

## **CARSON CITY BOARD OF SUPERVISORS**

### **Minutes of the January 6, 2011 Meeting**

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A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, January 6, 2011 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

**PRESENT:** Mayor Robert Crowell

Supervisor Karen Abowd, Ward 1

Supervisor Shelly Aldean, Ward 2

Supervisor John McKenna, Ward 3

Supervisor Molly Walt, Ward 4

**STAFF:** Larry Werner, City Manager

Alan Glover, Clerk - Recorder

Randal Munn, Chief Deputy District Attorney

Kathleen King, Deputy Clerk / Recording Secretary

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

#### **1 - 4. CALL TO ORDER, ROLL CALL, INVOCATION, AND PLEDGE OF ALLEGIANCE**

(8:30:22) - Mayor Crowell called the meeting to order at 8:30 a.m. and wished everyone Happy New Year. Mr. Glover called the roll; a quorum was present. Mayor Crowell welcomed Supervisors Abowd and McKenna. Mayor Crowell called on Father Doug Stewart and, when no one was forthcoming, read into the record a "thought of the day" from Oprah Winfrey. Supervisor Abowd led the pledge of allegiance.

**5. ACTION ON APPROVAL OF MINUTES - December 2, 2010** (8:32:27) - Supervisor Aldean moved to approve the minutes, as presented. Supervisor Walt seconded the motion. Motion carried 5-0.

**6. ADOPTION OF AGENDA** (8:32:45) - Mayor Crowell entertained requests to modify the agenda and, when none were forthcoming, deemed it adopted.

**7. PUBLIC COMMENTS AND DISCUSSION** (8:33:45) - Mayor Crowell entertained public comment. (8:34:16) Deni French expressed concern over the School District purchasing solar panels from other than U.S. manufacturers. Mayor Crowell entertained additional public comment; however, none was forthcoming.

**8. SPECIAL PRESENTATION OF A PROCLAMATION FOR "NATIONAL RADON ACTION MONTH," JANUARY 2011** (8:37:37) - Mayor Crowell introduced this item, and invited University of Nevada Cooperative Extension Educator JoAnne Skelly to the podium. Ms. Skelly introduced Susan Howell and Megan Long, statewide radon specialists, and requested Mayor Crowell to present the Proclamation to them. Mayor Crowell read into the record the language of the Proclamation, and presented the same to Ms. Howell and Ms. Long. (8:40:56) Ms. Howell thanked Mayor Crowell and the Board of Supervisors, and advised of having provided each of the Board members a radon test kit. She expressed appreciation for the recognition as "37 percent of the homes [in Carson City] that have been tested so far have found elevated radon levels ..." She reviewed additional statistical information relative to Carson City, and referred to a GIS map depicting radon data which was displayed in the meeting room. She announced special events scheduled for National Radon Action Month. In response to a question, Ms.

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Howell reviewed the EPA recommendation to retest one's home "every two years, if you do major home remodeling, or if there's earthquake activity." At Mayor Crowell's request, Ms. Skelly provided the University of Nevada Cooperative Extension address, 2621 Northgate Lane, #15, for free radon test kits.

**9. CONSENT AGENDA** (8:45:19) - Mayor Crowell entertained requests to hear items separate from the consent agenda. When none were forthcoming, he entertained a motion to adopt the consent agenda, as published. **Supervisor Aldean moved to adopt the consent agenda, as published, consisting of one item from Finance; two items under the City Manager's Office, with acknowledgment and congratulations to William Prowse on his reappointment to the Carson City Audit Committee and to Robert Parvin on his appointment to the Carson City Audit Committee, and to Lacy Sheck on her reappointment to the Carson River Advisory Committee. Supervisor Walt seconded the motion. Motion carried 5-0.** Mayor Crowell thanked the citizens for their service on Carson City advisory committees.

**9-1. FINANCE DEPARTMENT - ACTION TO ACCEPT THE REPORT ON THE CONDITION OF EACH FUND IN THE TREASURY THROUGH DECEMBER 28, 2010, PURSUANT TO NRS 251.030**

**9-2. CITY MANAGER**

**9-2(A) ACTION TO APPOINT WILLIAM PROWSE AND ROBERT PARVIN TO THE AUDIT COMMITTEE AS MEMBERS-AT-LARGE FOR TWO-YEAR TERMS ENDING DECEMBER 2012**

**9-2(B) ACTION TO APPOINT LACY SHECK TO THE CARSON RIVER ADVISORY COMMITTEE FOR A THREE-YEAR TERM, EXPIRING JANUARY 2014**

**10. RECESS BOARD OF SUPERVISORS** (8:46:27) - Mayor Crowell recessed the Board of Supervisors.

### **LIQUOR AND ENTERTAINMENT BOARD**

**11. CALL TO ORDER AND ROLL CALL** (8:46:30) - Chairperson Crowell called the Liquor and Entertainment Board to order at 8:46 a.m. Mr. Glover called the roll; a quorum was present, including Member Furlong.

**12. PUBLIC WORKS DEPARTMENT, BUSINESS LICENSE - ACTION TO APPROVE SILVYA DE LA ROSA AS THE LIQUOR MANAGER FOR KEI SUSHI, LIQUOR LICENSE NO. 11-27409, LOCATED AT 3220 HIGHWAY 50 EAST, SUITE 4, CARSON CITY** (8:46:57) - Chairperson Crowell introduced this item. Principal Planner Jennifer Pruitt reviewed the agenda materials, noting staff's recommendation of approval.

(8:48:03) At Mayor Crowell's request, Silvya De La Rosa introduced herself for the record. Mayor Crowell thanked her for doing business in Carson City. In response to a question, she expressed the hope that her restaurant will be open in approximately 30 days. In response to a further question, she described the location of the restaurant at the corner of Airport Road and Highway 50. In response to a further question, she advised of never having operated a business which serves alcoholic beverages, but that she

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has worked in the “casino business” for approximately 11 years. She acknowledged that her employees will be required to attend the Sheriff’s alcohol server training, and advised that she is scheduled for the training program on Monday, January 10<sup>th</sup>. She stated, “I am a firm believer, and actually carding has been my second nature since I’ve been dealing for 11 years up at Harvey’s.” She expressed the opinion that “prevention is the best way to help with this situation; just help your servers understand how important and how serious this is, not only about not serving minors but not serving alcohol to people that are intoxicated and not serving any alcohol for take-out orders ...”

Member Furlong acknowledged agreement with staff’s recommendation of approval. Chairperson Crowell entertained comments or questions from the board members and, when none were forthcoming, a motion. **Member Walt moved to approve Silvya De La Rosa as the liquor manager for Kei Sushi, liquor license 11-27409, located at 3220 Highway 50 East, Suite 4, Carson City. Member Aldean seconded the motion. Motion carried 6-0.** Chairperson Crowell thanked Ms. De La Rosa for doing business in Carson City and wished her well.

**13. ACTION TO ADJOURN LIQUOR AND ENTERTAINMENT BOARD** (8:51:03) - Chairperson Crowell adjourned the Liquor and Entertainment Board at 8:51 a.m.

**14. RECONVENE BOARD OF SUPERVISORS** (8:51:08) - Mayor Crowell reconvened the Board of Supervisors.

### **ORDINANCES, RESOLUTIONS, AND OTHER ITEMS**

**15. ANY ITEM(S) PULLED FROM THE CONSENT AGENDA WILL BE HEARD AT THIS TIME** (8:51:14) - None.

**16. FINANCE DEPARTMENT - ACTION TO ACCEPT THE CARSON CITY ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR, ENDED JUNE 30, 2010** (8:51:20) - Mayor Crowell introduced this item, and Finance Department Director Nick Providenti introduced Kafoury, Armstrong & Co. representatives and Deputy Finance Director Nancy Paulson.

(8:52:20) Kafoury, Armstrong & Co. Project Manager Dan Carter reviewed the Comprehensive Annual Financial Report (“CAFR”) in conjunction with a displayed PowerPoint presentation. In response to a question, Mr. Carter expressed the opinion that “these numbers are just a sign of the current times. ... Carson City is faring fairly well compared to some of our other clients.” Mr. Carter advised of no major concerns. In response to a question regarding capitalization of prior gifts, he explained “that was the appropriate adjustment for roads donated by NDOT.” Mr. Providenti provided additional clarification. Supervisor Aldean further clarified that the roads would be more accurately characterized as relinquishments rather than donations. “And, unfortunately, we had no choice but to accept those relinquishments.” Mr. Providenti acknowledged that the roads have material value for the purposes of reporting. In response to a question, he advised that the Governmental Accounting Standards Board (“GASB”) is “requiring us to ... put a value on the land and on the road itself.” Discussion took place regarding the concept of assigning value to the land. Mr. Carter explained that the GASB considers the roads an asset in that “you’re providing service to the citizens by maintaining that road ... It’s more the service benefit ...”

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(9:01:38) Kafoury, Armstrong & Co. Engagement Shareholder Kristen Burgess reviewed the Summary of Audit Results, including the three reports, in conjunction with a PowerPoint presentation. Mr. Providenti responded to questions of clarification relative to Note 2B to the financial statements, at page 35 of the CAFR. He provided additional clarification relative to the two identified material weaknesses as part of the “yellow book report.” At Mayor Crowell’s request, Ms. Burgess explained the term “material weakness.” Ms. Burgess responded to questions of clarification relative to the summary of prior year findings. In response to a further question, Ms. Burgess provided background information on GASB Statement No. 54. Mr. Providenti provided additional clarification.

Mayor Crowell entertained public comment and, when none was forthcoming, provided an overview of the report. He entertained a motion. **Supervisor McKenna moved to accept the Carson City Comprehensive Annual Financial Report for the fiscal year ended June 30, 2010. Supervisor Walt seconded the motion. Motion carried 5-0.** Mayor Crowell thanked Mr. Carter, Ms. Burgess, Mr. Providenti, and Ms. Paulson. He recessed the meeting at 9:26 a.m., and reconvened at 9:41 a.m.

**17. PUBLIC WORKS DEPARTMENT, PLANNING AND ZONING DIVISION - ACTION REGARDING AN APPEAL OF THE PLANNING COMMISSION’S DECISION TO ALLOW PLACEMENT OF PHOTOVOLTAIC ARRAYS AT SEELIGER ELEMENTARY SCHOOL, ON PROPERTY ZONED PUBLIC (P), LOCATED AT 2800 SOUTH SALIMAN ROAD, APN 009-436-08** (9:41:06) - Mayor Crowell introduced this item, and acknowledged Senior Deputy District Attorney Joel Benton. He advised that Mr. Benton would be leaving City employment to relocate his family to Oregon. He wished Mr. Benton well and thanked him for his exemplary service to the City. Mr. Benton expressed appreciation for the opportunity to have worked with the Board of Supervisors and City staff.

Mayor Crowell provided direction with regard to the method by which to address the subject item. Supervisor McKenna advised of having served as a Carson City School Board member in the recent past, and that installation of photovoltaic arrays was discussed at various School Board meetings. He further advised of not having been part of the discussion regarding specific locations, funding, or timing of the project. He noted no conflict of interest. Mayor Crowell entertained additional disclosures; however, none were forthcoming.

Planning Division Director Lee Plemel introduced Principal Planner Jennifer Pruitt, and provided an overview of staff’s presentation. Ms. Pruitt reviewed the agenda materials in conjunction with displayed slides. She noted that condition of approval 8 was amended at the Planning Commission meeting. She acknowledged that the setbacks were changed from 20 feet to 90 feet and from 60 feet to 41 feet. Mr. Benton reviewed the statutory provisions relative to solar panel projects.

Mayor Crowell invited Appellant Paul Eastwood to the podium. (9:55:14) Paul Eastwood, a resident of Shady Oak Drive, introduced himself for the record. Mayor Crowell requested him to address the assertion that the proposed location for the solar panels is environmentally sensitive and to review the sizes of the neighborhood fences around the perimeter. Mr. Eastwood expressed support for the School District utilizing solar panels, and concern over the proposed location “and what it’s going to do to the property behind it ...” In reference to the City’s comprehensive master plan, Mr. Eastwood noted the emphasis placed on “preserv[ing] open areas, recreational areas, natural parks.” He described the subject location as “a natural park.” He clarified that the proposed location is not environmentally sensitive, but “actually a wildlife habitat.” In addition, he advised that the proposed location is “used as a recreational area by the

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local residents and kids when they're not in school." He expressed the belief that the proposed solar panel array "will decrease the property values. There are 24 homes that will have a view of this, the front sides and, of course, the back of it." Based on his research, Mr. Eastwood advised that "usually, this type of project is kept on the roofs of buildings or in the immediate area of the entity ..."

In reference to recent "remarks by the School District," Mr. Eastwood stated that "a recent survey of the area uncovered evidence of unauthorized and undesirable use, including fire pits, matches, fireworks, lighters, empty liquor bottles, piles of trash." Mr. Eastwood advised of not having "seen that. [He] walk[s] this every day." He further advised of having extinguished three fires "from little kids" during his 20-year residency, "and the largest fire was started by an adult that flipped a cigarette in the sage brush." In reference to a comment that the School District has been analyzing possible locations over the past ten months, Mr. Eastwood expressed dismay "that the School District didn't contact the neighbors in this area to let us in on what was going on because we probably could have eliminated this right now if we had been involved from the beginning on a project of this size ..." He advised of having been contacted "the day after the Planning [Division] sent us notice of neighborhood meetings, which is kind of discouraging." Mr. Eastwood acknowledged the School District's efforts at being "a good neighbor. ... they have tried to accommodate the best they can with the setbacks ..." He expressed a desire "to see the paperwork and the numbers on relocating this closer to the school, which would be the front, the north side, or even the back of the school. ... if it is less than 10 percent, that could take care of a huge problem." He reviewed and discussed specifics from the City's comprehensive master plan, including an emphasis on recreational opportunities throughout the School District and the City; and that redevelopment would blend seamlessly with the surroundings. Mr. Eastwood discussed consideration given to potential development of adjacent property prior to purchasing his residence. He expressed the opinion that the potential depreciation of his property, due to installation of the solar panel array, is unacceptable. In response to a question, he reviewed the fence heights of properties adjacent to the proposed location for the solar panel array.

(10:05:48) Carson City School District Operations Manager Mark Korinek and Fiscal Services Director Anthony Turley introduced themselves for the record. Mr. Korinek advised that the points of appeal, i.e., location, safety, and real estate values, have been addressed in previous meetings and by Planning Division staff, as outlined in the agenda materials. With regard to the comprehensive master plan items, he referred to "an excellent report ... by [Planning Division] staff," and expressed the opinion that School District representatives fully complied with all the special use permit and master plan requirements. Mr. Korinek noted that the Planning Commission had voted unanimously to approve the special use permit application, "and we did a lot of work communicating with them, doing presentations, showing them where the projects would be, and the benefits for the School District and for the City and all of our customers." He further noted Planning Division staff's support of the special use permit application, and full support from School District site administrators and the State Office of Energy Director. He noted having included in the agenda materials a listing of all the public meetings, including "joint meetings, workshops and that started in February 2010." He reviewed the time line associated with the solar panel project, beginning in November 2009. He commended Planning Division staff on their presentation, and expressed the opinion "that stands for itself." He expressed the understanding that the appellant has the burden of demonstrating an error on the part of the Planning Commission or Planning Division staff, and the opinion that there has been no error in this process. He reiterated the opinion that the School District has fully complied with the special use permit requirements. He estimated an annual \$400,000 savings to the School District if all the solar panel

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projects are approved, and suggested various uses for the \$400,000 savings, such as purchase of new text books, purchase of a new school bus, fuel for the school bus fleet, or a reading program in another school. He requested the Board to uphold the Planning Commission's decision.

(10:09:51) In reference to Mr. Eastwood's request for School District representatives to consider alternative locations, Mr. Turley advised of having analyzed other locations. "We're doing shade structures in the parking area at Carson Middle School. We evaluated that at Seeliger and the parking lots are just not oriented properly to be able to do that type of structure." Mr. Turley discussed cost prohibitive hindrances to a roof-mounted solar panel array at Seeliger.

In response to a question, Mr. Korinek advised of a \$17,000 grant from The Nature Conservancy to provide for a natural habitat adjacent to the solar panel array. He described planned elements for the natural habitat, including pathways, and advised that "the renewable energy part will be included into those pathways ... They're also talking about possibly an outdoor classroom in that area." In response to a question, Mr. Turley advised there are two solar panel manufacturers in the United States. "... the cost of those panels are 30 percent higher than the cost of what can be purchased where we're at. ... but not only a cost factor, with the ARRA stipulations that they be significantly built in America or by America in those components, the availability of those panels for non-ARRA projects are next to nothing. ... Because of those two components, we are using panels that are purchased from China and being imported." In response to a further question, Mr. Turley advised of having investigated the concern over lead components. "The manufacturers that we are using do hand soldering and they use a lead-free solder in the manufacturing process." In response to a question, Mr. Korinek advised that the solar panels are made of a dark material so as to absorb light. "There isn't a real reflectivity to them. The other thing is ... with what we agreed to do, by lowering the backs of the panels from eight to six feet, we've lowered the ... angle, which actually lowered our efficiency by about four percent. So, if there was any reflection, it would be to the air ..." In response to a question regarding inverter noise, Mr. Korinek advised there will be "a hum because the inverter itself is a transformer." He further advised of having conducted some research, and reviewed varying decibel levels from the unit and moving outward. He noted that on cloudy days and in the evenings, there would be no noise. "At highest capacity, it would be similar to a NV energy transformer that are found on the streets." In response to a question regarding the chain link fence, Mr. Korinek advised of having discussed, during a Planning Commission meeting, the willingness to work with the neighbors to install slats. "Obviously, if you slat the fences and someone does get in, you can't tell that anybody is in that area." Mr. Korinek advised of chain link fences at several of the adjacent residences; "it's just not the appellant's house that has a chain link fence." He reiterated a willingness to work with "how that would work for them and us at the same time."

In response to a question, Mr. Benton advised of the statutory prohibition against local jurisdictions decreasing the efficiency of solar panel arrays. "But other than that, there do not appear to be other restrictions on the power of the Board or the Planning Commission to take action." Supervisor Aldean inquired as to the possibility of separating the solar panels and the corresponding need for a multiple wiring system to convey the energy to the inverter. Mr. Turley advised that the cost would be increased "because you have the trenching and the wire runs, but also if the orientation is different, if there are different panels, then you would have the cost of inverters. You would have to have a different inverter for each segment or grouping. ... That would impact efficiency and what would be used." In response to a comment, Mr. Benton advised that if the efficiency is affected, the alternative system has to be at a substantially comparable cost. He responded to corresponding questions of clarification.

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In response to a further question, Mr. Korinek advised of future plans to change the traffic pattern at Seeliger, “but they are going to be included in bond projects later down the road. We haven’t looked at taking away all the lawn area in the front and making the parking lot perfectly oriented to the south for solar panels.” In response to a further question, Mr. Turley advised that the solar panel array will be approximately four inches above the six-foot chain link fence.

Mayor Crowell entertained public comment. (10:23:07) Bill Eckert, a resident of Shady Oak Drive, “right along the fence line ... where the arrays are to be installed.” He advised of having constructed his residence approximately 30 years ago, and of having subsequently added a patio. He expressed objection to the loss of visibility of the mountains to the southwest, and concern over property value depreciation. He discussed concerns relative to trash and snow accumulation on the pathway adjacent to his back fence. He advised that school children are “generally well behaved during the school hours,” but advised that the field is also open during “off school hours.” He discussed concerns relative to fire and safety. He acknowledged his primary objections to the solar panel array were relative to diminished view and property value depreciation. He advised of having provided correspondence to the Planning Division which was included in the agenda materials.

In response to a question, Mr. Benton advised of having researched visual impacts and that the Nevada Supreme Court has not recognized a viewshed interest, unless there’s a recorded easement to preserve that viewshed. He advised of having also researched the concept of inverse condemnation actions that would impact neighbors, “and it appears the only inverse condemnation actions recognized by the Nevada Supreme Court deal with ... development by a government on its ... property which would somehow impede access to a private individual’s piece of property.” Mayor Crowell inquired as to whether the statute allows the Board to deny the School District the right to install solar facilities on its property based solely upon the visual impact to surrounding neighbors. Mr. Benton advised that the statute does not allow an action which prohibits the use of solar panels, and he read a portion of the applicable statute into the record. He further advised that the Nevada Supreme Court has not addressed the statute. “It’s too new to determine whether or not a viewshed interest would be a reason for denying or prohibiting the use of a solar panel.” In response to a question, Mr. Benton expressed doubt that Nevada recognizes the concept of an implied easement. “Generally, easements must be recorded. ... There must be a written agreement between the parties or some sort of agreement between the parties to restrict the use in a particular way to create the easement.” Discussion followed, and Mr. Benton acknowledged that the statute also has the effect of nullifying any CC&Rs which would prohibit or unreasonably restrict the use of solar panels. In reference to the legislative history, he noted the goal to promote the use of alternative energy both through wind and solar.

Mayor Crowell entertained additional public comment. (10:32:00) Deni French speculated over the legislature’s intent to have local companies manufacture the alternative energy products. He advised of having been informed at one time, by a Hamilton Solar representative, that availability and timing of the solar panel manufacturing process “were at odds.” He further advised that the Hamilton Solar representative later “recanted that and then stated that that was not really the issue; that price was the main consideration in their choice.” He discussed concerns over noise, and expressed opposition to the proposed location “as an improper use of a school ground area.” He discussed concerns with regard to sending the wrong message “that our local, natural environment is not considered valuable; ... that jobs in this State and creating opportunities is not important ...” He expressed the opinion that the solar panel array “could have fit in another location off site and worked just as well to have gotten the credits for this school.” He

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expressed the further opinion that School District representatives “haven’t done enough to address the noise involved and they haven’t ... indicated where these particular pieces of equipment would be located.” He expressed support for solar energy, and opposition “to this particular project.”

(10:39:49) Bruce Kittess expressed the belief that “neighborhoods trump everything.” He estimated that the value of homes in Carson City is “20, 30 percent less what it was a few years ago.” He expressed the opinion that the statute is “ty[ing] our hands,” and inquired as to the possibility of directing the School District to “make it smaller, do something else, build more someplace else.” He expressed doubt that the School District would sue the City over such direction.

(10:41:21) Joe Childs compared the size of a 60,000-square-foot solar panel array at the proposed location to “40 of these [Sierra] rooms.” He expressed the opinion that many of the adjacent neighbors “aren’t aware of that ..., of the scope, the actual size of this.” He expressed the further opinion that once construction starts, “you will start hearing more and more from people who see these hundreds or thousands of solar panels going up.” He suggested it may have to be readdressed at that point. He inquired as to whether the statutory provisions will absolve the City of liability. Mr. Benton advised that the City is generally not liable for planning-related decisions. He clarified there are exceptions relative to fraud, and advised that he had not researched the School District’s potential liability. In response to a question, he expressed the opinion that the Board’s denial of the use of solar on this property would specifically violate the provisions of NRS 278.028. In response to a further question, he advised that the School District, as the aggrieved party, could sue the City “and we could end up in litigation and end up having a court just ordering the City to approve the ... placement of these solar panels.” A brief discussion followed.

In response to previous testimony, Mr. Plemel advised that 60,000 square feet is less than an acre and a half. “That’s the size of the fenced-in area there. That’s not the square footage of solar panels, but that’s the area ..., approximately, in which the solar panels would sit.” In reference to the recommended action and the Planning Commission’s decision, Mr. Plemel noted the solar panels will be at six feet. He referenced photographs submitted by the School District and included in the agenda materials, and expressed the belief that the six-foot height will not block the neighbors’ views.

(10:47:35) Deni French inquired as to the possibility of the Board denying the project based on “defile[ment]” of an open space natural habitat.

Mayor Crowell entertained additional public comment and, when none was forthcoming, invited Mr. Eastwood to provide rebuttal. (10:49:49) Paul Eastwood referenced the City’s comprehensive master plan, noting it as “an officially-adopted advisory document that outlines Carson City’s vision and goals for the future and provides guidance for the elected and appointed officials and making choices.” He expressed the belief “that there is an error in just about every element that they have written in their application for this solar array, especially the park issue ...” He reiterated the proposed location is a “natural and wildlife habitat.” He discussed concerns relative to safety, and suggested an eight or 10-foot fence instead of a six-foot fence. He reiterated concerns relative to viewshed and property values.

Mayor Crowell entertained discussion among the Board members. In response to a question, Mr. Plemel expressed the belief that the Carson City Municipal Code would allow one wind turbine on the subject property, “as long as it is not higher than 60 feet and meets a setback of 1.1 times the overall height.” Mr. Benton acknowledged that the Carson City School District is a separate legal entity from the City, with a

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separate elected board and powers. He further acknowledged that the School District has the right to own property. In response to a further question, he advised that the School District was subject to the City's special use permit process. In response to a further question, he advised that the issue is relative to zoning and land use. In response to a question, Mr. Plemel advised that the property is zoned public. He referenced the Carson City Municipal Code for a list of public uses, which generally allows "all uses for public and quasi-public entities on lands zoned public." Furthermore, the Carson City Municipal Code has certain requirements in the public zoning district that "all setbacks, height, etc. for structures require special use permit approval." Mr. Plemel acknowledged that a solar project would be considered an ancillary use to the school. Supervisor McKenna inquired as to whether the City has the right to "force the School District to drop the project or go to an alternative site." Mr. Benton advised that the statute prohibits the City from preventing the property owner from using solar panels on their property. "Location of solar panels actually is not addressed as what is part of the system, but having heard testimony, ... the location and the orientation and the use of the panels is an integral part of the design of the system. So, if moving the location were to reduce the efficiency by more than ten percent and not allow for the use of an alternative system at a substantially similar price, then that would also be prohibited." In response to a further question, Mr. Benton advised that the School District would generally be responsible for the safety of an individual on School District property. "It depends on who's on the property, what purpose they're on the property ... That's a very broad, general legal question." In response to a further question, Mr. Benton advised that "part of the planning process is determining whether the use of the land promotes the health, safety, morals, and general welfare of the community. So part of the decision process is [asking whether] the safety of the community [is] going to be improved by the project. You've heard testimony from both sides ... about safety and use of the land as it exists now and what the proposed use is. So that is a consideration, but ... prohibiting the use of a solar system on real property is specifically a power excluded from this Board."

Supervisor Aldean described the applicable statute as "well intended," but expressed the opinion there is insufficient "specificity in the law to allow local jurisdictions to take things like aesthetics into consideration." She suggested considering refinements to the statute governing installation of solar and wind powered devices. She acknowledged the open space area as an historical asset to the adjacent residences, and suggested "the only consolation is we now have ... 765 acres in our park system. We're going to be the owners of 5,200 additional acres of BLM property ... as a result of the lands bill. We have made a concerted effort, over the years, through the implementation of Question #18 and through our negotiations with the federal government to acquire open space to improve the quality of life in Carson City." Supervisor Aldean acknowledged this is not a direct compensation to the adjacent property owners, but noted the Board's lack of latitude and discretion based on the provisions of the applicable statute. She reiterated a desire to see more specificity in the existing statute so that local government can take aesthetics into consideration when reviewing projects of this nature.

Supervisor Walt noted the benefit of the \$17,000 Nature Conservancy grant to create a natural park and an outdoor classroom. She assured the citizens that the Board takes their testimony into consideration but, in this case, is subject to the statutory provisions. She suggested considering the benefits rather than the detriments of the project.

Mayor Crowell entertained a motion to uphold the Planning Commission's decision. **Supervisor McKenna moved to uphold the Planning Commission's decision to allow placement of photovoltaic arrays at Seeliger Elementary School, on property zoned Public, located at 2800 South Saliman**

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**Road, APN 009-436-08, based upon the findings for approval and with the recommended conditions contained in the staff report to the Planning Commission, as amended. Supervisor Aldean seconded the motion. Motion carried 5-0.** Mayor Crowell commended all the parties involved, particularly the neighbors.

**18. CLERK - RECORDER - ACTION TO ADOPT A RESOLUTION APPROVING AN INTERLOCAL AGREEMENT, BY AND BETWEEN CARSON CITY AND STOREY COUNTY, FOR THE SERVICES OF THE CARSON CITY PUBLIC GUARDIAN** (11:09:28) - Mayor Crowell introduced this item, and Mr. Glover reviewed the agenda materials. He noted that the Storey County Commission approved the interlocal agreement at their Tuesday, January 4<sup>th</sup> meeting. In response to a question, he explained the provisions for vacating the agreement. He acknowledged the statutory provision to charge \$180 per hour to funds of an adult ward. "If we get that money in, we would pay Storey County back up to the \$15,000," as provided in the interlocal agreement. Supervisor Aldean noted two typographical errors in the resolution.

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Aldean moved to adopt Resolution No. 2011-R-1, approving an interlocal agreement between Carson City and Storey County for the services of the Carson City Public Guardian, subject to minor clerical corrections. Supervisor Walt seconded the motion. Motion carried 5-0.**

**19. DISTRICT ATTORNEY - DISCUSSION AND ACTION ON A RESOLUTION SUPPORTING NEVADA LEGISLATURE BILL DRAFT REQUEST 40-648, MAKING PRECURSOR DRUGS TO METHAMPHETAMINE, SUCH AS EPHEDRINE, PSEUDOEPHEDRINE, AND PHENYLPROPANOLAMINE, PRESCRIPTION ONLY** (11:14:48) - Mayor Crowell introduced this item. District Attorney Neil Rombardo reviewed the agenda materials in conjunction with a PowerPoint presentation, copies of which were included in the agenda materials. He requested the Board's support of the resolution.

Mayor Crowell entertained additional comments or testimony. In response to a question, Mr. Rombardo advised that PSE is not inherently dangerous. He reiterated that every physician with whom he has spoken has advised that "the alternatives are much healthier and it's what you do with it that makes it so dangerous." He further reiterated that, without PSE, methamphetamine cannot be manufactured. In response to a comment, he advised that, under the current Nevada Administrative Code, pseudoephedrine, ephedrine, and phenylpropanolamine are schedule 3 controlled substances. He provided background information on the exception, provided through the Pharmacy Board, for over-the-counter PSE.

Supervisor Aldean commended Mr. Rombardo's compelling presentation. In response to a question, Mr. Rombardo reiterated the "literally hundreds" of alternative, equally-effective cold medications. He acknowledged ongoing federal proceedings relative to pseudoephedrine. In response to a question, he stated, "Each state has their own right to control these substances as well as the federal government. And we have all the right to do this. We are not being pre-empted ..." He expressed support for the federal law, and advised that "we need more states to pass this law so that the federal law goes through ..."

(11:48:13) Alternative Sentencing Chief Rory Planeta advised of having presented information on BDR 40-648 to the Sheriffs and Chiefs Association. He further advised of having served as a former narcotics agent, of having witnessed the devastation associated with methamphetamine, and that he is a CLAN lab

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expert. He agreed with Mr. Rombardo's explanation of the detriments of drug labs. He advised that his wife works at a pharmacy, and related anecdotal information relative to recent multiple purchases of Sudafed by out-of-state customers.

(11:49:01) Sheriff Ken Furlong expressed support for the proposed resolution, and discussed methamphetamine manufacture both within and outside the country. He advised of having made considerable progress over the years in dramatically reducing the number of labs "being discovered here in the State of Nevada." He noted that Carson City is "not far off the I-80 and I-95 corridors," which are "heavy drug trafficking routes." He advised of having recently "taken down a ... dirty lab, people who locally put together the mechanisms to produce their own methamphetamines and distribute it amongst their groups which obviously goes out further. These labs are very, very difficult to find." Sheriff Furlong discussed the efforts of Partnership Carson City, and advised that "each time we have taken a solid stand on methamphetamines, we have seen results in this community. ... While meth labs in this State are considerably down, we have the ability to put something in place to prevent them from coming back." Sheriff Furlong advised that crime rates in Carson City are lower than they have been in 20 years, "and we need to keep that momentum ..."

(11:53:05) Retail Association of Nevada Representative Liz MacMinamom advised that "our members haven't take a position on this legislation." She advised of having discussed the bill draft request with Senator Leslie yesterday, and that another legislator brought forward the same concept in 2007. She advised that the Retail Association of Nevada "would [still] oppose the concept as it is right now ..." She further advised that it was the constituents who opposed the concept "who actually utilize, in a legal way, this medication for whatever purpose, for allergies, for colds, for whatever reason." She expressed opposition to methamphetamine manufacture and use, and advised that the Retail Association of Nevada has "worked very hard ... in many areas within the State to try to help see that this problem is eradicated ..." She reiterated that the Retail Association of Nevada has not taken a position on the bill draft request, but expressed no desire "to take something away from people out there who are utilizing this drug in a safe way, in a way that it was intended to be used."

In response to a question, Ms. MacMinamom advised of a Retail Association of Nevada legislative committee meeting scheduled during the first week of February. In response to a further question, Mr. Rombardo advised that the Retail Association of Nevada has a conflict of interest in that "they're the profit makers from the sale of this product." He reiterated the request for the Board to pass the resolution.

Mayor Crowell entertained public comment. (11:58:41) Bruce Kittess noted that the citizens of Carson City elected both the District Attorney and the Sheriff. "When the two of them tell you they've got a problem and they want their hands untied, they want to get something done, ... go with them. We elect them. That's their job."

Supervisor Aldean expressed faith in American industry and that drug companies will "step up to the plate and devise some way of ... manufacturing a product that is more effective but is not going to be used as a precursor to meth production." She noted the importance that this issue will be thoroughly vetted at the legislature. "... we're taking a stand to protect our own community against the repercussions of unlimited meth sales. We don't want to further exacerbate the problem by withholding our support of an effort that will hopefully help to significantly mitigate the problem."

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Supervisor Abowd commended Mr. Kittess' comments and expressed the opinion that "considering the highly addictive nature of meth, ... this is a warranted motion." Supervisor Walt thanked Mr. Rombardo, Sheriff Furlong, and Chief Planeta for agendizing this item. She advised of discussion at Partnership Carson City meetings, and expressed the opinion that the community "needs to speak strongly about" this issue "because it is affecting our youth."

Mayor Crowell entertained a motion. **Supervisor Aldean moved to adopt Resolution No. 2011-R-2 supporting Nevada Legislature Bill Draft Request 40-648, making precursor drugs to methamphetamine prescription only. Supervisor Walt seconded the motion. Motion carried 5-0.**

**20. CITY MANAGER - DISCUSSION AND POSSIBLE ACTION TO APPOINT MEMBERS OF THE BOARD OF SUPERVISORS TO VARIOUS BOARDS, COMMISSIONS, AND COMMITTEES** (12:02:13) - Mayor Crowell introduced this item, and Mr. Werner provided clarification relative to the current list of Board appointments included in the agenda materials. Discussion took place to determine Board appointments to the various boards, commissions, and committees. Consensus was that Supervisor Abowd would serve as the four-year appointment to the Carson Water Subconservancy District and Supervisor McKenna would serve as the two-year appointment; that Supervisor Walt would continue to serve as the Board appointment to the Nevada Association of Counties; that Supervisor Abowd would serve on the Cultural Commission; that Supervisor McKenna would serve on the Audit Committee and the Debt Management Committee; that Supervisor Aldean would continue to serve on the Regional Transportation Commission and the Carson Area Metropolitan Planning Organization; that Supervisor Aldean would be appointed to the position of Redevelopment Authority chair and Supervisor Abowd to the position of Redevelopment Authority vice chair. Supervisor Aldean commended former Supervisor Robin Williamson's service, and advised of having requested staff to return with a proposed amendment to the Redevelopment Authority Citizens Committee bylaws that the chair of the Redevelopment Authority not serve as chair of the advisory committee. A brief discussion ensued. In response to a question, Mr. Werner advised of the need to research the membership requirements of the Senior Citizens Center Advisory Council. Discussion took place regarding an appointment to Nevada Works, and Supervisor Abowd advised that former Supervisor Robin Williamson had expressed an interest in serving. Consensus of the Board was to appoint former Supervisor Williamson. Supervisor Aldean expressed a desire to continue serving as the Board's appointment to the Tahoe Regional Planning Agency Governing Board, and there was no objection. Mayor Crowell expressed a desire for Supervisor Aldean to continue as Mayor *Pro Tem*, and there was no objection.

Mayor Crowell entertained a motion. **Supervisor Aldean moved to approve the appointments of members of this Board and citizens to various boards, commissions, and committees for 2011, as discussed on the record, pursuant to statutory requirements as applicable. Supervisor McKenna seconded the motion. Motion carried 5-0.**

**21. BOARD OF SUPERVISORS NON-ACTION ITEMS:**

**STATUS REVIEW OF PROJECTS** (12:13:53) - With regard to the occupancy tax business impact statement, Mr. Werner advised of the requirement to have a determined purpose for the occupancy tax prior to the Board taking action. Supervisor Walt provided additional clarification. Mr. Werner discussed the time line associated with the business impact statement, and advised there would be no item agendized for the January 20<sup>th</sup> Board of Supervisors meeting. In response to a question, Mr. Werner advised of no confusion expressed over the proposed increase.

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**INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS** - None.

**CORRESPONDENCE TO THE BOARD OF SUPERVISORS** - None.

**STATUS REPORTS AND COMMENTS FROM THE BOARD MEMBERS** (12:16:16) -

Supervisor Walt welcomed Supervisors Abowd and McKenna. Mayor Crowell commended the Carson High School marching band which covered for the Manogue High School marching band at the Governor's Inauguration ceremony. Supervisor McKenna commended all the activities associated with the Governor's Inauguration ceremony.

**STAFF COMMENTS AND STATUS REPORT** - None.

**22. ACTION TO ADJOURN** (12:18:04) - Supervisor Aldean moved to adjourn the meeting at 12:18 p.m. Supervisor Walt seconded the motion. Motion carried 5-0.

The Minutes of the January 6, 2011 Carson City Board of Supervisors meeting are so approved this 3<sup>rd</sup> day of February, 2011.

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ROBERT L. CROWELL, Mayor

ATTEST:

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ALAN GLOVER, Clerk - Recorder