

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 1

A regular meeting of the Carson City Board of Supervisors was scheduled for 8:30 a.m. on Thursday, April 7, 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
Neil Rombardo, 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 (8:30:48) - Mayor Crowell called the meeting to order at 8:30 a.m. Roll was called; a quorum was present. Seventh Day Adventist Church Pastor Ron Torkelson provided the invocation. Mayor Crowell observed a moment of silence in honor of John Baker. Mr. Werner led the pledge of allegiance.

5. ACTION ON APPROVAL OF MINUTES - March 3, 2011 (8:33:18) - Supervisor Aldean moved to approve the minutes, as presented. Supervisor Abowd seconded the motion. Motion carried 5-0.

6. ADOPTION OF AGENDA (8:33:45) - Mayor Crowell entertained modifications to the agenda, and, when none were forthcoming, deemed it adopted. Mayor Crowell advised that Supervisor Walt would be leaving shortly after 10:00 a.m. to attend John Baker's funeral service.

7. PUBLIC COMMENTS AND DISCUSSION (8:34:25) - Mayor Crowell entertained public comment; however, none was forthcoming.

8. SPECIAL PRESENTATIONS:

8(A) PRESENTATION OF A PROCLAMATION RECOGNIZING CMS RECYCLE / ENVIRONMENTAL CLUB (8:35:22) - Mayor Crowell passed the gavel to Mayor *Pro Tem* Aldean, and moved from the dais to the podium. He invited Laurel Dority and several members of the CMS Recycle / Environmental Club to join him. He read the language of the Proclamation into the record, thanked the club members, and presented the Proclamation to Ms. Dority. Mayor Crowell thanked the CMS Recycle / Environmental Club for their contributions to the community.

(8:38:05) CMS Recycle / Environmental Club Advisory Laurel Dority provided an overview of the list of suggestions "to help Carson City become a little more earth friendly." At her request, the club members took turns reading the list of suggestions into the record. The Board members, City staff, and citizens present applauded. Mayor Crowell suggested inviting the CMS Recycle / Environmental Club to the ribbon cutting ceremony for the state-of-the-art recycling plant at the landfill. Mr. Werner advised of the intent

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 2

to contact Ms. Dority to discuss field trip possibilities. Mayor Crowell thanked Ms. Dority and the club members for their attendance and participation.

8(B) PRESENTATION OF A PROCLAMATION FOR “CHILD ABUSE PREVENTION MONTH,” APRIL 2011 (8:41:19) - Mayor Crowell introduced this item, read the Proclamation language into the record, and presented the Proclamation to Advocates to End Domestic Violence Parenting Coordinator Shauna Chase. Ms. Chase had distributed pinwheels to the Board members and staff prior to the start of the meeting, and discussed its significance.

8(C) PRESENTATION OF A PROCLAMATION FOR “NATIONAL LIBRARY WEEK,” APRIL 10 - 17, 2011 AND “NATIONAL LIBRARY WORKERS DAY,” APRIL 14, 2011 (8:44:07) - Mayor Crowell introduced this item and invited Library Board of Trustees Member Phyllis Patton and Library Director Sara Jones to the podium. He thanked each of the ladies for their contributions to the community. Mayor Crowell read the language of the Proclamation into the record and presented the same to Ms. Patton. Ms. Patton provided background information on the Proclamation and, on behalf of the Library Board of Trustees, presented it to Ms. Jones and “her wonderful staff.” The Board members, City staff, and citizens present applauded. At Ms. Patton’s request, a number of Library staff stood and the Board members, City staff, and citizens present applauded them.

(8:47:37) Ms. Jones thanked the Board members and Mr. Werner for their support and for creating a supportive environment. She commended her staff, and reviewed National Library Week activities. She noted that the Library is “the ultimate recycler because every book that we have ... is used over and over and over again ...” She thanked the Board.

Mayor Crowell advised of having read *Duck for President* at Grace Bordewich School on Monday April 4th. He recommended *Duck for President* as a good book. Mayor *Pro Tem* Aldean advised of having read a Dr. Seuss book to second graders at Empire Elementary School. She returned the gavel to Mayor Crowell, who had returned to the meeting dais.

9. CONSENT AGENDA (8:49:51) - Mayor Crowell entertained requests to hear items separate from the consent agenda. When none were forthcoming, he entertained a motion to approve the consent agenda. **Supervisor Aldean moved to approve the consent agenda consisting of one item from Finance and one item from Purchasing and Contracts, with the Resolution No. 2011-R-8. Supervisor Walt seconded the motion. Motion carried 5-0.**

9-1. FINANCE DEPARTMENT - ACTION TO ACCEPT THE REPORT ON THE CONDITION OF EACH FUND IN THE TREASURY THROUGH MARCH 29, 2011, PURSUANT TO NRS 251.030

9-2. PURCHASING AND CONTRACTS - ACTION TO ADOPT A RESOLUTION AUTHORIZING THE BOARD OF SUPERVISORS TO DETERMINE THAT THE SEVENTEEN (17) PIECES OF MISCELLANEOUS SURPLUS PROPERTY HAVE REACHED THE END OF THEIR USEFUL LIVES AND WILL BE DONATED TO ANOTHER GOVERNMENTAL ENTITY OR TO A REQUESTING NON-PROFIT ORGANIZATION CREATED FOR RELIGIOUS, CHARITABLE, OR EDUCATIONAL PURPOSES, AS SET FORTH IN NEVADA REVISED STATUTE 372.3261 (FILE NO. 1011-206)

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 3

10. RECESS BOARD OF SUPERVISORS (8:50:33) - Mayor Crowell recessed the Board of Supervisors at 8:50 a.m.

LIQUOR AND ENTERTAINMENT BOARD

11. CALL TO ORDER AND ROLL CALL (8:50:39) - Chairperson Crowell called the Liquor and Entertainment Board to order. Roll was called; a quorum was present, including Member Furlong.

12. ACTION ON APPROVAL OF MINUTES - March 3, 2011 (8:51:02) - Member Aldean moved to approve the minutes, as presented. Member Abowd seconded the motion. Motion carried 6-0.

13. PUBLIC WORKS DEPARTMENT, BUSINESS LICENSE DIVISION - ACTION TO APPROVE SCOTT RYAN AS THE LIQUOR MANAGER FOR RALEY'S, LIQUOR LICENSE NO. 11-3933, LOCATED AT 3701 SOUTH CARSON STREET, CARSON CITY (8:51:23) - Chairperson Crowell introduced this item. Principal Planner Jennifer Pruitt reviewed the agenda materials, noting staff's recommendation of approval.

(8:52:21) Chairperson Crowell invited Mr. Ryan to the podium. In response to a question, Mr. Ryan described the status of Raley's as "we're still making it." In response to a question, he discussed "awareness" as the method by which Raley's employees prevent the sale of alcohol to minors. Additionally, the cash registers are set up to request identification each time an alcoholic beverage is scanned. Mr. Ryan advised that Raley's corporate policy is to request identification from any customer who looks to be 27 years of age or younger. He further advised that Raley's is not obligated to sell alcohol to anyone "so if there's any kind of doubt, [he] just say[s] no and so do most other people."

Member Furlong acknowledged agreement with staff's recommendation of approval. Mr. Ryan expressed the belief that Raley's has never been cited for selling alcohol to a minor. He reviewed Raley's disciplinary policy relative to employees caught selling alcohol to a minor. In response to a question regarding civil liability, Chairperson Crowell referred Mr. Ryan to the Dram Shop Act and to Raley's general counsel.

Chairperson Crowell entertained a motion. **Member Abowd moved to approve Scott Ryan as the liquor manager for Raley's, liquor license number 11-3993, located at 3701 South Carson Street, Carson City. Member Walt seconded the motion. Motion carried 6-0.**

14. ACTION TO ADJOURN AS THE LIQUOR AND ENTERTAINMENT BOARD (8:58:44) - Chairperson Crowell commended Member Furlong on winning the Western Swing Dance Competition. In response to a question, Ms. Pruitt advised that information on the complimentary service of alcohol would be presented on April 21st. Chairperson Crowell adjourned the Liquor and Entertainment Board meeting at 8:59 a.m.

15. RECONVENE BOARD OF SUPERVISORS (8:59:38) - Mayor Crowell reconvened the Board of Supervisors.

ORDINANCES, RESOLUTIONS, AND OTHER ITEMS

16. ANY ITEM(S) PULLED FROM THE CONSENT AGENDA WILL BE HEARD AT THIS TIME (8:59:42) - None.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 4

17. CITY MANAGER

17(A) REVIEW OF THE CARSON CITY OPERATIONS SCORECARD (8:59:48) - Mayor Crowell introduced this item, and Special Projects Coordinator Linda Ritter narrated the Operations Scorecard, as included in the agenda materials and displayed in the meeting room. She responded to corresponding questions of clarification. Parks and Recreation Department Director Roger Moellendorf responded to questions regarding the use of the Edmonds Sports Complex. At Mayor Crowell's request, Ms. Ritter agreed to correlate target water consumption with the budget. Discussion followed, and Finance Department Director Nick Providenti provided clarification relative to the comparison between water consumption and the revenues. With regard to sales tax revenues, Supervisor McKenna discussed the importance of distinguishing between internet and local sales. Ms. Ritter discussed the trend toward performance scorecards becoming the focus of internal audit functions. In response to a question, she advised that the City's grants are entered into the scorecard system in order to monitor performance measures. Discussion has taken place with regard to utilizing the performance measures system to monitor grants from the City as well.

Ms. Ritter narrated a presentation on the Carson City Economy, as displayed in the meeting room and included in the agenda materials. She responded to corresponding questions of clarification. Mayor Crowell entertained additional comments or questions and public comments. When none were forthcoming, he thanked Ms. Ritter for presentation.

17(B) DISCUSSION AND UPDATE ON 2011 LEGISLATIVE MATTERS (9:32:57) - Mayor Crowell introduced this item, and Government Affairs Consultant Mary Walker advised that she is monitoring approximately 500 legislative bills. She commended City staff, particularly Mr. Werner, and explained the method by which City staff is notified of published bills. She commended Mayor Crowell and Supervisor Walt on their participation. She reviewed the bill publication process, and provided an update on pending bills. She responded to corresponding questions of clarification. (9:46:32) Mayor Crowell entertained public comment; however, none was forthcoming.

17(C) DISCUSSION AND POSSIBLE ACTION ON POTENTIAL OFFER TO THE STATE OF NEVADA REGARDING ASSUMPTION OF VARIOUS SERVICES AND RE-ESTABLISHMENT OF THE 8-CENT LONG-TERM CARE CAP (9:45:26) - Ms. Walker introduced this item, and reviewed the agenda materials. (9:46:49) Ms. Walker continued reviewing the agenda materials. She and Mr. Werner responded to corresponding questions of clarification and discussion ensued throughout the presentation.

Mayor Crowell discussed the various views involved in the subject matter, and expressed the personal view "that there's economics and politics at play here. And ... the way to navigate these things is to put aside the politics, focus on the issues that we think we can really do, give it a good faith effort, and look down the road as to what we think we'd like to have ... happen in the future. ... And if we believe, as a county and as a region, that we can do these things, then we ought to go up and say we can and ... let the politics fly where it's going to fly." Supervisor Abowd agreed and stated, "If we don't reach across the aisle and try to do something here, we may end up being penalized and ... regionally, Mary's done a very good job of narrowing down what actually we should be capable of handling." Supervisor Aldean agreed, and discussed people's dependence on entitlements, noting the importance of considering programs which are not legally required to determine the cost / benefit ratio. Ms. Walker advised that the first page of the spreadsheet included in the agenda materials represented services that Governor's Office staff believe are

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 5

mandated. "And so that's why they're going to charge us for it." The second page of the spreadsheet are services they believe are not mandated "that they are going to eliminate funding [for]." She discussed the importance of the juvenile justice program, the county youth camps, and the mental health room and board, noting "these are the services that keep these kids out of our juvenile facilities ... and saving us a lot of money because you're doing it on a community-based program instead of these kids ending up in our juvenile halls or in our state system." She advised that judges and juvenile representatives "are arguing big time on this and, in fact, there is a lot of movement to not have the counties pay for these things." Discussion followed.

Mayor Crowell entertained public comment; however, none was forthcoming. Supervisor Walt thanked Ms. Walker and her husband, Steve, and expressed appreciation for the bi-monthly meetings. She commended City staff as well. Mayor Crowell thanked Supervisor Walt for attending the meetings. He entertained a motion. **Supervisor Walt moved to approve the proposed phase-in for assumption of state services for the biennium. Supervisor McKenna seconded the motion. Motion carried 5-0.** Supervisor Aldean clarified the motion was relative to the assumption of certain state services, and the Board members concurred.

18. SUPERVISOR ALDEAN - DISCUSSION AND POSSIBLE ACTION WITH RESPECT TO SB 271, A BILL WHICH, AMONG OTHER THINGS, PROVIDES FOR THE WITHDRAWAL OF THE STATE OF NEVADA FROM THE TAHOE REGIONAL PLANNING COMPACT AND THE ASSUMPTION BY THE NEVADA TAHOE REGIONAL PLANNING AGENCY OF THE DUTIES AND POWERS CURRENTLY HELD BY THE BI-STATE TAHOE REGIONAL PLANNING AGENCY FOR THAT PORTION OF THE LAKE TAHOE BASIN WITHIN NEVADA'S JURISDICTIONAL BOUNDARIES (10:12:46) - Mayor Crowell introduced this item. Supervisor Aldean read prepared remarks into the record, recommending that the Board neither support nor oppose SB 271 at the present time. She advised of "constructive conversation with Senator Settemeyer yesterday regarding a possible way of continuing to apply pressure to the California delegation and the State of California to ensure that the voice of Nevadans are heard, that we have an equal place at the table, and that our rights, as a State and our sovereignty, are respected." She further advised that "things are still evolving," and she expressed the hope that a compromise can be crafted to address the concerns of the citizens as well as "those who are understandably trepidatious about losing a regional organization that has ..., in more recent times, done a good job of coordinating the environmental improvement effort and keeping things like quagga and zebra mussels out of Lake Tahoe ..." In reference to State of Nevada Department of Conservation and Natural Resources Director Leo Drozdoff's April 1st testimony, Supervisor Aldean noted the significant unintended consequences if the transition is not completed in a well-orchestrated manner.

Mayor Crowell commended Supervisor Aldean's TRPA Governing Board service and her articulate description of the dichotomy between the two states. Mayor Crowell entertained public comment. [Supervisor Walt left the meeting room at 10:18 a.m. to attend a funeral. A quorum was still present.] (10:18:45) Mike Veatch, representing the Sierra Nevada Association of Realtors Government Affairs Committee, stated that "both our local association and the state association of realtors are supportive of SB271." He expressed the opinion that "time has proven the history of litigation from the California side to solve significant problems at the Lake has been an imposition on private property rights."

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 6

Mayor Crowell entertained additional public comment; however, none was forthcoming. Supervisor Abowd advised of having spoken to some of the contractors who “are impacted by the TRPA on a regular basis,” and of having been informed that “they are ambivalent with regards to this bill and concerned on a few levels.” She related that “they don’t want to throw the baby out with the bath water on this deal, that the TRPA has come a long way from where it was in terms of trying to move through and move projects forward. More of their consideration would be that we have more local control on the Nevada side and that we streamline the permitting process and the requirements and also, ... in some way, shape, or form, in funding the TRPA, that regulation be put in place so that there is more control on this side.”

Supervisor Aldean advised of frequent conversations with TRPA Executive Director Joann Marchetta, and referenced former Executive Director John Singlaub’s coining of the phrase “triple bottom line.” Supervisor Aldean emphasized the need to “stop focusing strictly on the environment and take a look at the impact our regulations have to the local economy and to the social fabric of the Basin.” She noted this as an historic change in the evolution of this agency, and advised that Ms. Marchetta has “taken it many steps further.” She reiterated Ms. Marchetta’s offer to turn residential permitting over to the local jurisdictions. She further reiterated that “if we’re going to reassert local control, it’s going to have to be done in a cooperative manner and all players are going to have to participate and feel the pain.” She expressed the opinion that the “attitude of the agency is we can’t be everything to everyone. We were originally designed, in 1969, as a long-range planning agency. We have become an agency that has become far more bureaucratic, far more controlling, but there is no longer an appetite to do that.” Supervisor Aldean expressed the opinion “there is a general appetite to focus more on long-range planning to coordinate regional efforts with respect to things like aquatic invasives and ... the implementation of environmental improvement projects.” Supervisor Aldean endorsed those activities and expressed support for transferring more control to the local jurisdictions. She noted “there was a time when the local jurisdictions were not as unified, were not as well organized, were not as environmentally conscious, but that has changed and they understand what a huge economic asset Lake Tahoe is to their communities.” She reiterated the recommendation, “out of respect for the people who have brought this bill forward,” is that we remain neutral.

In response to a question, Supervisor Aldean advised of \$415 million in pending grant funding from the Tahoe Restoration Act. “That’s why our congressional delegation has gotten involved in these discussions. ... who does that money go to? Who administers that funding? Who ensures that the projects are built and properly maintained and that is one of the questions that [Mr. Drozdoff] indirectly alluded to.” She reviewed the funding and purpose of the NTRPA, and advised that it would “have to ramp up substantially. The theory is that it would receive, as opposed to TRPA, the \$1.3 million that we ordinarily receive as an agency from the State of Nevada.” Supervisor Aldean expressed the hope that if the bill passes, there will be a transition period “to enable that ramping up to occur so that we don’t lose the momentum that we have been gaining in recent years to address these environmental issues.”

Mayor Crowell called again for public comment and, when none was forthcoming, entertained a motion. **Supervisor Aldean moved that, at this time, the Carson City Board of Supervisors remain neutral on SB 271. Supervisor Abowd seconded the motion. Motion carried 4-0.** Mayor Crowell thanked Supervisor Aldean for her TRPA Governing Board service and for her presentation. Mayor Crowell recessed the meeting at 10:25 a.m. and reconvened at 10:40 a.m.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 7

19. PARKS AND RECREATION DEPARTMENT, OPEN SPACE DIVISION - ACTION TO AUTHORIZE THE OPEN SPACE MANAGER TO PURSUE A U.S. FOREST SERVICE LEGACY GRANT, ADMINISTERED BY THE NEVADA DIVISION OF FORESTRY, TOWARDS THE PURCHASE OF THE BENNA-MARSHALL PROPERTY, CONSISTING OF APPROXIMATELY 45.5 ACRES, LOCATED AT THE CARSON RANGE AND KNOWN AS APN 007-091-15 (10:40:35)

- Mayor Crowell introduced this item. Open Space / Property Manager Juan Guzman introduced Nevada Land Conservancy representative Becky Scott and Parks and Recreation Department Director Roger Moellendorf, and reviewed the agenda materials in conjunction with a displayed topographic map. In response to a question, Mr. Guzman discussed deed restrictions associated with the property. In response to a further question, he described the property's vegetation and topography. In response to a further question, he discussed the Legacy Program's requirement for a management plan. "We have done that for the Wilson property and it will be the extension." He advised that the management plan was written by Nevada Division of Forestry personnel, and is executed by Nevada Division of Forestry crews. He related details of the same. In response to a further question, he reviewed fees associated with the Nevada Land Conservancy processing the grant application. He responded to additional questions regarding access issues over the years, the City's liability, and road maintenance. He acknowledged that the Open Space Advisory Committee had previously reviewed this item and authorized him to consider potential purchase. He provided background information with regard to the same, and advised that the current asking price is more commensurate with the potential values. In response to a question, he explained that acquisition of the property will not provide public access to the Hobart Reservoir. Mr. Moellendorf further explained, "It's public access to a certain point driving and then there's about a mile that you have to park and walk in." Mr. Guzman provided additional clarification of the State park boundary, Open Space property, and motorized / pedestrian access in response to a further question. Discussion followed and, in response to a further question, Mr. Werner expressed the opinion that "you'd be able to establish the public use as a prescriptive right within the area which the road exists. There are some hoops you'd have to jump through about tax issues and those things, but you probably could argue that it is a public right as long as it's been open and notorious and people have been using it, particularly the public." Discussion took place regarding road maintenance and public access. Mr. Guzman acknowledged that the Question #18 Open Space Program acquisition funding can be used for open space maintenance.

In response to a further question, Mr. Werner advised that staff is working on a solution relative to the Wellington Crescent subdivision. "We will probably have an alternative access that's other than going through Wellington Crescent and we then can release this sportsman's access easement ..." In response to a question, Mr. Guzman advised that the property would remain in Messrs. Marshall and Benna's ownership if the City does not acquire it. "They can sell it or they can not sell it and, most likely, eventually you will see a cabin. At the time that you will see a cabin, then is when ... people start worrying about ... a fence ..." Mr. Guzman anticipates conflicts in the long term if the property is not acquired. He reminded the Board that the subject action simply authorizes him to apply for the grant. "It's a big jump still to buy it. That's like a year and a half away from now. That's a ... second decision." In response to a question, Mr. Guzman advised that other budget line items have been established for most of the obligations associated with the federal lands bill, "which are about \$600,000. So those are already out of this \$1.3 million. However, this \$1.3 million will pay for the portion of the Bently transaction that the federal government, through another grant ... will pay. After we complete that transaction, we'll have left about \$600,000 or so." Mr. Guzman acknowledged this is the property he "would want if you had no money left and you could only buy one property."

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 8

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor Abowd moved to authorize the Open Space Manager to pursue a U.S. Forest Service Legacy grant, administered by the Nevada Division of Forestry toward the purchase of the Benna-Marshall property, consisting of approximately 45.5 acres located at the Carson Range, and known as APN 007-091-15. Supervisor McKenna seconded the motion. Motion carried 4-0.** Mayor Crowell advised of having been interviewed by the *Reno-Tahoe Visitors Guide* last Monday relative to an article on the top five attractions in Carson City. He advised of having taken a picture at the Prison Hill trail head.

20. PARKS AND RECREATION DEPARTMENT - ACTION TO APPROVE A CONCEPTUAL PLAN FROM THE CARSON CITY SCHOOL DISTRICT REGARDING THE DISTRICT'S UPCOMING IMPROVEMENTS TO EMPIRE ELEMENTARY SCHOOL AND TO FORWARD THE ISSUE TO THE CARSON CITY PARKS AND RECREATION COMMISSION FOR THEIR RECOMMENDATIONS (11:08:58) - Mayor Crowell introduced this item, and Mr. Moellendorf reviewed the agenda materials in conjunction with a displayed plan.

(11:11:39) Carson City School District 2010 Bond Projects representative Mike Mitchell reviewed the proposed project in conjunction with the displayed site plan. Supervisor Aldean provided background information on the grant acquired to purchase playground equipment as the reason the property was deeded from the School District to the City. Mr. Mitchell agreed to check into conditions associated with the grant funding which may preclude relocating the playground equipment. Mr. Moellendorf advised of discussions regarding the possibility of “revers[ing] that joint use agreement so that we’re allowed to use the playground on their property for public use in the same manner that we have before. That’s going to have to be determined before we bring this to the Parks and Recreation Commission.” In response to a question, Mr. Moellendorf advised that timing was the reason the subject item was not submitted to the Parks and Recreation Commission prior to being submitted to the Board. In consideration of the transference of property, Mr. Werner advised of the concern over the Board hearing the matter first. In response to a further question, Mr. Mitchell advised that the City and the School District have a joint use agreement relative to the subject property. He and Mr. Moellendorf responded to corresponding questions of clarification.

In response to a question, Mr. Mitchell estimated 25,000 square feet of permanent buildings will be added “replacing the 20,000 to 23,000 square feet of portables.” Supervisor McKenna summarized the presentation and discussion as follows: The School District will utilize the property that was given to the City “because they didn’t want to put recreation equipment on School District property. So you just want your property back and you’re going to put up buildings and use it just like you use it now and pretty much nothing changes except who owns what.” Mr. Mitchell acknowledged the accuracy of the summary. Supervisor McKenna noted the City park to the north of the school building. In response to a question, Mr. Moellendorf advised that the park is just under five acres. In response to a further question, he advised that the portion proposed for parking is “pretty much undeveloped. It’s kind of a buffer area between ... a street and a fenced-in basketball court area. It’s kind of ...a worn out, deteriorated turf area.” Mr. Moellendorf acknowledged it is not an “actively useful part of the park.”

Mayor Crowell entertained public comment and, when none was forthcoming, a motion. **Supervisor McKenna moved to approve a conceptual plan from the Carson City School District regarding the**

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 9

District's upcoming improvements to Empire Elementary School and to forward the issue to the Carson City Parks and Recreation Commission for their recommendations. Supervisor Aldean seconded the motion. Motion carried 4-0. Mayor Crowell thanked Mr. Mitchell for his presentation.

21. BOARD OF SUPERVISORS NON-ACTION ITEMS:

STATUS REVIEW OF PROJECTS (11:25:57) - None.

INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS - None.

CORRESPONDENCE TO THE BOARD OF SUPERVISORS - None.

STATUS REPORTS AND COMMENTS FROM BOARD MEMBERS (11:25:59) - None.

STAFF COMMENTS AND STATUS REPORT - None.

Mayor Crowell recessed the meeting at 11:26 a.m. and reconvened at 1:59 p.m. All the Board members were present, constituting a quorum.

22. PUBLIC COMMENTS (2:04:52) - Mayor Crowell entertained public comment. (2:05:02) In reference to the March 17th Board of Supervisors meeting, Donna DePauw recalled "memories of when the late Bill Furlong was replaced by Judge John Tatro." She read prepared remarks into the record, advising of having spoken to Mr. Werner and Supervisor Abowd prior to the meeting, and objecting to the appointment process.

In response to a question, Mr. Rombardo advised that the process, as adopted, was not an open process, but expressed the understanding that "no one from the public showed up and requested to go into the meetings ..." Ms. DePauw expressed the belief "with the knowledge I have received from being on numerous commissions and committees, ... that the Open Meeting Law has been violated in these circumstances by not allowing public access to all interviews for replacement of former Judge Robey Willis. This is an elected position that the voters and residents had the right to hear before today." Ms. DePauw advised of having requested Mr. Werner to plan to agendize this matter for the next meeting of the Charter Review Committee, and related details of their conversation. She requested Mr. Rombardo to read into the record NRS 241.015.

In response to a question, Mr. Rombardo advised that this meeting is clearly open and in compliance with the Open Meeting Law. He further advised that the law is very clear. He reviewed the statutory provisions relative to options for filling the justice of the peace position, and the Board's action to "use this process, ... ask the City Manager to forward you three applicants, ... to use a selection committee made up of members of the community which he did, ... and the Nevada Open Meeting Law Manual specifically states at several different portions that judicial selection committees are not subject to the Open Meeting Law because the Open Meeting Law does not apply to the judiciary branch. And there's also the main point ... that the Open Meeting Law says very clearly that any recommendation given to the City Manager when he has the ... unilateral authority to overrule the committee, which is how you created the committee, does not have to comply with the Open Meeting Law. And so, therefore, ... every single criteria of the Open Meeting Law has been met by the City and this is a process that's been used in every single county,

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 10

including Douglas County, Carson City in the past. So it has withstood the test of time and challenges under the Open Meeting Law.”

Ms. DePauw noted the Board’s process for interviewing applicants for volunteer advisory commissions and committees. She reiterated the request for Mr. Rombardo to read into the record NRS 241.015. She reiterated objection to the Board having “closed off the public except for these three applicants.” Mayor Crowell expressed understanding for Ms. DePauw’s point, and advised that “these applicants may or may not get through today. We have the right to say no to any of them and start the process over again.” Ms. DePauw requested the Board “to honestly consider that for your credibility and the integrity of this Board and to the community.” She reiterated the request for Mr. Rombardo to read into the record NRS 241.015, which he did. Ms. DePauw expressed appreciation for the opportunity to have testified, and expressed the opinion “this is not an appropriate time to be making a decision; ... it needs to be done totally in front of the public, openly where we know all the questions were fair that were asked to every applicant involved in today’s matter.” Mayor Crowell entertained additional public comment; however, none was forthcoming.

In reference to Section 3.02 of the Nevada Open Meeting Law manual, Mr. Rombardo advised that “when a body is headed up by one person which is the case here, it does not have to comply with the Open Meeting Law. And that’s straight from the Attorney General’s Enforcement Division.” Mayor Crowell advised that the idea behind taking action to have the City Manager to appoint a selection committee “was to take all the politics out of it so that people had a fair shot. That’s what’s going on here. We’re trying to be transparent about it.”

23. CITY MANAGER - DISCUSSION AND ACTION TO APPOINT A JUSTICE OF THE PEACE TO FILL THE UNEXPIRED TERM CREATED BY THE RETIREMENT OF JUDGE ROBEY WILLIS (1:59:18) - Mayor Crowell introduced this item, and provided direction relative to the process. A brief discussion ensued. Mayor Crowell thanked the application review committee for their service, and commended the fine candidates and their qualifications.

(2:21:08) Mayor Crowell invited Thomas Armstrong, Gerald Gardner, and Laurie Trotter to the meeting table.

At Mr. Rombardo’s request, each of the applicants expressed no objection to the noticing requirements pursuant to NRS 241.033 and 241.034.

(2:23:25) At Mayor Crowell’s invitation, Laurie Trotter introduced herself for the record and read prepared remarks into the record, which described her commitment to the community; her interest in serving as justice of the peace; her lifelong connection with Carson City; her experience as an attorney; her public service and career experience with the CIA; her law school education; her experience working in the Nevada Supreme Court clerking for Chief Justice Miriam Shearing; her private practice civil experience; her prosecutorial experience in Carson City and Douglas County. Ms. Trotter expressed the belief that she “would bring diversity to the bench as a female.” She described herself as “an every day person with a law degree, capable of making the important decisions, applying the law and interpreting law, and being both fair and impartial to everyone that would be before me in the court.” She described her Douglas County experience as “a useful experience ... because [she] learned to practice law in another county. But also, there’s been about three years ... since [she’s] worked in Carson City so [she] would not be subject to

CARSON CITY BOARD OF SUPERVISORS
Minutes of the April 7, 2011 Meeting
Page 11

disqualification or recusing myself from those cases because many of those cases that I worked on in Carson City have been closed and / or the cases in Carson City that were brought during the time that I worked there have worked their way through the system.” She requested the Board to appoint her as the first female justice of the peace in Carson City. Mayor Crowell commended Ms. Trotter’s “very articulate” presentation.

(2:31:25) Mayor Crowell invited Mr. Armstrong to introduce himself. Mayor Crowell disclosed that he and Mr. Armstrong worked for the same law firm in 2007 - 2009. Thomas Armstrong thanked the Board, and expressed the opinion that “the process to get to this point was a very good process. There were tough questions and ... the screening committee did a good job. ... They basically put me through my paces and made me answer the tough questions ... one should be prepared to answer if you’re going to be a justice of the peace.” Mr. Armstrong referenced his personal statement, included in the application materials, which “informs the Board about why I ... want to be a justice of the peace.” He reviewed background information on his residence in Nevada; his education at the University of Nevada Reno; his law school education in Utah; his Carson City District Attorney’s Office experience; his commitment to Carson City; the importance of the justice of the peace to the community; his prosecutorial, criminal defense, and justice of the peace *pro tem* experience; his priorities of independence, fairness, consistency, and “the person on the bench that the public looks to and, whether things went their way or not, feels like they got a fair shot.” He requested the Board’s appointment.

(2:37:11) Mayor Crowell noted that Gerald Gardner is currently employed by the District Attorney’s Office. Mr. Gardner thanked the Board for their consideration and the judicial selection committee which “did a very good job interviewing us, asking challenging ... relevant questions.” He expressed “a good deal of confidence in the process.” He acknowledged his co-applicants with whom he was “honor[ed] to share the table.” He noted the importance of the Board’s decision and described the position as “an important office.” He described the justice court as one “where people, often who have never been part of the justice system before are going to be making their first appearances. It involves people who are often going through difficult times, at a crossroads in their lives, frightened, and the person who should preside over that position ... needs to be somebody who doesn’t just have the experience in the judicial system, doesn’t just have the legal knowledge, has other important characteristics as well.” He noted that a justice of the peace “presides over cases involving serious felonies to less serious crimes, small claims matters, protective orders, landlord / tenant disputes ...” He described the various parties and situations that come before a justice of the peace. “In addition to having an understanding and an ability to know the law and to know the judicial system, the justice of the peace needs to be a person with an understanding of the humanistic side of the process, with empathy, ... with an absolute commitment to fairness, to impartiality, to integrity, to never let bias or prejudice affect your decision making, with the work ethic to do the job you have to do ...” Mr. Gardner described his law and supervisory experience; and discussed the importance of public service. He committed to maintaining the attitude of public servant, and thanked the Board for considering his application.

Mayor Crowell advised the candidates that the Board had determined a salary range at the time the application process was established. He inquired as to whether the candidates were prepared to negotiate within that range and each of them so acknowledged.

Mayor Crowell inquired as to the candidates’ position on the public policy surrounding justice of the peace if the legislature were to solicit input on whether justices of the peace in our community should be lawyers

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 12

or lay persons. Mr. Gardner noted that the law does not require the justice of the peace to be a lawyer. He would not lobby that the justice of the peace should not be a lay person in Carson City or some of the smaller counties. He expressed the opinion that having the legal education should not be considered “a negative.” Ms. Trotter expressed the opinion that a lay person “could do the job just fine. ... there’s a lot of education and training opportunities out there, especially through the National Judicial College.” She expressed the further opinion that “having a legal background can only make that lay person be even more qualified.” Mr. Armstrong expressed the opinion that a “law degree ... enhances a person’s qualifications for this position. It is a court of law. The law applies. Interpretation of statutes, interpretation of the rules of evidence requires training. ... There is a lot at stake ... for the parties involved.” In consideration of Mayor Crowell’s question, Mr. Armstrong expressed an unwillingness to go so far as to change the law to require a justice of the peace to have a law degree. He expressed the opinion that “the system, as it is, serves Carson City well.” He reiterated that “a law degree and the legal training that we all come here with is an enhancement ... of the qualifications for the position.”

Mayor Crowell requested the candidates to assume they were conducting a preliminary hearing on a highly public and contentious allegation such as child abuse and they believed that the evidence presented by the district attorney was insufficient to bind the defendant over. He inquired as to how they would rule and how, if at all, they would defend their decision in the public forum. Ms. Trotter requested clarification of the question and, once received, stated, “Knowing that the standard has not been met, [she] would have to follow the law. The rules of judicial conduct require that [she] follow the law ... regardless of [her] personal feelings or personal bias or regardless of what the public might feel about what the ruling is.” She would have to “consider ... the law ..., interpret the law and apply it and follow the law, regardless of the repercussions of that.” Mayor Crowell inquired as to how Ms. Trotter would interface with the public if asked about her decision in that situation. Ms. Trotter expressed the opinion that “it’s important ... whenever a judge is conducting himself, in private or in a public forum, to make sure that the ... ethical rules are followed and to make sure that the judiciary is respected.” She expressed the opinion that “public comment, on a case like that, ... so close in time to a ruling, might be inappropriate.” She advised that she would research the rules on judicial conduct and would follow those rules. She would take care not to infringe upon anyone’s rights to the courts or right to due process. Mr. Armstrong stated that, without sufficient evidence to bind a person over, you wouldn’t bind the person over. “If the burden isn’t met, that’s your job, that’s what judging is. It is a worst case scenario because, if you are on the bench making that decision, the heat is on you ... But, ... if the burden isn’t met, you have no other option ... You have to follow the law and if you can’t make those decisions, we shouldn’t be sitting here.” With regard to the second part of the question, Mr. Armstrong expressed the opinion that “the time to ... state your reasons for your decision is when you’re on the bench in public.” He expressed the opinion that commenting on a case or on a decision would be inappropriate away from the bench. He anticipates some fallout from every case. Mr. Gardner advised that a decision would have to be made according to the law and if the evidence is insufficient to bind over, you don’t bind over, “regardless of what you may fear the public reaction is going to be.” He expressed agreement that “the time to make your legal statement regarding your reasons is on the bench. But even then you have to be careful because you don’t want to prejudice the state’s right to refile, if that’s a possibility; you don’t want to prejudice the defense in terms of their defense and trying a case in public that may end up back in court someday. Public statements about the merits of a case can be unfairly prejudicial to both sides. ... You can’t talk about that case. No matter how much heat you take from that, that’s part of doing your job ...”

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 13

Supervisor Aldean provided an overview of her questions. She advised Mr. Armstrong that one of his references had identified his personal familiarity with a large number of people in the community as a possible impediment to effectively doing his job as justice of the peace. In response to a question, Mr. Armstrong expressed the opinion that this would not be an impediment. "One of the things ... is that when you are in department one, you are essentially a team with department two. There will be times, because of my position as a prosecutor, because of my position as a defense attorney or an attorney in this town, because I know both my colleagues know people in this community, there will be times when I'll have to conflict." He expressed the opinion that his familiarity with the community will be an impediment. "If a case has to go over to department two, I'm sure department two will find a way to make it up to me down the road." Mr. Armstrong expressed a commitment to "working as a team with the justice court as a whole." He advised that the judicial canons "indicate there's really no wiggle room there. If there's going to be an appearance of bias or impropriety based on ... that you know somebody, you must recuse yourself. The integrity of the position and that rules supports integrity of the position and that can't be compromised in any way." Based on his experience in the courtroom as a practicing attorney, Supervisor Aldean inquired as to developed biases that might impede ability to rule objectively from the bench. Mr. Armstrong stated, "Every time you ... have a preconceived notion, something comes along, the next case comes along and shatters it. If I've learned nothing from my time as a prosecutor, to my time as a defense attorney, to my time as a judge, I've learned that. Every case has a surprise in it for you and you can't judge anything without hearing the evidence. And ... you must rely on what's presented to you by the advocates in court, whether they're lay people advocating their own cause or the attorneys themselves." Mr. Armstrong described himself as introspective "to try to be a better person, to try to be a better attorney, and those biases ... every time you think you know what somebody's about, something surprises you." In response to a further question, Mr. Armstrong advised of having served as justice of the peace *pro tem* less than ten times. He "did everything except ... a bench trial." He reviewed the cases he handled, describing the experience as "a real flavor for ... what the position entails." Supervisor Aldean reviewed research into the tradition of judges wearing black robes. In response to a question, Mr. Armstrong expressed the opinion that the judge is "not there to be imposing and black robe or no black robe, some judges are imposing and frightening and some judges aren't. ... the demeanor from the bench, ... your record as a judge has a lot more to do with what your impact on the public than whether or not you're wearing a robe." He expressed the further opinion that the black robe designates "the office and respect for the authority that office holds, and that you're empowered to issue orders that people must comply with. If they don't comply, they go to jail. They could lose their liberty. It's a solemn position." He reiterated that the judge's demeanor from the bench "have a lot more to do with making the public ... feel at home than whether or not you're wearing a robe."

In response to the same question, Ms. Trotter expressed no personal preference about what to wear. "I just know that I need to maintain the dignity and respect of the office," and expressed the opinion, "that's what the black robe is about. So, given that and that's the tradition of the office, ... the black robe is probably appropriate as long as the authority and the dignity of that office can be maintained." She expressed the further opinion that "it's the duty of everyone sitting in that position to maintain that respect."

In response to the same question, Mr. Gardner expressed no desire "to discard the robe," and the opinion "it does help with the decorum of the court." In reference to his many appearances in court, he advised "they all wore robes. Some of them were very accessible and engaging. Some of them were very intimidating and off-putting and it had nothing to do with the robe. It's the person and it's up to the judge to be the sort of person, particularly in the justice court, to make yourself accessible." He expressed the

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 14

opinion that “the black robe ... allows the public to recognize immediately who’s in control of the courtroom at the time and it’s a recognizable symbol of the person who operates and runs that courtroom. It’s not meant to intimidate. And without that, there’s a risk of a little bit of loss of decorum ...” He acknowledged that clothes don’t make the person.

In reference to a letter of recommendation included in Ms. Trotter’s application materials, Supervisor Aldean advised that “the respondent noted ... one of your weaknesses is your tendency to become personally connected to the parties in the case.” She inquired as to how this tendency may affect Ms. Trotter’s objectivity on the bench. In reference to her prosecutorial experience, Ms. Trotter discussed the requirement to keep the people in mind. “We’re advocating on behalf of the people and the victims oftentimes ... So, that was a letter by a defense attorney who I have a lot of respect for. I think there’s mutual respect. And we’ve had some protracted debates in the courtroom.” Ms. Trotter speculated that the author of the letter meant to convey she was “a zealous advocate on behalf of the victims in [her] case.” She clarified that “on the bench, there’s a different position. The prosecutor definitely has to take a side and advocate. ... the judge would have to be objective.” She assured the Board that if she was selected as a judge, she would need to keep an open mind, “not have any personal biases about any specific case.” She would “have to maintain fairness and impartiality no matter the case. There are victims in every case but ... every defendant is to be deemed innocent until proven guilty and so that defendant needs to appear in court as an innocent person until the evidence is produced and until convicted. So, it’s a completely different position,” and Ms. Trotter expressed the belief that she could maintain objectivity, fairness, and impartiality “as required of a judge.” Supervisor Aldean noted a statement in Ms. Trotter’s application “that a JP’s sentencing decision should include the goals of reducing recidivism.” In response to her request to expand on the statement, Ms. Trotter noted that the justice of the peace “is the first court that someone might appear in whether it be a misdemeanor or a felony. And oftentimes ... it might be the first time the person has ever been accused of any type of crime.” She expressed the opinion that the “justice court, being the people’s court, ... is an opportunity for that judge to help make a difference in that person’s life ...” She expressed the further opinion that “the impact of that first situation could make a change in that person’s life so that the person is not a repeat offender.” She expressed the further opinion that “the penalty needs to be sufficient for that person to, hopefully, sit back and think about what’s happened and make a change, but at the same time, there’s opportunities in the justice court, ... the mental health court, for example, in the justice court, and there’s other opportunities for treatment for substance abuse and that type of thing. There are opportunities for rehabilitation also in the justice court.” She advised of the goal “to give each person that opportunity to make a change in that person’s life, whether it be to get treatment, address any mental health issue that might arise, or just to cause that person to reflect and, hopefully, make a change so the person doesn’t have to appear in a criminal court ever again.” Supervisor Aldean thanked Ms. Trotter.

In reference to Mr. Gardner’s application materials, Supervisor Aldean noted the description of a “characteristic which sets him apart from his peers” that “the position should be held by a person with extensive legal knowledge and ability.” Supervisor Aldean expressed appreciation for Mr. Gardner’s answer to Mayor Crowell’s question relative to a legislative change making a law degree necessary for justices of the peace. Supervisor Aldean inquired as to any biases which might impede Mr. Gardner’s ability to rule objectively from the bench. In reference to the first question, Mr. Gardner expressed the opinion that “we all learn a lot more ... doing the jobs we’ve been doing for all these years than we ever learned in law school. Law school is educational and it sets up a good foundation, but you learn the job by doing it.” With regard to biases, Mr. Gardner referenced his prosecutorial experience and expressed the

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 15

opinion that “they key to ... avoiding conflicts and biases is a little different than it is in other aspects. The key, as a prosecutor, would be to make sure that, with anybody that there may be a conflict, that the person is notified immediately. So any defendant who appears in court that I may have worked on a case, as a prosecutor, ... is instant notification, letting them know and giving them the option of either exercising a conflict, exercising the recusal and deciding with their counsel whether or not ... they want me to preside over that case.” He agreed with earlier comments that “you do work as a team with the other justice of the peace and you do everything you can to avoid those conflicts.”

Supervisor Abowd commended the applicants’ qualifications, and requested them to “define what gives you unique ability as a justice of the peace in making sentencing decisions, balancing the interests of justice, public safety, the need for victim retribution and restitution, and the defendants’ rehabilitation where any of that applies.” Mr. Armstrong referenced his prosecutorial experience where “you see up close the impact that crime has on” victims “and the way the court system can be so difficult for them to navigate their way through. It goes far beyond, sometimes, just the crime. It’s the follow up and the system and the procedures that can often have an impact on the victims. You work closely with law enforcement ... And you have considerations greater than yourself. You represent the state, you represent the public. Your mission is to do justice in every case. It’s very weighty and very difficult and complex pressures on a prosecutor ... And then the flip side, as a defense attorney, your obligation is to your client ... and to zealously advocate for that person regardless of how you personally feel about them, regardless of how much distaste you may have for the particular case ... There’s another unique set of pressures and considerations as a defense attorney. You get to see defendants, ... you get to see the people underneath. You get to know who they are and sometimes they’ve done very bad things and sometimes they’ve done some not so bad things but need to be held accountable for them. But you really get a chance, up close and personal, to see the flip side of that case. It was once told to me, when I first started as a prosecutor, that when you’re standing there and you’re advocating for a harsh sentence or you’re advocating against a defendant there, it’s really easy to forget that this person standing here is probably having the very worst day they’ve ever had in their entire life. They’re more than that, they’re people too.” Mr. Armstrong conveyed thoughts about his experiences both as a prosecutor and as a defense attorney. He expressed the opinion that “you bring an open-mindedness to the bench.” He suggested another consideration “is that you rely upon the advocates in front of you to present the facts to you. You rely on them to give you the aggravating circumstances and the mitigating circumstances to help you make the best decision you can to fit the case that’s in front of you. You don’t know all the facts, as a judge, oftentimes.” Mr. Armstrong emphasized the importance of an open mind, as a justice of the peace, and to “rely on the quality of the advocacy to inform your decision.”

In response to the same question, Mr. Gardner advised that his eighteen years of practice in the court system helped him “develop a theory about what sentencing is all about and what purpose it serves. And, first and foremost, certainly in the cases involving violence and repeat offenders, you have to think about public safety. ... But you also have to temper that with a desire to rehabilitate, particularly in drug and alcohol cases and that plays such a huge part of the justice court, such a high percentage of cases involved drug ... and alcohol addiction.” He recognized “that the perspective is going to be completely different as a justice of the peace and you do have to see other sides and be objective and be fair and consider other interests ...”

In response to the same question, Ms. Trotter noted that a justice of the peace “is going to have to evaluate a lot of factors. There’s the needs of the community to maintain safety, there’s the need of the victim to

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 16

feel safe, and the opportunity for the victim to be able to make a statement to the judge about how that crime might have impacted them personally. ... the judge also needs to listen on behalf of the defendant about what might have led up to that situation ... the sentencing decisions are very important. They need to be treated very carefully and there's a lot of discretion involved in that." In reference to her prosecutorial experience, Ms. Trotter discussed "the side of protecting the public and public safety." She related the example of a recent case "where a victim came to the district court and explained how he had been a victim of a burglary and how the defendant had come into his garage ... broke into his vehicle, ... and then was just inches away from getting into his home and how that made him feel unsafe, and how he and his family are unable to feel safe in their home based on that situation. A judge needs to take those things into consideration and the impact about how these crimes have hurt people individually. At the same time, we don't want that defendant to ever have to appear before that judge again for the same type of crime or any other type of crime and rehabilitation is very important for that reason." Ms. Trotter discussed the importance of a judge considering the factors precipitating the defendant's appearance in court, and using the court's resources "to make sure that crime doesn't happen again. ... Each situations needs to be evaluated very specifically and very carefully."

Supervisor Abowd advised of having spoken to some retired judges and of having been informed that threatening phone calls, e-mails, letters, etc. "come with the job." She inquired as to how this would affect the applicants' ability to make a fair and just decision. Mr. Gardner acknowledged this unfortunate fact as "a part of any public office ..." He expressed the opinion that "it begins with how you conduct yourself on the bench to minimize those sorts of confrontations and personal attacks ... When you treat people respectfully and with courtesy, you minimize that happening no matter what you're decision is going to be." He noted that Carson City is a small community, and advised of his "practice ... to ... live out in the open and not to ... become a hermit because you hold an important public office." He expressed the opinion that accessibility is important, and noted the importance of "treat[ing] respectfully even those people you've had to make hard decisions against, even when you run into them in the grocery store. If something more serious than that were to happen, such as a threat against your family or your friends, obviously you have to take the necessary steps to protect yourself and to bring in professionals ... to help you protect your family."

In response to the same question, Ms. Trotter noted the uncomfortable situations associated with holding a public office. She advised of having been threatened in her position as a prosecutor and expressed the opinion that "it's just part of the job. You have to be careful. You have to be aware of your surroundings, but you can't let threats stop you. You have to rely on people in public safety who are equipped to take care of ... those situations, rely on their advice and their security. It's always okay to ask for help in those situations," but she expressed the opinion it shouldn't be "a consideration for anyone who's on the bench or for anyone as a prosecutor or even a defense attorney as far as making decisions differently than what you would do in court otherwise."

In response to the same question, Mr. Armstrong expressed the opinion that "it's your duty to make decisions regardless of how this person ... might threaten you or for fear of some kind of reprisals that way, whether it be threats of harm or public forum or public sentiment. ... it's imperative that you do what you feel is right and just in every case." Mr. Armstrong advised that he "take[s] his cues, in this aspect ..., from former Judge Maddox." He expressed admiration for the fact that Judge Maddox "lived his life openly. He ... lived across the street from the courthouse. He walked to and from the courthouse. It didn't matter what kind of case he had going on." Mr. Armstrong agreed with earlier comments that "if it's a serious,

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 17

corroborated threat, you need to call in professional help ..." He discussed his interest in serving as justice of the peace to "be of service to [his] community." He expected threats "as part of the job. ... if you're not willing to live with a certain amount of that, ... you shouldn't be here answering the questions."

In consideration of court calendar pressures, Supervisor Abowd inquired as to the applicants' commitment and ability to make timely decisions. Ms. Trotter advised that the Code of Judicial Conduct requires that a judge timely dispose of the matters before them. "But at the same time, there's also the requirement to make sure the parties have had an opportunity to say what they need to say and to be heard."

In response to the same question, Mr. Armstrong advised that there would be "no other option ... in the justice court ... You have to make decisions, you have to make them quickly and you have to stand by your decisions. There's just too many cases." He expressed the opinion "there's a real art to it ... Certain judges just have a knack of getting through the calendar, doing it efficiently, doing it quickly and everyone feels like they got to say their peace and ... even if it didn't go their way, that is was resolved ... fairly." He advised that he would "take [his] cues from those judges [he's] seen be able to do that."

In response to the same question, Mr. Gardner agreed "you do have to move very quickly because you don't want to get bogged down. Decisions have to be made quickly but they also have to be the right decision and so if it does require a little bit of deliberation over an issue, you need to give the parties the due process that allows them to have a proper decision made. You can't be indecisive. That's where you get bogged down is if you're indecisive on the bench." Mr. Gardner discussed the importance of "being organized ... in terms of how you manage your calendar, which cases are heard at what time, and making sure that the court runs smoothly." He advised of having "always worked under very tight deadlines ... both in civil and criminal practice. We have very tight deadlines in district court as well ... It's something you get used to in the court system is very tight deadlines and the key is you have to be decisive and not get bogged down in indecision. That's fatal for any judge."

Supervisor Walt requested each of the applicants to explain their judicial philosophy. Mr. Armstrong expressed the opinion that his judicial philosophy "arises from both [his] educational background in criminal justice and [his] experience, both as a prosecutor and a defense attorney. ... it's a well-established fact that a small number of the people in the community cause the greatest amount ... of the crime in a community and those people need to be dealt with in a way that is either going to rehabilitate them, if that's feasible, or deter them if that's an option. But they demand the overwhelming amount of resources." He advised "there is a fair amount of civil duties ... as well." He expressed the opinion that "consistent across all platforms ... [his] philosophy is that I want to make sure that I'm fair ... and open-minded when I get on the bench; that the parties before me feel like they were able to fairly present their side of the case; and that the decision that I make is made with deliberation, thoughtfulness, and after consideration of all the facts." He expressed the opinion that "one of the things ... you really have to guard against is making sure that the people, whether they like your decision or not, and someone's always going to be dissatisfied, at least they felt like they were given a fair and full hearing and that a competent decision-maker made a decision. ... that needs to be imparted throughout all proceedings in the courtroom." He expressed the opinion that he would be "capable and equipped to do just that."

In response to the same question, Mr. Gardner advised that his judicial philosophy is "based on four things. ... the judge is there to serve the people, primarily. That is your job ... to be a public servant and to be accessible to the people who come before you, whether they are criminal defendants or victims or witnesses

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 18

of crime or civil litigants and you need to show every person that comes before you a balanced judicial demeanor, courtesy and respect and really listen to what they're there for. ... you owe it to those people to give them your best ..." He expressed the further opinion that "being tireless in your work and being willing to put in the hours in all aspects of your job is a critical part of my philosophy. ... being absolutely committed to never letting any of the biases or prejudices or fears or concerns that we've talked about in other questions today, never let any of that get in your way. Absolute commitment to impartiality and fairness. And then, finally, you need to ... commit yourself to always making yourself more knowledgeable, more experienced, wiser, smarter, more able, more capable to do your job."

In response to the same question, Ms. Trotter advised that her judicial philosophy is to "apply the law and follow the law regardless of my personal feelings about the law or any personal bias." She advised of some judges who feel it's their duty to change the law. "That's not my philosophy. I will follow the law as the legislature instructs." She expressed the opinion that "all people should have equal access to the courts no matter where you come from and no matter your background." She assured the Board that she would do everything possible "to protect the constitutional rights of all the parties ... from both sides and, with that, [she] would keep public safety in mind which is the reason why we have the criminal and the civil courts. Public safety and also making sure that people's things and properties are protected and they have a forum to litigate those matters."

Supervisor Walt inquired as to whether each of the applicants support the specialty courts. Mr. Gardner expressed strong support for the specialty courts, noting "they're not a hundred percent successful but they're very successful." He discussed the various specialty courts and their success rates. He expressed the opinion that some of the programs should be expanded. "I think there are too many low level drug users, people with drug addictions who are ending up in district court on felony cases and ... more of those cases, where there aren't victims involved, need to be diverted to some sort of specialty treatment program so we don't have to bear the enormous expense of district court prosecutions of somebody who really is basically a drug addict."

In response to the same question, Ms. Trotter expressed firm belief in the specialty courts and their success, "especially ... the mental health court. It's been very successful in Carson City and it is a mental health court that's run by Justice Court Judge John Tatro. So it's within the realm of the justice court whereas the other two specialty courts are within the authority of the district courts." She expressed the belief that "judges need to be able to have all the tools to make the right sentencing decisions." She discussed her positive experiences with outcomes from the specialty courts.

In response to the same question, Mr. Armstrong expressed "a hundred percent ... support of the specialty courts." He acknowledged the flaws discussed by his colleagues, and his experiences before and after the specialty courts came into existence. He commended the specialty courts as "an asset to the community."

Supervisor Walt inquired as to whether the courts, as part of the judicial branch of government, should cooperate with the executive branch. Ms. Trotter advised that the constitution requires the separation of powers between the executive and judicial branches of government. "While the decisions of a judge and the decisions of people in the judiciary need to be independent from any other branch, at the same time, there are sometimes ... fiscal issues or administrative ways that they can cooperate ... to make sure justice is served." She expressed the opinion that the judiciary "clearly needs to be independent of the executive branch and the legislative branch."

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 19

In response to the same question, Mr. Armstrong acknowledged the importance of cooperation without sacrificing the independence of the judiciary. "But there's a lot of interface between the executive branch and the court system and a lot of interface on the justice court level as well. A lot of interface with the Sheriff's Office, with law enforcement, with the jail, alternative sentencing. There's no way around it. ... if you want to get something done, you have to cooperate."

In response to the same question, Mr. Gardner agreed. "The justice court, in particular, works very closely with administrative departments, with the executive branch, and they need to. They need to be absolutely independent when it comes to making judicial decisions and there can be no breach of the separation of powers, but especially when it comes to administrative things, ... budget matters, the court system is part of government and needs to play ball and needs to be cooperative when it comes to issues that affect all of us, particularly in times like we're experiencing right now."

Supervisor McKenna inquired as to the rights of peace officers in the justice court. Mr. Gardner advised that "the rights of peace officers would be, if they are there on official duty, if they're there as witnesses either on duty or witnesses pertaining to their duty, then I consider them to be peace officers who should ... have all the powers and duties of a peace officer, carrying weapons and all of those things. If they are peace officers who are there as litigants, ... then it's a different story. They leave their weapons outside the courtroom and they're there like any other litigant."

In response to the same question, Mr. Armstrong expressed agreement. Peace officers in their official capacity "don't stop being peace officers because they set foot into the justice court. And if they're there in their individual capacities as a party to an action, ... they can't be given any special treatment because of their status as peace officers." Mr. Armstrong recognized and expressed appreciation for "the peace officer is an everyday participant in the daily activities of the court." He advised that peace officers would "be afforded the respect and the thanks that they're entitled to regarding that."

In response to the same question, Ms. Trotter listed the many reasons a peace officer may appear before the court. She expressed the opinion that "the peace officer has a right to provide security and to be armed in that situation and, when a peace officer is in a working capacity in a uniform, ... it's appropriate for them to be armed. Whether or not a peace officer should be given more credence than any other witness or any other party," she expressed the opinion that "they need to be treated fairly just as any other party would. ... the credibility of their testimony should be judged in the same manner as any other witness in the court. ... As a party, the peace officer would have the right to bring whatever issues they want to address before the court in the same manner as any other person would do."

Supervisor McKenna inquired as to whether the courts are the only effective way for society to deal with its conflicts. "In other words, should we decriminalize a lot of things like traffic violations and reduce the litigation ... that's caused in our daily society." Mr. Armstrong expressed the opinion that as a judge, it's not appropriate "to go too far afield in determining what policy should or should not be in place. ... that's the legislature's jobs to enact laws that, as a judge, you have a duty to apply." He noted the growth, out of necessity, to alternative dispute resolution. He noted litigation as "oftentimes the least efficient way to resolve a conflict between two parties." He discussed his firm belief in arbitration and mediation. He acknowledged traffic enforcement as a "burden on the calendar, ... but it's a fact of the job that they're classified as misdemeanors and need to be treated as such." He expressed the opinion that "appropriate resolutions are reached daily."

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 20

Mr. Gardner expressed uncertainty as to whether to treat traffic matters as infractions versus misdemeanors would be better. He expressed the opinion that the legislature “should answer rather than a judge who’s going to have to possibly rule on these for some time before any such change could ever take place.” He expressed agreement that alternative forms of dispute resolution are very important and work well in the civil realm. He commended the alternative sentencing programs in the criminal system.

Ms. Trotter expressed understanding for the source of the question “because there are so many traffic citations in the justice court.” She cited statistical information, and agreed with considering the reduction of the number of traffic cases. She noted that the legislature “is the one makes the law and makes a traffic violation a misdemeanor rather than an infraction.” With regard to reducing civil litigation, she expressed support for alternative ways of resolving disputes. She expressed the opinion alternative dispute resolution assists in court efficiency and reducing fiscal constraints. With regard to the reduction of criminal litigation, she suggested that whenever a preliminary hearing is set, making a mandatory settlement conference for those felony matters. This “would give an opportunity for the prosecutor and the defense attorney to get together and actually see if there’s a way that they could resolve the matter to the benefit of the defendant and the state prior to going to that preliminary hearing.”

Supervisor McKenna inquired as to the applicants’ intentions to run for office in January. Mr. Armstrong advised that, if he is appointed, he is “a hundred percent committed to running for election.” If not appointed, he would have to discuss running for election with his family. In consideration of previous public testimony, he suggested that the concerns over the appointment process will be resolved by the election process. Mr. Gardner advised that he would definitely run for retention if appointed. Ms. Trotter advised that, if appointed, she would run for election.

Supervisor Aldean discussed previous complaints relative to the election of judges “that it’s hard to evaluate their performance.” She inquired as to the method by which the applicants would make their record of decisions more available to their constituents as part of their election campaigns. Mr. Gardner noted the opportunities, in Carson City, to “really know your elected officials, both at the local level and the state level.” He discussed support for judicial evaluations. He expressed the opinion that candidates for elected office have an obligation to “let the people know who you are; meeting them face to face, public forums, to the extent that you can talk about individual decisions or at least ... your judicial philosophy ...”

Mr. Armstrong expressed support for judicial evaluations. “Where they’re done, ... they’re helpful and they help the public.” He noted that everything a judge does is public. “It’s very transparent.” He expressed agreement that the average citizen who never goes to court will have difficulty knowing first hand the judge’s record. Other than evaluations, he was uncertain as to how to change that. He expressed the opinion that “the public ... finds a way to know if someone’s doing a good job or not. Because of the public nature of the position ... word gets around quickly as it should because you are accountable to the electorate and they should know who they’re voting for.”

Ms. Trotter noted that the justice court is a public forum, and expressed the opinion that a judge’s record will be known. She expressed the opinion that “a judge has a duty to educate the public concerning the judiciary.” She noted the importance of the justice of the peace being involved in community outreach activities, to educate the community concerning the judiciary. She discussed a project in which she is participating at Pioneer High School, helping the high school students learn about the appellate process, together with Mr. Rombardo.

CARSON CITY BOARD OF SUPERVISORS

Minutes of the April 7, 2011 Meeting

Page 21

Mayor Crowell offered the applicants an opportunity to provide additional comments. Ms. Trotter confirmed her interest in the justice of the peace position, and expressed respect for her colleagues. She advised that she had applied for the position “because that is the job I want. And I’m not looking for this position to be a stepping stone for another job. This is the job I want.” Mr. Gardner expressed the hope that, through his application and his interview, communicated his commitment to the position. He expressed the opinion there is no possibility to be “overqualified for this job. It is an incredibly important job in Carson City,” and he shared Mayor Crowell’s comments that he would be proud to appear in front of his two colleagues. He thanked the Board for considering his application. Mr. Armstrong expressed appreciation for the Board having considered his application. He advised of having worked professionally with both his colleagues, and echoed Mr. Gardner’s sentiments. He expressed the opinion that the information necessary for the Board to make their decision has been well presented.

Mayor Crowell thanked the applicants, recessed the meeting at 4:12 p.m. and reconvened at 4:21 p.m. He again thanked the applicants and commended their interviews. He polled the Board members, who each provided comments on the experience and qualifications of each of the applicants. Mayor Crowell entertained a motion. **Supervisor Abowd moved to appoint Tom Armstrong as justice of the peace to fill the unexpired term created by the retirement of Judge Robey Willis, conditioned upon successful salary negotiations. Supervisor McKenna seconded the motion. Motion carried 5-0.** Mayor Crowell thanked the applicants. Following a brief discussion, consensus of the Board was to appoint Supervisor Walt to participate in salary negotiations.

24. ACTION TO ADJOURN (4:30:42) - Supervisor Aldean moved to adjourn the meeting at 4:30 p.m. Supervisor Walt seconded the motion. Motion carried 5-0.

The Minutes of the April 7, 2011 Carson City Board of Supervisors meeting are so approved this 5th day of May, 2011.

ROBERT L. CROWELL, Mayor

ATTEST:

ALAN GLOVER, Clerk - Recorder