

City of Carson City Agenda Report

Item # 3-2

Date Submitted: January 24, 2008

Agenda Date Requested: February 7, 2008
Time Requested: Consent

To: Mayor and Supervisors
From: Parks and Recreation Department

Subject Title: Action to ratify the signing of a deed by Mayor Texeira in order to correct an error made in the purchase of the Andersen Trust property.

Staff Summary: At the request of staff, Mayor Texeira signed a deed transferring water rights to the Andersen trust. This action was taken in order to correct the original recorded deed that failed to reserve the water rights with the trust, contrary to the purchase and sale agreement previously approved by the Board of Supervisors.

Type of Action Requested: (check one)

Resolution Ordinance - First Reading
 Formal Action/Motion Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: Move to notify the signing of a deed by Mayor Texeira in order to correct an error made in the purchase of the Andersen Trust property.

Explanation for Recommended Board Action: It is the advise of the District Attorneys office that this action be taken. It will clarify to the Board and record as to how and why the deed transferring the water rights to the Andersen trust was signed by the Mayor.

Applicable Statute, Code, Policy, Rule or Regulation: N/A

Fiscal Impact: N/A

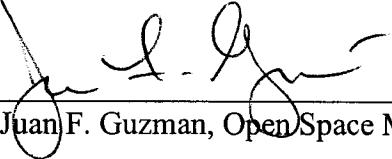
Explanation of Impact: None

Funding Source: None

Alternatives: Not to ratify.

Supporting Material:

1. Memorandum to the Board of Supervisors from the Open Space manager dated January 16, 2008.
2. Copy of email to Juan Guzman dated January 15, 2008 from Wayne Chimarusti, Esquire.
3. Copy of correction deed.
4. Copy of Declaration of Value.

Prepared By:  Date: 1/24/08

Juan F. Guzman, Open Space Manager

Reviewed By:  Date: 1/24/08

Roger Moellendorf, Parks & Recreation Director

Linda Ritter, City Manager Date: / /

District Attorneys Office Date: / /

Finance Department Date: / /

Board Action Taken:

Motion: _____ 1: _____ Aye/Nay

2: _____

(Vote Recorded By)



CARSON CITY, NEVADA

CONSOLIDATED MUNICIPALITY AND STATE CAPITAL

MEMORANDUM

TO: Carson City Board of Supervisors
Open Space Advisory Committee

FROM: Juan F. Guzman, Open Space Manager 

SUBJECT: Administrative Action to Correct Deed Error in Reference to the Andersen Transaction

DATE: January 16, 2008

This is to notify you that staff has worked with Mr. Wayne Chimarusti, Esquire, in order to correct an error made in the deed that transferred the Andersen property from the trust to Carson City. The deed failed to reserve the water rights appurtenant to the property. This error was contrary to the offer and purchase agreement signed by the Andersen Trust and Carson City. In order to correct the situation, a deed was prepared and recorded transferring back the water rights to the Andersen Trust. Attached please find additional documentation regarding this action. If you have any questions, please do not hesitate to call me at 887-2262, Extension 1004.

cc: Roger Moellendorf
Linda Ritter
Andy Burnham
Larry Werner
Melanie Bruketta
Wayne Chimarusti

Juan Guzman - Fwd: Andersen Ranch Purchase/Water Rights

From: Stella Hyatt
To: Juan Guzman
Date: 1/16/2008 8:35 AM
Subject: Fwd: Andersen Ranch Purchase/Water Rights

>>> "Wayne Chimarusti" <wscesq@sbcglobal.net> 1/15/2008 5:13 PM >>>

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 please notify the sender by return e-mail, and delete this message from your system.
 The sender does not authorize the use or dissemination of the information
 contained in this message by anyone other than its intended recipient(s).*

E-Mail Communication from the Office of
 WAYNE S. CHIMARUSTI, ESQ.
 300 West Second Street
 Carson City, NV 89703
 (775) 885-9066; fax (775) 883-1987
wscesq@sbcglobal.net

January 15, 2008

TO: JUAN GUZMAN SHyatt@ci.carson-city.nv.us
 Open Space Manager, Carson City Open Space Committee

COPY TO: ELAINE ANDERSEN, Trustee
 COPY TO: MICKEY ANDERSEN, Trustee

FROM: WAYNE S. CHIMARUSTI, ESQ.
 RE: ANDERSEN RANCH PURCHASE
 CARSON RIVER ROAD, APN 10-071-25

This transmission is in regard to our discussions for correction of an error in the August 13, 2007, Grant, Bargain, Sale Deed conveying the above-referenced property to Carson City.

As reflected in the August 3, 2007, Purchase and Sale Agreement between Carson City (Buyer) and the Robert Lorin Andersen Trust (Seller/Trust), the Trust was to retain ownership of all the surface Carson River water rights appurtenant to the ranch property.

As a result of a drafting error, the recorded deed conveying the land to Carson City omitted the provisions reflecting the agreement of the parties that ownership of the water rights was reserved by the Trust.

To correct this error, I have submitted to you a Water Rights Grant, Bargain, Sale Deed ("Water Rights Deed"), wherein the City conveys all of the water rights appurtenant to the Andersen Ranch back to the

Trust.

There is some urgency in the request that the City execute the Water Rights Deed. As was represented to the Carson City Board of Supervisors, the Trust has been in negotiations to grant an option to Vidler Water Company to purchase the water rights. An agreement has been reached between the Trust and Vidler, but its final execution has been suspended until the title to the water rights has been re-vested back into the Trust's name.

Vidler, as a cost savings and efficiency measure, wants to combine all the water rights it has in Carson City into one application with the State Engineer for change of the place of use and point of diversion. This process needs to be done in furtherance not only of Vidler's agreement with the Trust, but also in furtherance of its December 20, 2007, Improvement Agreement between Vidler and Carson City for construction of certain improvements to the City's water production and delivery infrastructure.

Negotiations between the Trust and Vidler have gone on for some time. All the parties are healthy, available and in agreement. I am concerned that circumstances may be subject to change that would frustrate this process if there were any further delay.

Your assistance in obtaining the immediate execution of the Water Rights Deed correcting the above-referenced error would be greatly appreciated.

Please don't hesitate to contact me if you have any questions.

APN: 010-071-25

Grantee:

MICHAEL H. ANDERSEN and
CHERYL ELAINE ANDERSEN, as Co-Trustees of the
ROBERT LORIN ANDERSEN FAMILY TRUST
710 Elizabeth Street
Carson City, NV 89703

When recorded, return to:
WAYNE S. CHIMARUSTI, ESQ.
300 West Second Street
Carson City, NV 89703

WATER RIGHTS GRANT, BARGAIN and SALE DEED

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged,

CARSON CITY, a Consolidated Municipality of the State of Nevada, by and through its
Board of Supervisors

do(es) hereby **GRANT, BARGAIN and SELL** to

MICHAEL H. ANDERSEN and CHERYL ELAINE ANDERSEN, Co-Trustees of the ROBERT
LORIN ANDERSEN TRUST dated March 15, 1992

the property situate in the County of Carson City, State of Nevada, described as follows:

**ALL WATER RIGHTS, INCLUDING BUT NOT LIMITED TO THOSE PORTIONS OF THE
CARSON RIVER DECREE CLAIM NUMBERS 695 AND 696, THAT ARE APPURTEnant TO
THE REAL PROPERTY SITUATE IN CARSON CITY, STATE OF NEVADA, DESCRIBED AS
FOLLOws:**

**PARCEL 1, AS SET FORTH ON THAT CERTAIN MAP OF DIVISION OF LAND INTO LARGE
PARCELS FOR THE DONALD ANDERSON TRUST AND JIMMY P. JARRARDS
CHILDREN'S TRUST LOCATED WITHIN THE EAST 1/2 OF SECTION 22, TOWNSHIP 15
NORTH, RANGE 20 EAST, M.D.B.&M., FILED FOR RECORD IN THE OFFICE OF THE
CARSON CITY RECORDER, STATE OF NEVADA, ON DECEMBER 21, 1999, IN BOOK 8,
AT PAGE 2342, AS DOCUMENT NO. 243503.**

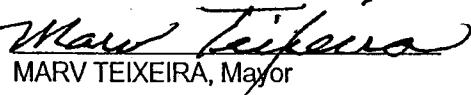
**AND AS AMENDED BY THAT CERTAIN CERTIFICATE OF AMENDMENT RECORDED
JANUARY 4, 2000 AS DOCUMENT NO. 243949**

This deed is intended to correct and clarify that certain deed recorded August 31, 2007 as Document
No. 371520, and to convey any water rights that may have been transferred by the deed back to
the grantors of the August 31, 2007 deed.

Date: 01/14/2008

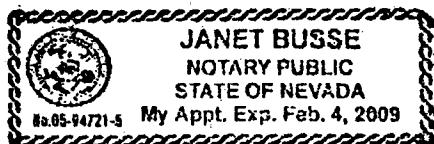
CARSON CITY, a Consolidated Municipality

By:


MARV TEIXEIRA, Mayor

STATE OF NEVADA)
CARSON CITY) : ss.

This instrument was acknowledged before me on January 15, 2008,
by MARV TEIXEIRA, as Mayor of the Consolidated Municipality of Carson City.



Janet Busse
NOTARY PUBLIC

This Notary Acknowledgement is attached to that certain Grant, Bargain Sale Deed
dated January 14, 2008.

**State of Nevada
Declaration of Value**

1. Assessor Parcel Number(s)
101-071-25

2. Type of Property:

Vacant Land

3. Total Value/Sales Price of Property: _____
Deed in Lieu of Foreclosure Only (value of property): _____
Transfer Tax Value: _____
Real Property Transfer Tax Due: **\$ NO TAX DUE**

4. If Exemption Claimed:
a. Transfer Tax Exemption, per NRS 375.090, Section 3
b. Explain Reason for Exemption: **Correcting deed recorded 8-31-2007 as Document No. 371520. Clarifying that all water rights to remain with Andersen Trust.**

5. Partial Interest: Percentage being transferred: _____ %

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided therein. Furthermore, the disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month.

Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

GRANTOR:
**CARSON CITY, a Consolidated
Municipality**

By: Marv Teixeira
MARV TEIXEIRA, Mayer

SELLER (GRANTOR) INFORMATION:
**CARSON CITY, a Consolidated
Municipality**
City Hall
Carson City, NV 89701

GRANTOR:
MICHAEL H. ANDERSEN and
CHERYL ELAINE ANDERSEN, Co-Trustees
of the ROBERT LORIN ANDERSEN TRUST

By: Michael H. Andersen
MICHAEL H. ANDERSEN, Co-Trustee

BUYER (GRANTEE) INFORMATION:
MICHAEL H. ANDERSEN and
CHERYL ELAINE ANDERSEN
Co-Trustees of the
ROBERT LORIN ANDERSEN TRUST
710 Elizabeth Street
Carson City, NV 89703

COMPANY/PERSON REQUESTING RECORDING (REQUIRED IF NOT THE SELLER OR BUYER):
Print Name: WAYNE S. CHIMARUSTI, ESQ.

300 West Second Street
Carson City, NV 89703

FOR RECORDER'S OPTIONAL USE ONLY

Document/Instrument #

Date of Recording

Notes:

(AS A PUBLIC RECORD THIS FORM MAY BE RECORDED)