young families. ... We need to consider those too in the broader range of everything that is going on in Carson City.”

Supervisor Bagwell reviewed public testimony. In response to a question, Mr. Plemel advised that the annual Growth Management Process “allocates and limits how many residential permits can be issued in any given year. ... as part of that process, we submit for comments from Carson-Tahoe Hospital actually asking specifically the questions of them and other similar agencies.” Mr. Plemel reviewed the questions, and advised that “2010 was the last time that the hospital responded ... Back then, they said they don't have any issues with capacity. ... We do, through the Growth Management [process] annually ask them that question.” Mr. Plemel responded to questions of clarification.

In further review of public testimony, Supervisor Bagwell inquired as to the best planning tool relative to “gating and traffic ...” Mr. Pittenger referenced his previous statement, “consistent with what was developed by the third-party private traffic engineer and presented previously as well. Connectivity is desirable and, from our position, the more, the better. But we did compromise on two out of four of the possible connections as well as on the gating. Indeed the more, the better for connectivity.” In response to a further question, Mr. Pittenger advised that “the punch-through of Washington [Street]” had not been “vetted as part of this process. It hadn't been required by the City or proposed by the consultant team, including the traffic engineer. It would take ... a separate analysis as to, number one, the traffic impacts but also the actual constructability and how it would operate. ... not only do you have to get through the field there, there is a Washington Street to the west of there but that is definitely a residential road. To the east of Ormsby [Boulevard], it is a collector street that is a significantly different cross section. Much of it has been rebuilt from Phillips east. More of it will be rebuilt in the next year or so to a completely different cross-section. So you'd have to figure out, not only how to get across there and how to pay for it but how to marry that up and what would be the impact, on a microscale, for those people who live there. ... But also, on the bigger picture, what would the traffic patterns be and that hasn't been vetted to this time.” Mr. Pittenger acknowledged he is “comfortable with the traffic plan that's been addressed in this project as it sits right now.”

In further review of public testimony, Supervisor Bagwell reiterated the opinion that the age and occupant restrictions don't belong in a planning document or a handbook. She reiterated the recommendation to strike the age and occupant restrictions from the Handbook, and to include those requirements in the CC&Rs.

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In response to a question, Ms. Sullivan explained that the minimum lot size in the SF1A zoning district is one acre; in SF12 is 12,000 square feet; and in SF6 is 6,000 square feet. “We have a table that gives all the dimensional criteria for every zoning district. For those zoning districts, as opposed to giving density ... it simply says one house per 6,000 square feet ... So your density is going to be a derivative of the design because you'll have to subtract out your roadways, figure out how you're arranging your lots, make sure you have your minimum lot size and, then for every 6,000 square feet ... you get a house. If you have a half acre lot, then ... you get one house per 6,000 square feet. So, it's really more derivative of the lot size as opposed to what we would expect traditionally as units per acre. Conversely, [Section] 17.09, the PUD standard, does give us a unit count per acre which is why the table is used ... to show that.” In response to a further question, Ms. Sullivan expressed the opinion that “the PUD standards are pretty consistent with the base zoning. Again, the base zoning density is going to be a derivative of design.”

In reference to public testimony, Supervisor Bagwell advised that “the decision doesn't have anything to do with a lawsuit. It's what I can defend in my own decisions.”

Supervisor Shirk expressed the opinion that sufficient medical care “is not really an issue,” nor is “gated or not gated.” He was uncertain as to how punching Washington Street through is possible “at this juncture,” or how “we're going to change any part of this planned community to single-family homes.” Supervisor Shirk advised of having attended “that first meeting. As a past contractor and developer in LA, I would've taken that meeting any day over the ones I went to in LA. It was easy, not bad at all.” Supervisor Shirk disagreed with asking Mr. Scott “how you can pencil this out,” and “where your funds are coming from or do you even have them. ... That's your problem. You don't have the funds, your problem, not mine. And it's not the City's either. If we have to ask you where your funds is and can you pencil this, we should be asking every development for every building permit that's issued and we've never done that to anybody else and I don't know why we're asking you.”

In reference to the public testimony, Supervisor Shirk expressed the opinion “it shows real class ... of citizens coming forward. I've been bombarded with phone calls, text messages, email. I can't keep up. I can say thank you for bringing their voice and I keep telling them to bring their voice forward.” He advised of having attended the Planning Commission meeting, and expressed the opinion “the Planning Commission made the wrong decision. ... the chairperson, when he made his statement at the end and it was a prepared statement, I think it was right on track. ... When we come to this vote, I think I'll be standing alone as I normally am ...” Supervisor Shirk expressed disappointment that Supervisor-elect Barrette was not present at the meeting. He congratulated Mr. Scott as a successful developer, and advised that he “will stand up for the citizens of this community ... tonight when the vote comes.”

Mayor Crowell entertained a motion, for discussion purposes, on the master plan amendment item. Ms. Sullivan reminded the Board, “should you be able to make the findings on the master plan amendment, the Planning Commission had recommended an effective date on that and staff had offered some clarifying language on that. ... the wording would state that 'the effective date of the master plan amendment is the effective date of the PUD consistent with Carson City Municipal Code Section 17.09.060.’” In response to a question, Ms. Sullivan explained that “conceptually, the idea was that the master plan amendment would not go into effect unless the planned unit development went into effect. And when I say that, not simply that the tentative planned unit development was approved, but that the planned unit development actually was being executed on. ... in that context, the proposed language was that 'the effective date of the master plan amendment is the effective date of the planned unit development consistent with CCMC



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Section 17.09.060,' which that Code section is just a section that talks about when a PUD is actually finalized.”

Mayor Crowell entertained a motion. For discussion purposes, **Supervisor Abowd moved to uphold the decision of the Planning Commission regarding this Master Plan Amendment. Supervisor Bagwell seconded the motion.** Mayor Crowell entertained discussion. With regard to the master plan, Supervisor Abowd pointed out that “it is a blueprint not a Bible and it's to provide guidance for growth for us going forward. It's about future planning and, ... according to the U.S. Census Bureau, the demographics of this population ... by 2030, is that one in five Americans is projected to be over 65 years of age. ... with that being said, as far as this being a part of a compact and efficient pattern of growth, I have to agree that it is. I think we're playing a semantics game in some respects. In some jurisdictions, congregate care / assisted independent living is not designated as commercial. In our jurisdiction, we have to deal with it as that. In others, it's designated as residential. So that's why we're here dealing with this. ... with that being said, the master plan assumes future development to occur strategically in activity centers containing a more diverse mix of land uses than is currently found in the City's development area. And, case in fact, ... all residential is mixed ... in that west side area with a hospital facility, with medical offices, there's a memory care facility going up over there. And this is a progressive, active senior community, not necessarily something that we have; something that we need, something that's important for our community going forward. ... with that being said, I think it meets that criteria.

“I also feel that it's in compliance with the goals when it comes to the vision, as stated for Carson City in our master plan. Carson City is a community which recognizes the importance of protecting and enhancing its western heritage. The architecture is bungalow style. That works for our community. The scenic and environmental quality of its dramatic natural surroundings and the quality of life of its residents, ... with this development we're connecting trails that weren't connected. We're getting parks that we didn't have and so I think it just expands the pride that we have in our community. And, as Nevada State capital, we try to offer residents a balanced community and a diverse range of housing and I think this does this.”

Supervisor Bagwell commended Supervisor Abowd's review of the findings. Supervisor Bagwell advised of having attended the Planning Commission meeting “and watched the same struggles ... that the Planning Commissioners had that ... we have up here. And ... I don't want to make light of anyone that came and expressed their opinions, but ultimately, we have to look at the entire picture of the entire community and what is the best answers. I think that the Planning Commission correctly voted to approve the master plan amendment.”

Mayor Crowell expressed agreement with Supervisor Abowd's comments relative to the master plan. Mayor Crowell stated, “One, polling information ... is irrelevant in a decision. Two, tax dollars are irrelevant as well. ... Litigation or threat of litigation is irrelevant. ... I've struggled with this all day today and ... for the last six months listening to these things, all other things being equal, I'd like to see something else developed on this piece of property. ... But I come back to the question I asked earlier in the hearing and that is, if you could put 256 homes, over 55, gated community homes, senior homes on this piece of property right now, no congregate care, you could do that right now with very little entitlement. It's difficult to say, well, if you can do that, why don't you just go all the way because the world of senior care is changing and congregate care is part of how that's done. And so if you're going to put senior housing in, you might as well go all the way and put in the congregate care at the same time. ... I struggle with that and that's ... where I come down. I do think that ... there's some concerns raised and, personally, I'd like

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to see other uses made of this property but, given what I've heard today, ... the argument could be made that this does ... meet the test of a diverse range of housing in our community that our master plan asks for and, by the way, our master plan, it's a guide. But one of the things that's in the master plan that is there is the ability to amend. ... and the ability to amend is ... there for a reason, but it is there and I don't think you can penalize somebody by saying, 'Well, somebody could have the amendment rights and nobody else can.'

Supervisor Shirk suggested that “for discussion purposes, I could probably counter-react [sic] every statement that was made but I think it's useless, ... I think it's pretty well set how you're going to vote just by the comments that were made and they're entitled to them. I would say that if you'd like to see something different built there, well, then vote no and something different will be built there. It's as simple as that. To say the master plan is not the Bible. It is the Bible. And to say we have a need and this is important and it's the pride of the community for this development, I think that's all wrong in everything, every issue.”

Supervisor Shirk stated that he would steal a line from the Planning Commission meeting, “the rezoning may justify special treatment that benefits a particular owner, developer, or builder while undermining the pre-existing rights and the uses of adjacent property owners.’ That's what we're doing. You can vote in favor of it or you can vote against it but I'm voting against it because I think it's wrong on every level and I wish this had been to the Board before the election, but it wasn't.”

Mayor Crowell requested the recommended motion to be read into the record. Ms. King read the following recommended motion, as provided by Planning Division staff: **move to uphold the decision of the Planning Commission to approve the master plan amendment, the effective date of the master plan amendment shall be the effective date of the planned unit development consistent with CCMC 17.09.060.** Supervisor Bagwell expressed the opinion “that covers all the legal requirements for the master plan amendment because the findings were all in what we're upholding of the Planning Commission.” In response to a question, Ms. Sullivan referred to the recommended motion at page 661 of the agenda materials. “In that draft motion, it does say that's based on the findings contained in the staff report to the Planning Commission and it talks about the effective date so, yes, the motion certainly identified the basis for your decision. Mayor Crowell called for a vote on the pending motion.

<b>RESULT:</b>	Approved [3 - 1 - 1]
<b>MOVER:</b>	Supervisor Karen Abowd
<b>SECOND:</b>	Supervisor Lori Bagwell
<b>AYES:</b>	Supervisors Abowd, Bagwell, Mayor Crowell
<b>NAYS:</b>	Supervisor Shirk
<b>ABSENT:</b>	None
<b>ABSTAIN:</b>	Supervisor Bonkowski

Mayor Crowell entertained a motion on the tentative planned unit development item, and reviewed the previously discussed revisions. Ms. Sullivan noted the additional recommended revisions which were displayed on the screen in the meeting room. She reviewed the additional revisions recommended by Supervisor Bagwell. Discussion followed with regard to the appropriate action. **Supervisor Bagwell moved to approve a request from Lumos & Associates, property owner Andersen Family Associates, for a tentative planned unit development, on 78.2 acres, for the proposed Vintage at Kings Canyon development for (1) tentative map approval to create 212 single-family residential lots ranging in size**

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from 1,690 square feet to 17,000 square feet; (2) a zoning map amendment to rezone 5.6 acres of land, as shown in Figure 8 of the application for a tentative planned unit development: Vintage at Kings Canyon, dated August 18, 2016, from single-family 6,000 and single-family 12,000 to neighborhood business zoning; and (3) a special use permit for congregate care housing in the neighborhood business zoning district, on property located at North Ormsby Boulevard, 1450 Mountain Street, and 1800 Kings Canyon Road, APNs 007-573-06 and -08, based on the ability to make the required findings and subject to the conditions of approval, included in the memorandum from the Planning Manager, dated November 21, 2016; the additional conditions of approval listed this evening as currently displayed on the screen; removing from the Handbook the condition of 55 and older and the two people residing; adding the requirement for a table of contents and dates on the Handbook. Supervisor Abowd seconded the motion. Mayor Crowell entertained discussion on the motion, and a brief discussion ensued. Supervisor Shirk expressed the opinion that “the input from [Supervisors Bagwell and Abowd] ... should have been discussed with staff so that citizens who attended this meeting could discuss this. Now, it's out of their realm to have any voice on what we're doing on the Handbooks and the CC&Rs, on the two, on the age. That was never discussed and I think ... that doing this as a motion, you've cut out the citizens input and I think that's wrong.” Supervisor Bagwell expressed disagreement and stated, “I heard several comments which I went through about the people being upset about the 55 and older so I don't think they didn't have an opportunity to comment. They've had several opportunities and I actually thought they were right and that's why we removed the restriction of the 55 and older and the two people. They talked about the viabilities. Is that right? We want the project to be successful. That's the aim here. I think that what the citizens said was right about that and I also want to say that I have seen this developer work very hard to go to single story homes, take out vineyards. I think the man has tried to listen to your comments. What's happened is he can't do them all. He's just ... not going to be able to make everyone happy but you don't get the right to say he didn't try.”

Supervisor Abowd expressed the opinion “we have listened to everyone and we have read every letter and we do take this seriously and it's weighed ... very heavily and we have to take into consideration the entire community and we have done that and we are including that in our recommendations which is our job.” Additional discussion followed. Mayor Crowell entertained additional discussion and, when none was forthcoming, called for a vote on the pending motion.

<b>RESULT:</b>	Approved [3 - 1 - 1]
<b>MOVER:</b>	Supervisor Lori Bagwell
<b>SECOND:</b>	Supervisor Karen Abowd
<b>AYES:</b>	Supervisors Bagwell, Abowd, Mayor Crowell
<b>NAYS:</b>	Supervisor Shirk
<b>ABSENT:</b>	None
<b>ABSTAIN:</b>	Supervisor Bonkowski

**31. PUBLIC COMMENT (8:02:50)** - Mayor Crowell entertained public comment. (8:03:00) In reference to a previously displayed slide, Steve Brenneman discussed maximum density. Ms. Sullivan responded to a question of clarification, and a brief discussion ensued. Mayor Crowell entertained additional public comment; however, none was forthcoming.

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**32. ACTION TO ADJOURN (8:04:32)** - Mayor Crowell adjourned the meeting at 8:04 p.m.

The Minutes of the December 1, 2016 Carson City Board of Supervisors meeting are so approved this 5<sup>th</sup> day of January, 2017.

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ROBERT L. CROWELL, Mayor

ATTEST:

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SUSAN MERRIWETHER, Clerk - Recorder