

accepted the award on behalf of the entire community, City staff, and the Commission. HARC Member Mike Drews expressed his feeling that the number awards received by various Commissions/Committees reflected well on the City's planning efforts and the community participation and partnership in those efforts. It exemplifies the pro-active role taken in planning for the future of the community. Mayor Masayko noted that all of the Commissions/Committees serve without compensation. The awards are an extension and recognition of that volunteerism. Supervisor Bennett accepted the Carson River Master Plan award and explained how the Committee had established the plan and the development of an open space concept. Andy Burnham pointed out the reasons for feeling that Carson City is doing a lot of right things within the community, including its leadership, citizen participation, and the advantages of team work. Ms. Dufresne explained that her intent in writing the articles had been for public education. Her editor Barry Smith expressed his appreciation for the recognition of the paper's educational efforts.

3. LIQUOR AND ENTERTAINMENT BOARD (1-0261.5) - Mayor Masayko recessed the Board of Supervisors session and immediately reconvened the hearing as the Liquor and Entertainment Board. The entire Board was present constituting a quorum. Sgt. Fred Schoenfeldt was present as Sheriff Banister's representative.

TREASURER - Al Kramer

A. ACTION ON A CHANGE OF LOCATION TO 3879 HIGHWAY 50 EAST AND AN UPGRADE IN CLASSIFICATION TO A FULL LIQUOR LICENSE FOR DENNIS SMALL, PRESIDENT, AND STEVE TAYLOR, VICE PRESIDENT OF SMAYTAY, INC., DOING BUSINESS AS SLOT WORLD (1-0268.5) - Both Messrs. Small and Taylor were present. Discussion explained the business operation and its opening date. Chairperson Masayko noted the favorable Sheriff's Departmental Investigation. The applicants indicated they were familiar with the State and City liquor laws regarding minors. Member Smith moved that the Liquor and Entertainment Board approve a change of location to 3879 Highway 50 East and an upgrade in classification to a full liquor license for Dennis Small, President, and Steve Taylor, Vice President, of Smaytay, Inc., doing business as Slot World. Member Bennett seconded the motion. Motion carried 6-0.

B. ACTION ON A SIX MONTH REVIEW OF DEER RUN ROAD CORPORATION, DOING BUSINESS AS DEER RUN BAR AND GRILL, FULL BAR LIQUOR LICENSE (1-0315.5) - Deferred to the first meeting in December due to management changes and reorganization of the corporation.

BOARD OF SUPERVISORS - There being no other matters for consideration, Chairperson Masayko adjourned the Liquor and Entertainment Board and immediately reconvened the session as the Board of Supervisors. The entire Board was present constituting a quorum.

4. CONSENT AGENDA (1-0325.5)

A. TREASURER

i. ACTION ON REMOVAL OF PARTIAL 1997-98 REAL PROPERTY TAXES FOR PARCEL NO. 8-053-04 DUE TO THE STATE OF NEVADA ACQUISITION OF PROPERTY

ii. ACTION ON REMOVAL OF PARTIAL 1997-98 REAL PROPERTY TAXES FOR PARCEL NO. 8-541-68 DUE TO THE CITY OF CARSON CITY ACQUISITION OF PROPERTY

iii. ACTION ON A SPECIAL SHORT-TERM BUSINESS PERMIT WITH WAIVER OF THE \$50 PER DAY PROMOTER FEE FOR CAROL ALLEN, REPRESENTING GREAT BASIN CRAFTSMEN

B. DISTRICT ATTORNEY - ACTION ON A RESOLUTION APPOINTING THE NEVADA ATTORNEY GENERAL TO ASSIST THE CARSON CITY DISTRICT ATTORNEY REVIEW, AND IF APPROPRIATE, ACT IN A CASE IN WHICH THE DISTRICT ATTORNEY HAS A CONFLICT OF INTEREST

C. PURCHASING DIRECTOR

i. ACTION ON CONTRACT NO. 9697-178 - ROBERTS HOUSE REHABILITATION, REQUEST FOR FINAL PAYMENT

- ii. ACTION ON CONTRACT NO. 9697-38 - WATER METERS, CONTRACT EXTENSION
- iii. ACTION ON CONTRACT NO. 9798-108 - COMMUNITY CENTER MECHANICAL RETROFIT, AWARD
- iv. ACTION ON CONTRACT NO. 9798-84 - DARLA WAY SEWER EXTENSION, AWARD
- v. ACTION ON CONTRACT NO. 9596-112 - PUBLIC SAFETY COMPLEX FINAL DESIGN AMENDMENT NO. 1, REQUEST FOR CONTRACT APPROVAL
- vi. ACTION ON CONTRACT NO. 9697-201 - PUBLIC SAFETY COMPLEX, CONSTRUCTION MANAGEMENT, AMENDMENT NO. 1
- vii. ACTION ON CONTRACT NO. 9798-134 - COMMUNITY CENTER A.D.A. RETROFIT, ARCHITECT SERVICES
- viii. ACTION ON CONTRACT NO. 9798-136 - ARROWHEAD/CONVAIR DRAINAGE SYSTEM DESIGN CONTRACT
- D. PERSONNEL DEPARTMENT - ACTION TO APPROVE THE ARCHITECT NOMINATION TO THE HISTORIC ARCHITECTURE REVIEW COMMITTEE
- E. PARKS AND RECREATION DEPARTMENT
 - i. ACTION ON THE NAMING OF THE SKATEBOARD PARK AT MILLS PARK
 - ii. ACTION ON THE NAMING OF THE DETENTION/PARK FACILITY AT KOONTZ LANE AND CENTER DRIVE
 - iii. ACTION ON THE NAME CHANGE FOR CAMP CARSON PARK
- F. UTILITIES AND PUBLIC WORKS DIRECTOR
 - i. ACTION ON RESOLUTION ESTABLISHING A CHANGE FUND IN THE UTILITY DEPARTMENT AND ESTABLISHING CONTROL PROCEDURES FOR OPERATION OF THE FUND
 - ii. ACTION ON A DEDICATION OF EASEMENT BY AND BETWEEN CARSON CITY AND NEWTON W. FREEMAN, IV, JOHN E. LEWIS, AND ROBERT LEWIS WEISE AS SUCCESSOR CO-TRUSTEES OF THE NANCY PENELOPE WEISE 1979 TRUST
 - iii. ACTION ON THE COOPERATIVE AGREEMENT BETWEEN CARSON CITY AND THE NATURAL RESOURCES CONSERVATION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE (NRCS) REGARDING THE COMBS CANYON EMERGENCY WATERSHED PROTECTION (EWP) PROJECT - Supervisor Plank pulled for discussion Item E. i. Supervisor Bennett pulled Items E. ii. and F. iii. for discussion. Supervisor Tatro moved that the Board adopt the Consent Agenda as presented with the deletion of the items for naming the skateboard park and the detention basin/park facility at Koontz Lane and the action on the cooperative agreement between Carson City and the Natural Resources Conservation Service with inclusion of Resolution No. 1997-R-41, Action on a Resolution appointing the Nevada Attorney General to assist the Carson City District Attorney, and Resolution No. 1997-R-42, a Resolution establishing a change fund in the Utility Department. Supervisor Bennett seconded the motion. Motion carried 5-0. Mayor Masayko explained that the Consent Agenda had included the appointment of Richard Baker to the Historic Architecture Review Commission, Mr. Baker's involvement in Carson City, and commended him on the appointment.

E. i. (1-0395.5) - Parks and Recreation Director Steve Kastens - Mr. Kastens indicate he was unaware of a policy which would prohibit the Board from naming a park after a living individual. He also explained how the Edmonds Sports Complex had been named. Supervisor Plank noted the policy on naming parks was adopted as Resolution No. 1989-R-59, his original concern, and support for the Commission's recommendation. Mr. Kastens further elaborated on the Commission's deliberation and recommendation. Supervisor Tatro explained his reasons for voting against a motion which would name the park after a living individual. Supervisor Smith explained his recollection of how Edmonds had been named. He had opposed the policy prohibiting naming parks after living individuals even though he understood both sides as indicated by his support of naming a park for Pete Livermore. His support for naming the skate park after Virginia Orcutt was explained. Supervisor Bennett questioned how the City/Board could recognize the other major contributors to the park. She suggested a plaque

be posted at the park honoring these individuals including Ms. Orcutt. She felt that the users should take ownership for the name and make a recommendation. Supervisor Plank explained the vote to name the park "Orcutt Skate Park" and that the street leading into Edmonds Park had been name in honor of Pete Livermore. He also felt that Mr. Livermore was either a member of the Commission or serving as a Hospital Trustee at the time the discussion had occurred. This is the difference. The users had requested the skate park be named in honor of Ms. Orcutt. He also supported having a plaque honoring all contributors as well as naming the park for Ms. Orcutt. Supervisor Smith supported this recommendation and explained his decision to support naming the park in honor of Ms. Orcutt due to her hard work and dedication on it. Mayor Masayko supported his comments and expressed his feeling that at a future time the Livermore issue could be corrected. Supervisor Smith moved that the Board of Supervisors name the newly constructed and heavily used skateboard park in Mills Park as the Orcutt Carson City Skate Park and further direct the Parks Director to begin the process of putting together a nice plaque/monument/sign, whatever the Parks and Recreation Commission would like to recommend, to bring back to this Board, which may not have to come back to the Board, something which recognizes not only Ms. Orcutt's commitment but all of the other people who had donated time, effort, and/or materials to the building of that facility. Supervisor Plank seconded the motion. Motion carried 4-1 with Supervisor Tatro voting Naye. Mayor Masayko encouraged the Commission to consider the comments which had been made during the discussion.

E. ii. (1-0702.5) - Parks and Recreation Director Steve Kastens - Discussion noted Landmark Homes' letter recommending the proposed name, the Commission's recommendation, and former Mayor Teixeira's request. Supervisor Bennett directed Mr. Kastens to request the Commission consider that a monument/plaque be installed naming all of the Mayors of Carson City. Supervisor Smith explained his support for the recommendation. Supervisor Bennett moved that the Board approve the Parks and Recreation Commission recommendation to name the detention park facility at Koontz Lane and Center Drive as Mayors Park. Supervisor Plank seconded the motion. Motion carried 5-0. Supervisor Tatro requested the next detention/park facility be named the Mayors Pro-Tems Park.

F. iii. (1-0815.5) - Utilities and Public Works Director Dorothy Timian-Palmer - Supervisor Bennett explained her reasons for requesting the proposal be discussed, commended Ms. Timian-Palmer on the proposal to design the facility in-house, and pointed out NCRS's limited resources and funding. She encouraged Ms. Timian-Palmer to continue to use the proposed procedure in mitigating other flood control issues in the future. Mayor Masayko briefly described a meeting "several months ago" in the City Manager's office with Ms. Timian-Palmer which had directed her to be creative in her funding program for flood mitigation and commended her and the other staff members on their efforts to do so. Ms. Timian-Palmer briefly noted the other staff members who had worked on this program. Supervisor Bennett moved that the Board of Supervisors approve and authorize the Mayor to sign the Cooperative Agreement between Carson City and the Natural Resources Conservation Service, United States Department of Agriculture regarding the Combs Canyon Emergency Watershed Protection Project. Supervisor Tatro seconded the motion. Supervisor Bennett continued her motion to include fiscal impact of \$80,000 of which \$60,000 is funded under EWP. Supervisor Tatro continued his second. Motion carried 5-0.

5. BOARD OF SUPERVISORS

A. SUPERVISOR BENNETT - ACTION ON APPOINTMENT OF AN ALTERNATE TO THE NOVEMBER 19, 1997, MEETING OF THE TAHOE REGIONAL PLANNING AGENCY (1-0910.5) - Supervisor Bennett moved that the Board of Supervisors appoint Supervisor Plank as the alternate to the November 19th meeting of the Tahoe Regional Planning Agency. Mayor Masayko seconded the motion. Motion carried 5-0.

B. NON-ACTION ITEMS - INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (1-0942.5) - Supervisor Bennett explained her reasons for being absent from the next Board and TRPA meetings. She then described her involvement with CSWD, NRCS, and the Cooperative Extension Service on the Carson River and the proposed March conference. Supervisor Tatro reported on the Carson High School

Boys and Girls Soccer Team activities, Nevada Day Activities and, specifically, the Ormsby House programs. His comments included compliments to Bob Cashell who is now operating the Ormsby House. Mayor Masayko read his letter to Mr. Cashell commending him on his participation in and support of the Nevada Day activities. He also commended Deputy Fire Chief Steve Mihelic for his assistance and role in making the fireworks a reality. He then noted BLM's recent dedication of its new Morgan Mill Road facility and explained the working relationship currently experienced among the State, BLM, and City, and benefits of this relationship. He looked forward to a long and positive relationship with BLM in the future. Supervisor Plank briefly reported on the Parks and Recreation Commission meeting, Western Nevada Home Consortium problems, and Northern Nevada Railway Foundation fundraising activities. Supervisor Smith elaborated on the Nevada Day activities and commended Mr. Cashell on the Ormsby House fireworks and the Carson High School band on its performance in the parade. Supervisor Bennett also commended Mr. Serpa on the improvements he had made to the Golden Spike. She expressed the hope that his efforts and the progress would continue.

C. STAFF COMMENTS AND STATUS REPORTS (1-1225.5) - Mr. Berkich reported on the Carson High School football program.

6. TREASURER - Al Kramer - ORDINANCES - SECOND READING

B. ACTION ON BILL NO. 162 - AN ORDINANCE OF THE BOARD OF SUPERVISORS OF CARSON CITY, NEVADA, DESIGNATED BY THE SHORT TITLE "1997 WATER BOND ORDINANCE"; PROVIDING FOR THE ISSUANCE OF ITS REGISTERED, NEGOTIABLE, GENERAL OBLIGATION (LIMITED TAX) WATER BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES), SERIES NOVEMBER 1, 1997, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,820,000; STATING THE PURPOSES FOR WHICH THE BONDS ARE TO BE ISSUED; PROVIDING THE FORM, TERMS AND CONDITIONS THEREOF AND COVENANTS RELATING TO THE PAYMENT OF SAID BONDS AND THE HANDLING OF FUNDS; PROVIDING FOR THE SALE OF THE BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF ANNUAL GENERAL (AD VALOREM) TAXES FOR THE PAYMENT OF THE BONDS; ADDITIONALLY SECURING THEIR PAYMENT BY A PLEDGE OF REVENUES DERIVED FROM THE WATER SYSTEM OF WHICH THE FINANCED PROJECT IS A PART; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD THE ISSUANCE OF SAID BONDS AND EFFECTING THE PURPOSE OF THEIR ISSUANCE; AND PROVIDING OTHER MATTERS RELATING THERETO (1-1235.5) - Supervisor Tatro moved to adopt on second reading Bill No. 162, Ordinance No. 1997-63, AN ORDINANCE OF THE BOARD OF SUPERVISORS OF CARSON CITY, NEVADA, DESIGNATED BY THE SHORT TITLE "1997 WATER BOND ORDINANCE"; PROVIDING FOR THE ISSUANCE OF ITS REGISTERED, NEGOTIABLE, GENERAL OBLIGATION (LIMITED TAX) WATER BONDS (ADDITIONALLY SECURED BY PLEDGED REVENUES), SERIES NOVEMBER 1, 1997, IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,820,000; STATING THE PURPOSES FOR WHICH THE BONDS ARE TO BE ISSUED; PROVIDING THE FORM, TERMS AND CONDITIONS THEREOF AND COVENANTS RELATING TO THE PAYMENT OF SAID BONDS AND THE HANDLING OF FUNDS; PROVIDING FOR THE SALE OF THE BONDS; PROVIDING FOR THE LEVY AND COLLECTION OF ANNUAL GENERAL (AD VALOREM) TAXES FOR THE PAYMENT OF THE BONDS; ADDITIONALLY SECURING THEIR PAYMENT BY A PLEDGE OF REVENUES DERIVED FROM THE WATER SYSTEM OF WHICH THE FINANCED PROJECT IS A PART; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD THE ISSUANCE OF SAID BONDS AND EFFECTING THE PURPOSE OF THEIR ISSUANCE; AND PROVIDING OTHER MATTERS RELATING THERETO, fiscal impact is not to exceed \$1.82 million. Supervisor Plank seconded the motion. Motion carried 5-0. Mr. Kramer and Finance Director Walker explained the interest rate. Ms. Walker introduced Guy Hobbs, the new financial consultant who had been retained to work on this Bond issue. Mr. Hobbs explained the bid opening and the City's credit rating. Mayor Masayko noted Ms. Walker's role in obtaining this rating. Ms. Walker then indicated the bond terms were for 15 years and could be "called" after eight years. Mayor Masayko noted the favorable impact the rate would have on the user rates.

A. ACTION ON BILL NO. 161 - AN ORDINANCE AMENDING CHAPTER 4.04 OF THE CARSON CITY MUNICIPAL CODE BY ADDING SECTION 4.04.001 (INTRODUCTION AND PURPOSE) STATING THE PURPOSE OF THE CHAPTER; AMENDING SECTION 4.04.005 (DEFINITIONS) ADDING DEFINITIONS OF ADVERTISE, BILLBOARD AND OFF-PREMISE SIGNS, COMMERCIAL RENTALS, CONTRACT OFFICE BUSINESS, CONTRACTOR, GARAGE SALE, HOBBY--SUPPLEMENTAL INCOME BUSINESS, HOME OCCUPATION BUSINESS, INDEPENDENT CONTRACTOR, OFF-PREMISE SALE, OUT-OF-TOWN BUSINESS, PREMISES, PROFESSIONAL, NON-PROFIT ORGANIZATION AND VENDING BUSINESS; AMENDING SECTION 4.04.011 (EXEMPTION FROM LICENSES) TO CLARIFY CERTAIN EXEMPTIONS; AMENDING SECTION 4.04.012 (BRANCH ESTABLISHMENTS) TO CLARIFY LICENSING FOR BRANCHES; ADDING SECTION 4.04.014 (OFF-PREMISES SALES) MANDATING THE USE OF PERMITS FOR OFF-PREMISES SALES; AMENDING SECTION 4.04.015 (ANNUAL FEE INCREASE) TO CLARIFY ANNUAL FEE INCREASE PROVISIONS; AMENDING SECTION 4.04.020 (FEES AND EXEMPTIONS FROM FEES) PROVIDING FOR CATEGORIES OF BUSINESS LICENSE FEES AND CERTAIN EXEMPTIONS; AMENDING SECTION 4.04.031 (SQUARE FOOTAGE FEES) CODIFYING CERTAIN EXISTING SQUARE FOOTAGE FEES FOR CERTAIN BUSINESSES; AMENDING SECTION 4.04.040 (FEES FOR EMPLOYEES) CODIFYING CERTAIN EXISTING FEES FOR CERTAIN BUSINESSES WITH EMPLOYEES; DELETING SECTION 4.04.050 (HOURS OPERATED PER WEEK); ADDING SECTION 4.04.072 (PAYMENT OF FEES AND PENALTIES) PROVIDING FOR A DUE DATE, GRACE PERIOD, PENALTY PERIOD AND LICENSE REVOCATION UPON THE FAILURE TO PAY LICENSE FEES; DELETING SECTION 4.04.073 (CARNIVALS, TENT SHOWS AND CIRCUSES); ADDING SECTION 4.04.074 (RENEWAL OF LICENSE--FAILURE TO PAY FEE) PROVIDING FOR THE METHOD AND FEES FOR THE RENEWAL AND REINSTATEMENT OF LICENSES; AMENDING SECTION 4.04.075 (SHORT-TERM BUSINESS LICENSE) PROVIDING THAT PROOF OF APPLICATION FOR STATE RESALE TAX PERMITS MUST BE ISSUED BEFORE CITY SHORT-TERM LICENSE IS ISSUED; AMENDING SECTION 4.04.077 (SPECIAL EVENT SHORT-TERM PERMIT) PROVIDING THAT THE RISK MANAGER SET THE AMOUNT OF REQUIRED INSURANCE AND SHORTENING THE TIME REQUIRED FOR APPLICATIONS TO BE FILED; AMENDING SECTION 4.04.090 (OTHER REQUIRED LICENSES AND PERMITS) REQUIRING PROOF THAT STATE LICENSES HAVE OR WILL BE ISSUED BEFORE CITY LICENSES ARE ISSUED; DELETING SECTIONS 4.04.100 (COMPUTATION OF LICENSE RATE), 4.04.105 (LICENSING OF CONTRACTORS), 4.04.120 (PAYMENT OF FEES), AND 4.04.130 (RENEWAL OF LICENSES--FAILURE TO PAY FEE); AMENDING SECTION 4.04.145 (MEMBERS OF PROFESSIONAL PARTNERSHIPS TO BE LICENSED INDIVIDUALLY) CLARIFYING THAT ONLY MEMBERS OF A PARTNERSHIP PRACTICING IN CARSON CITY NEED LICENSES; AMENDING SECTION 4.04.150 (NO ASSIGNMENT, TRANSFER OR CHANGES) REQUIRING NEW APPLICATIONS BE FILED WHEN MATTERS STATED ON PREVIOUS LICENSES CHANGES AND PROVIDING NO NEW FEES ARE DUE IF NO INSPECTION IS REQUIRED; DELETING SECTION 4.04.170 (BOND REQUIRED OF PAWNBROKERS); AMENDING SECTION 4.04.180 (ISSUANCE OF LICENSE; APPEAL) CLARIFYING AND CHANGING THE TIME FOR APPEALS; AMENDING SECTION 4.04.190 (POSSESSION OF LICENSE AND POSTING REQUIREMENTS) SETTING FORTH THE LICENSE POSSESSION AND POSTING REQUIREMENTS FOR VARIOUS LICENSEES; AND OTHER MATTERS PROPERLY RELATED THERETO (1-1415.5) - The reasons for not reading the title were explained. A request that the title be read was not made. Supervisor Bennett moved that the Board of Supervisors adopt Ordinance No. 1997-64 on second reading of Bill No. 161, an ordinance relating to business licenses whose title is as presented in the agenda. Supervisor Tatro seconded the motion. Mayor Masayko requested comments on the motion. None were made. He also noted that comments had been made at the time of the first reading. Supervisor Bennett commended Mr. Kramer on his efforts on the ordinance. Mayor Masayko also commended Mr. Kramer for working with the Chamber of Commerce and others on the ordinance. The motion to adopt Bill 161 on second reading was voted and carried 5-0.

7. CARSON-TAHOE HOSPITAL - ACTION ON TWO RESIDENTIAL PURCHASE AGREEMENTS

AND DEPOSIT RECEIPTS BETWEEN SELLERS AND CARSON-TAHOE HOSPITAL FOR THE ACQUISITION OF PROPERTIES AT THE FOLLOWING LOCATIONS: 1. 990 NORTH MINNESOTA STREET, CARSON CITY, NEVADA, AND 2. 1303 NORTH MOUNTAIN STREET, CARSON CITY, NEVADA (1-1482.5) - Hospital Administrator Steve Smith - The Hospital Board of Trustees recommended the Board approve the acquisitions which are in keeping with the Hospital's long-term expansion plans. Supervisor Bennett requested Community Development Director Walter Sullivan begin the process to establish hospital district zoning on the master plan. Supervisor Bennett moved that the Board of Supervisors approve action on two residential purchase agreements between the sellers and Carson-Tahoe Hospital for the acquisition of properties at the following locations: 990 North Minnesota Street, Carson City, Nevada, and 1303 North Mountain Street, Carson City, Nevada, in the amount of \$596,000 plus closing costs. Supervisor Tatro seconded the motion. Motion carried 5-0.

BREAK: A ten minute recess was declared at 10:05 a.m. The entire Board was present when the meeting was reconvened at 10:15 a.m., constituting a quorum.

8. PUBLIC WORKS/UTILITIES DIRECTOR - Dorothy Timian-Palmer

A. UPDATE REGARDING WASTEWATER RECLAMATION PLANT INCREASE CAPACITY (1-1555.5) - Utility Wastewater Supervisor Kelvin Ikehara - During the January 1997 flood the plant had been able to handle double its capacity rating. Therefore, Carrollo Engineers was asked to perform a study of the facility to determine the plant's actual capacity. With some system modifications, which Mr. Ikehara described, the plant's capacity was expanded and approved for an increased permitted flow of 6.9 MGD. With a new aeration basin, which is proposed for 2002, the plant will be able to handle the community's maximum buildout. Ms. Timian-Palmer explained that the City had the only plant in the State which had not violated its discharge permit during the flood. She and Mayor Masayko commended Mr. Ikehara on his efforts. No formal action was required or taken on this item.

B. UPDATE REGARDING FLOOD PREPAREDNESS WORK (1-1656.5) - Ms. Timian-Palmer gave the Board members and the Clerk a list of items which had been completed. Improvements to Ash Canyon Creek, Kings Canyon, Little Lake and Roop Streets, the linear ditch, Vicee Canyon, Empire Lane area, Goni Canyon, Combs Canyon, Imus Road storm drain, Fifth Street, as well as Julius Ballardini's work in Vicee Canyon and need for the sediment at the landfill, the sandbag plan for Vicee Canyon, the contract approved on the Consent Agenda for a five year storm drainage design system for the Arrowhead/Convair area, the snow marker program for Lakeview, and proposed improvements to the Southeast Carson area and Highway 50 and Lompa Lane area were described. Sandbagging plans for King and Washington Streets had been developed. Street Superintendent John Flansberg explained the contract which had been award for replacement of 26 catch basins throughout the City. Ms. Timian-Palmer thanked Mr. Ballardini, Mr. Flansberg and his staff and all of the JOIN workers for their assistance. Mayor Masayko also pointed out the work done by the Nevada Forest Service Inmates. Discussion ensued among the Board on the sand bagging on Washington Street. Ms. Timian-Palmer explained the Ash Canyon and Vicee Canyon flooding problems which had impacted the Hospital and the improvements which had been made to mitigate this problem. Supervisor Bennett also noted the improvements which had been made to Curry Street which will help alleviate the flooding in that area. Deputy Public Works Director Tim Homann indicated these improvements are being installed as part of the parcel map requirements. Once these improvements are completed, the City has other improvements planned for that area which will further mitigate the problem. Supervisor Plank indicated that a culvert had been overlooked in the Convair area. Mr. Flansberg agreed to meet with him on this problem as he thought that the private contractor had cleaned all of the culverts. Mayor Masayko felt that the plan had addressed all of the comments expressed during a February meeting with the public. He commended staff on its efforts. Ms. Timian-Palmer commended Mr. Flansberg and his crew on their efforts. Mayor Masayko requested copies of the report be kept in the City Manager's office for the public. No formal action was required or taken on this Item.

C. ACTION ON REVIEW AND APPROVAL OF CHANGES TO THE CARSON CITY SNOW

AND ICE CONTROL POLICY AND DIRECTION TO STAFF ON SNOW EMERGENCY SERVICES AND EQUIPMENT(1-2058.5) - Deputy Public Works Director Tim Homann and Street Superintendent John Flansberg - Mayor Masayko suggested a "short notice" standby program for the contractors which would guarantee a certain amount of work. This could provide the necessary resources should a major event occur at least during the initial 72 hour period. The improved forecasting ability should help provide the "short notice" standby ability. Supervisor Bennett supported his suggestion. Discussion explained the City's equipment preparedness program and the pros and cons of the two to four inch plow restrictions. Supervisor Bennett felt that plowing should occur long before that depth is reached. Modern forecasting ability should help anticipate this problem and staff could react accordingly. Supervisor Bennett urged staff to develop a list of resources for senior citizens needing outside help. Mr. Flansberg felt that a service club should oversee this program and indicated he would pursue this plan. Supervisor Bennett noted the Senior Center's "Call and Haul" program and indicated the Center may wish to be involved with the resource program. Mr. Flansberg indicated that he would check into the stock of parts which would be needed for repair of vehicles. Supervisor Smith also pointed out that the City is in a snow area, that it does snow here, and that the community should be aware of this factor and be prepared for such emergencies. Drivers should carry chains and be prepared to install them, if necessary. In the worst conditions, drivers should stay home unless it is a true emergency. Common sense should be used during each event. Mr. Homann then explained the reasons two new trucks had failed. These vehicles were destroyed by the flood in Sparks and have been replaced by two new ten yard vehicles with mounted sanders and snow plows. (1-2725.5) Mr. Homann indicated that all of the operators and vehicles are ready. Resources are not withheld during an event. He also noted that if a City vehicle is traversing a State route, it will not plow it. Ms. Timian-Palmer then explained her research on the Internet indicates that the issue of whether to plow to the side or to the center is a international problem. No community cleans the private driveways. Discussion ensued on the pros and cons of the windrow question. Mayor Masayko urged staff to be innovative in its approach to this program. Supervisor Tatro pointed out the Board's role in the funding of the snow removal program and policy. Last year was not perfect, however, it was considered a one in one hundred year event. The City had learned from all of the things which had gone wrong during that event. He supported Supervisor Smith's suggestion that a sufficient parts inventory be maintained. He felt that the current funding and equipment levels were adequate as none of the Board comments had indicated a change should be made. He felt that the improvements made since Mr. Flansberg's arrival indicated the City would be able to respond and maintain a "comfortable service level" for snow removal. He was not interested in the Board "appearing shiny" but preferred to be able to allow the public to "go where it needed to go" during an event. Mr. Flansberg indicated that he felt that he had the resources necessary to provide a strong snow response. He requested Board's direction on the blower which would provide additional snow removal capability. Supervisor Plank expressed a desire to meet with staff and review his concerns. Mayor Masayko noted the funding for private contractors is contingent upon the Board's funding level; however, if it is an emergency, additional resources should be added. Staff comments indicated that this is a decision made by the Emergency Operations Center with the formal action being taken later by the Board due to the public health and safety concerns.

(1-3025.5) Discussion ensued on the State "hot line" which provides up-to-the minute reports on road conditions, the City's weather reporting system, the request for a snow blower, and the pros and cons of having/using a snow blower. Supervisors Smith and Plank recommended against having one due to the cost and inability to use it other than in Lakeview and Timberline or rural areas. Supervisor Plank suggested that the streets in the higher elevations not be plowed curb-to-curb to allow room to stack the snow. Residents in these areas have equipment for such inclement weather conditions and keep their driveways open so that space would be available to allow vehicles to pass one another. Also, these areas are not used for thorough traffic. Supervisor Bennett suggested consideration of a joint use program with the airport which could make its acquisition feasible.

Dave Morgan noted that last year's storm had been incredible. He suggested that, with the new technology and the desire to keep the residents off the street unless absolutely necessary, the media be used to relay an early warning to the public. This program could utilize a warning level system which would help the public, through an education program, know when to go and stock up.

Supervisor Smith moved that the Board of Supervisors direct staff to further the discussion with emergency service contractors regarding Mayor Masayko's suggestion about short-term status. Supervisor Plank seconded the motion. Mayor Masayko indicated the motion was directing staff to review the section talking about contractors and standby status. Clarification by Supervisor Smith indicated that the motion is that the Board did not have an appetite to have contracts and pay someone for the entire season but, as Mayor Masayko had suggested, that a contract would be considered for 72 hours or a similar period which the City would be willing to pay someone to be on standby status for the City. Mr. Homann indicated that the staff would bring such a contract to the Board for action, if possible. Otherwise, staff would work toward this goal. Mayor Masayko indicated that this is a goal which should be explored as an alternative. Mr. Homann agreed. The long-term standby agreement portion of the program is to be replaced with this objective. This is page 3 of the policy. The motion as indicated was voted and carried 5-0.

Supervisor Smith then moved that the Board of Supervisors adopt Resolution No. 1997-R-43, A RESOLUTION ADOPTING CARSON CITY'S SNOW AND ICE CONTROL POLICY. Supervisor Tatro seconded the motion. Supervisor Bennett encouraged staff to include a volunteer situation in the program. Mr. Homann agreed. Motion carried 5-0.

Supervisor Smith moved that the Board adopt Resolution No. 1997-R-44, A RESOLUTION AMENDING THE EMERGENCY SNOW ROUTES ADOPTED BY RESOLUTION NO. 1994-R-5. Supervisor Tatro seconded the motion. Motion carried 5-0.

D. ORDINANCE - FIRST READING - ACTION ON AN ORDINANCE APPROVING A WATERLINE REIMBURSEMENT AGREEMENT BETWEEN CARSON CITY AND WESTERN STATES STORAGE I, A NEVADA LIMITED PARTNERSHIP REGARDING ASSESSOR'S PARCEL NUMBERS 9-30-402, 9-304-03 AND 9-304-06 LOCATED AT 47 CLEAR CREEK AVENUE, 5801 SOUTH CARSON STREET AND 5853 SOUTH CARSON STREET, CARSON CITY, NEVADA, FOR WATER MAIN CONSTRUCTION AND REIMBURSEMENT (1-3435.5) - Supervisor Tatro moved that the Board introduce on first reading Bill No. 165, AN ORDINANCE APPROVING A WATERLINE REIMBURSEMENT AGREEMENT BETWEEN CARSON CITY AND WESTERN STATES STORAGE I, A NEVADA LIMITED PARTNERSHIP REGARDING ASSESSOR'S PARCEL NUMBERS 9-30-402, 9-304-03 AND 9-304-06 LOCATED AT 47 CLEAR CREEK AVENUE, 5801 SOUTH CARSON STREET AND 5853 SOUTH CARSON STREET, CARSON CITY, NEVADA, FOR WATER MAIN CONSTRUCTION AND REIMBURSEMENT, fiscal impact none except for a 15 percent administrative fee to the City General Fund upon any reimbursement to applicant. Supervisor Bennett seconded the motion. Motion carried 5-0.

9. COMMUNITY DEVELOPMENT DIRECTOR - Walter Sullivan

A. ACTION ON U-97/98-11 - AN APPEAL OF THE REGIONAL PLANNING COMMISSION'S DECISION TO DENY A REQUEST FROM LISA STOKES (PROPERTY OWNER: SHULER FAMILY TRUST) TO ALLOW A GROUP CARE FACILITY IN A RESIDENTIAL DISTRICT ON PROPERTY ZONED SINGLE FAMILY 12,000 (SF12000), LOCATED AT 1600 KINGS CANYON ROAD, APN 9-012-06 (PLANNING COMMISSION DENIED DUE TO A LACK OF A MAJORITY VOTE - 3-3-0-1) (1-3504.5) - Discussion ensued between Mr. Sullivan and Mayor Masayko about the applicant's new information and the Board's policy to return any new information and the application to the Planning Commission. These comments encouraged the applicant to discuss the proposal with the neighbors. The Board's options were to hear the appeal or refer the item back to the Planning Commission. Discussion noted the difficulty for individuals to track items which are repeatedly returned to Commissions and number of times an item could be appealed. Comments indicated that only one referral back to the Commission is allowed by the Board's policy. Supervisor Tatro indicated that he had advised several of the individuals who were concerned about the matter that the Board would not hear the issue today and that they did not have to take the time off work to appear before the Board. Mayor Masayko indicated that he had made the same written representation to several individuals. If the Board wished to hear the issue, it is to be agendaized for the next Board meeting as an evening item.

(2-0151.5) Applicant Lisa Stokes indicated that she understood the procedure would only allow one referral back to the Commission and that all issues are to be presented to the Planning Commission. Appeals are based on the record of information provided to the Commission.

(2-0178.5) Gene Lepire felt that the applicant had already had an opportunity to present her case and that the issue should be resolved. He was willing to allow the issue to be returned one last time. Mayor Masayko agreed that the Board may "bend over backwards" to allow the citizens an opportunity to put the facts on the record. Anna Uptergrove briefly noted her employment and involvement with mentally ill programs and her interest in the application and process. She discussed the proposed group home with Mr. Sullivan. Ms. Uptergrove then explained the laws prohibiting discrimination and her feeling that this law could be applied against the neighbors who do not want the project. Mr. Sullivan briefly explained the statute and indicated the proposed use does not meet the criteria referenced in this statute. Additional comments were solicited but none given.

Supervisor Tatro moved that the Board refer back to the Planning Commission for further review U-97/98-11, which is an application from Lisa Stokes to allow a group care facility in a residential district on property zoned Single Family 12,000 located at 1600 Kings Canyon Road, Assessor's Parcel Number 9-012-06. Supervisor Plank seconded the motion. Motion carried 5-0.

B. ACTION REGARDING THE STATUS OF AND RECOMMENDATIONS PERTAINING TO THE HOME INVESTMENT PARTNERSHIP PROGRAM (HOME), PARTICULARLY THE CONSOLIDATED PLAN/ACTION PLAN AND THE PUBLIC PARTICIPATION PLAN, ADMINISTRATION OF REGIONAL PROGRAM AND OTHER MATTERS RELATED THERETO (2-0238.5) - Mr. Sullivan had requested a meeting of the members to discuss his recommendation that the City takeover the administrative functions or that another entity become the lead agency. Discussion indicated the preliminary HUD plan had been developed by City staff and forwarded. The public participation program will be implemented as soon as possible on the plan. This 30 day review period will be completed on December 14. A consortium meeting will be held on December 15 to discuss those comments, review the plan, and, hopefully, approve the plan. This final plan will then be submitted to HUD for final disposition. A verbal extension has been granted by HUD for this process, however, it terminates on December 10. Mr. Sullivan indicated he would request an extension to December 17 due to the publication deadlines. Supervisor Smith then explained his original feeling that the City would have little involvement with the program other than as a pass through of funds when it had accepted the role of lead agency; however, it has become more apparent from the seminars which have been conducted that being the lead agency is more complex than originally indicated. The current concerns regarding the delegation of responsibilities to another entity were outlined; therefore, staff recommended that the City takeover both functions. Political problems with this concept were described. Supervisor Smith had repeatedly offered to turn the role of lead agency over to another entity if one volunteered for it. He questioned whether the City would need additional staff to fulfill the duties required if the entire program is takeover and whether the ten percent reimbursement funding would be adequate to cover this staffing. His liability concerns if the City continued to serve as the lead agency without total control over the program were briefly described. He also indicated his concern about how to justify to Carson City's constituents the dedication of City staff to work on programs in other communities/counties. He supported the original consortium concept, however, expressed the desire to have another county serve as the lead agency. Until that occurs, he was willing to allow Carson City to continue acting as the lead agency and the dedication of staff to function in this capacity but only until another entity takes over. He did not believe that this could be accomplished prior to January 1. Supervisor Plank indicated that he is the Chairperson for the consortium. Carson City had committed to serve as the lead agency for two years ago. The original intent was to have Western Nevada Development District administer the program. The perils with this process had been indicated. The other entities were concerned about the contract term "control" which is the cause of concern with having Carson City takeover the administration of the funds. He also questioned the wisdom of having staff dedicate time to learn the program for less than the recovery period which he felt would take at least three years. This is the participation period required by HUD. He was willing, if the majority of the consortium so indicated, to relinquish being the lead agency to any other member. This proposal had been put forward to the members without anyone volunteering to serve as lead agency. Board direction on

how the City should respond was requested. Mr. Sullivan agreed that the process required a lot of staff's time and introduced Randy Kuckenmeister, who is an expert on federal grants. Based on the City experience with federal grants, Mr. Sullivan felt justified in offering to administer the entire program. Mr. Sullivan distributed a letter from Douglas County Manager Dan Holler to the Board supporting staff's recommendation. Discussion explained the requirement for the consortium to be contiguous counties or communities and that the contract mandates the communities/counties remain as members until 1999 or 2000. After HUD accepts the plan, they must remain for a minimum of three years. Mr. Berkich pointed out that the consortium was a new concept and the impact removal of any member would have on it was uncertain.

(2-0652.5) Mr. Kuckenmeister briefly noted the complexity of the audit requirements for federal funds, the impact of such an audit on Carson City, and its financial responsibility/liability/monitoring for the program. He noted that his firm could assist the City in complying with these requirements based on its experience with the other entities. His firm would be required to audit the grant as part of the City's external audit program. Mr. Kuckenmeister indicated he intended to attend the next consortium meeting.

Discussion ensued on the amount of participation required if an entity desired to withdraw. Supervisor Bennett commended Supervisors Smith and Plank, Mr. Berkich, and staff on their work investigating this program. The need for the program was noted. She urged them to persuade the other entities to stay in the program based on this need. All federal programs are currently being intensely scrutinized. Benefits of the program should be emphasized to encourage the other entities to remain. After the program is setup and operating for three years, it could be passed on to another entity. Supervisor Smith pointed out that the consortium would receive \$500,000 as compared to Carson City's ability to receive only \$160,000. The \$500,000 could only be allocated as voted upon by the members of the consortium. The City, as a member of the consortium, could not apply for the \$160,000 but could apply for the \$500,000. He also pointed out the benefits of regional concepts and cautioned the Board about the need to remember whom the elected official represents and their interests. He agreed that the program is needed by all of the members but questioned whether it would be good for the City to be responsible for all of the actions. He agreed that the City should strive to have what is best for both the community and the region, however, questioned whether this would be possible under this program. Supervisor Bennett responded by explaining briefly the reasons the Hospital was expanding into the surrounding communities. Housing improvements in the other entities would reduce the demand for housing and public sector services in Carson City. She encouraged Supervisor Smith to look beyond the balancing questions wherever possible. The regional concept is valid but must be done right. Mayor Masayko indicated the issues were: 1. Should Carson City be the lead and administrative arms of the consortium? If WNDD and the other members so desire, Carson City would do so as it would provide accountability for the program. Caution was expressed that the City could only take on so many programs with the current staffing level and questioned whether \$50,000 would be adequate to cover this staffing need. 2. If WNDD does not wish to work with Carson City as the lead agency, the City could remain as a member of the consortium but not function as the lead agency. This direction could be given to the City's representatives. Supervisor Smith explained WNDD's role and its Board of Directors' decision to delay any more work until the issue is resolved. Supervisor Plank then indicated that the third option, which he did not feel was acceptable, would be for the City to continue as the lead agency with someone else serving as the administrator. **Supervisor Plank then moved that the Board of Supervisors accept the recommendation of the Carson City Community Development Director to have City staff, Finance, Internal Auditor, and Community Development Departments, administer HOME investment partnership program, which is actually called the Western Nevada HOME Consortium by HUD, or the Western Nevada HOME Consortium/Carson City Consortium, and if this option is unacceptable to the Consortium membership, then Carson City will relinquish its role as lead agency and encourage another member of the Consortium to accept that position as lead agency. Mayor Masayko seconded the motion.** Discussion between Mayor Masayko and Supervisor Plank indicated that if none of the other members are willing to accept Option 1 and a volunteer does not step forward for Option 2, the Consortium is dead. Supervisor Tatro indicated that motion was as recommended by staff. Mr. Berkich then indicated that the \$50,000 administrative fee may be adequate, however, was not positive. The position could be contracted and cover the operational costs. The costs incurred to date would have to be absorbed. Mayor Masayko also indicated that if the City remains in the Consortium, there is no guarantee that it

would receive the \$160,000 from the Consortium next year. Supervisor Tatro agreed and noted that the City had been reduced last year from \$160,000 to \$100,000, therefore, this is not a fair comparison. Additional comments were solicited but none given. The motion as indicated was then voted and carried 4-1 with Supervisor Smith voting Naye. (Supervisor Tatro stepped from the room at 12:45 p.m. and returned at 12:48 p.m. A quorum was present the entire time.)

AGENDA MODIFICATION (2-1001.5) - Discussion indicated that a lunch recess would occur at 1 p.m.

10. PARKS AND RECREATION DIRECTOR - Steve Kastens

A. ACTION ON APPROVAL ON CONCEPTUAL PLAN FOR THE AQUATIC FACILITY STRUCTURAL ENCLOSURE AND NEW THERAPY POOL (2-1025.5) - Mr. Kastens' introduction include Clark Gribben. The concept had been reviewed and approved by several of the users. Supervisor Bennett encouraged Mr. Kastens to contact Ft. Lauderdale about its facility. Mr. Gribben briefly reviewed the conceptual plan. Discussion indicated the present pool accommodates water polo. Public comments were solicited but none given. Budget constraints and the funding source were noted. Supervisor Plank moved to approve the conceptual plan for the Aquatic Facility structural enclosure and new therapy pool as presented and recommended by the Parks and Recreation Commission; fiscal impact is an estimated cost of \$2,400,000, funding source is the Quality of Life Fund--Parks Capital. Supervisor Smith seconded the motion. Supervisor Tatro expressed his concern about approving a conceptual plan for a project with a \$1.9 million budget and a motion approving a \$2.4 million cost estimate. He could not support such a motion. Mayor Masayko indicated that there are several offsetting items which were briefly noted. The quality of life quarter cent sales tax ballot question had included specific items, such as the concept, and was approved by the electorate. Although he wished to appear fiscally responsible, he did not wish to tie the Commission's hands. The motion to approve the concept as indicated was voted and carried 4-1 with Supervisor Tatro voting Naye.

B. ACTION ON ALLOCATION OF 1997 RESIDENTIAL CONSTRUCTION TAX FUNDS (2-1325.5) - Discussion indicated the Community Center parking lot was not included on the list as the Commission felt that staff should use the CPI funds for this purpose. Public comments were solicited but none given. Supervisor Plank moved to approve the recommendation of the Parks and Recreation Commission on allocation of 1997 Residential Construction Tax Funds pursuant to the attached list; fiscal impact is \$349,000 of which \$53,865 is a contingency amount for possible future projects. Supervisor Bennett seconded the motion. Motion carried 4-1 with Supervisor Tatro voting Naye.

BREAK: A lunch recess was declared at 1:05 p.m. The entire Board was present when Mayor Masayko reconvened the session at 2:18 p.m., constituting a quorum.

11. DISTRICT ATTORNEY - Deputy District Attorney Paul Lipparelli

A. ACTION ON A CLAIM BY HOME FINANCIAL SERVICES FOR DAMAGES ALLEGED TO HAVE RESULTED FROM THE CITY'S ACTIONS ON PARCEL OF LAND KNOWN AS APN 9-151-50 LOCATED BETWEEN MOSES AND KOONTZ LANE (2-1429.5) - Applicant's Attorney Richard Sears - Discussion between the Board and Mr. Lipparelli indicated the City has half of the width necessary for extending Koontz Lane to the west. This easement lies totally on the south side of Koontz on Borda property. Purportedly this was the reason the City had encouraged Mr. Best to obtain an easement between Parcels C and D-1. Written documents supporting the process were referenced. The improvements on Parcels C and D-1 did not encroach into the proposed easement, however, the landscaping for the parcels is in it and if the road is constructed the entire landscaped area will be eliminated. Discussion indicated the deed for dedication of the Correllis property for the Koontz Lane extension had never been officially accepted by the City. The City's position is that the access easement between Parcels C and D-1 exists. If it is used it would be restricted as if it was a driveway access and could not be used by the general public due to safety concerns. It may also be limited to a right-in, right-out turning movement. Moses Street is owned by the Washoe Tribe. Mr. Lipparelli was not sure whether Moses

could be extended nor who maintains it.

(2-1749.5) Mr. Sears explained that he was seeking relief from the City as a result of court direction in the lawsuit against the Correllis and Farcellos. He then used a map to explain the original plans for Mr. Best's site, its original access route, and the hillside slope. The adjacent property owners did not like the access Mr. Best had constructed and negotiations occurred which established an alternate route. The City accepted this proposal. Deeds were purportedly exchanged in 1995. In 1996 excavation began on Correlli's lot within the alleged easement. Ultimately he expanded his original building until it abutted the easement. The City purportedly granted him a variance to construct the building at the easement line. This eliminated Mr. Best's ability to construct an access to his property. The City then returned the deed for the easement. As Mr. Best cannot provide two accesses to his property, it is no longer possible for him to develop it. It could only be used as open space. As the City had participated throughout the construction on the Correllis and Farcellos properties, it was well aware of the impact on Mr. Best's parcel. Multiple meetings had been held between the City and the three property owners during the construction phase. This is the reason for the lawsuit. Mr. Sears then explained his reasons for feeling that it would be impossible for Mr. Best to construct the roadway within the easement.

(2-1989.5) Statutes mandating the Board consider the issue before court relief could be sought were explained. Mr. Lipparelli also explained that the information he had been given indicates that there are no permanent structures on either side of the easement corridor which would have required a permit from the City. Also, there were no permanent structures on either side of the easement corridor which would prohibit or restrict Mr. Best's ability to access his parcel. It is possible for the easement to be impaired by structures which do not require permits from the City. These structures could not have been prohibited. If this has occurred, the legal remedy is to sue the neighbor who has infringed upon the individual's property rights. This is what had occurred and the court will ultimately resolve the issue. Mayor Masayko indicated that the record indicates that actions by the City make it a party to the suit. The process is merely a perfunctory matter. Supervisor Smith moved that the Board of Supervisors deny the claim by Home Financial services for damages alleged to have resulted from the City's actions on a parcel of land known as Assessor's Parcel Number 9-151-50 located between Moses and Koontz Lane. Supervisor Tatro seconded the motion. Motion carried 4-1 with Supervisor Bennett voting Naye.

B. ORDINANCES - SECOND READING

i. ACTION ON BILL NO. 163 - AN ORDINANCE AMENDING CCMC 7.13.230 (MISKEEPING OF A VICIOUS OR DANGEROUS ANIMAL) BY DELETING A REFERENCE TO AN ORDINANCE THAT DOES NOT EXIST, AND ADDING A REFERENCE TO AN EXISTING ORDINANCE (2-208.5) - Supervisor Tatro moved to adopt on second reading Bill No. 163, Ordinance No. 1997-65, AN ORDINANCE AMENDING CCMC 7.13.230 (MISKEEPING OF A VICIOUS OR DANGEROUS ANIMAL) BY DELETING A REFERENCE TO AN ORDINANCE THAT DOES NOT EXIST, AND ADDING A REFERENCE TO AN EXISTING ORDINANCE and adding a reference to an existing ordinance. Mayor Masayko seconded the motion. Motion carried 5-0.

ii. ACTION ON BILL NO. 364 - AN ORDINANCE AMENDING CHAPTER 2.34 (CODE OF ETHICS FOR ELECTED AND APPOINTED OFFICIALS) AMENDING THE DEFINITION OF CANDIDATE TO INCLUDE PERSONS WHO RECEIVE MORE THAN \$100.00 IN CONTRIBUTIONS AND TO INCLUDE PERSONS WHOSE NAMES APPEAR ON THE BALLOT; DELETING SECTION 2.34.060 (CAMPAIGN CONTRIBUTIONS--REPORT REQUIRED) AND OTHER MATTERS PROPERLY RELATED THERETO (2-2129.5) - Supervisor Tatro moved to adopt on second reading Bill No. 164, Ordinance No. 1997-66, AN ORDINANCE AMENDING CHAPTER 2.34 (CODE OF ETHICS FOR ELECTED AND APPOINTED OFFICIALS) AMENDING THE DEFINITION OF CANDIDATE TO INCLUDE PERSONS WHO RECEIVE MORE THAN \$100.00 IN CONTRIBUTIONS AND TO INCLUDE PERSONS WHOSE NAMES APPEAR ON THE BALLOT; DELETING SECTION 2.34.060 (CAMPAIGN CONTRIBUTIONS--REPORT REQUIRED) AND OTHER MATTERS PROPERLY RELATED THERETO.

Supervisor Smith seconded the motion. Motion carried 5-0.

12. CITY MANAGER - John Berkich

A. DISCUSSION AND POSSIBLE ACTION ON THE ELIMINATION OF THE CARSON CITY TELEVISION COMMISSION (2-2185.5) - Deputy District Attorney Paul Lipparelli, Administrative Assistant to the City Manager Liz Teixeira, Commission Chairperson Howard Toole, Commissioners Gene Quarterson and Pete Bachstadt - Mr. Lipparelli indicated that the Commission had not been agendized for a meeting. A quorum was present. He recommended that the Board proceed with the presentation. Anyone wishing to speak should be allowed to do so. There would not be a meeting of the Television Commission. No action would be taken nor deliberation by the Commission occur on any matters which the Commission should hear. Any member of the Commission wishing to do so could participate in the Board's meeting as an individual. The Commission should refrain from discussing any item over which the Commission has authority among themselves without posting an agenda. The Commissioners nodded that they understood Mr. Lipparelli's advice.

Ms. Teixeira's introduction included a brief explanation of information which she had distributed prior to the meeting. (A copy was given to the Clerk.)

(2-2314.5) Chairperson Toole described the Commission's changing role and activities since its inception. He suggested the Commission be allowed to provide input on the CATF contract, become actively involved with the Legislature and push for legislation allowing for competition with TCI as well as control/regulation over satellite firms, and the establishment of an off-air public access television program for those who do not have cable television. He felt that it would not be necessary for the Commission to meet weekly or monthly. He urged the Board to continue the Commission. He also suggested the Commission review TCI rates and for the Commission to act as a liaison between the Board, the television stations, and the public.

(2-2432.5) Commissioner Quarterson reviewed the history of the Commission. He, too, felt that the Commission could be of benefit to the Board such as in the handling of complaints. He urged the Board to expand the Commission's role as described in the ordinance. He also suggested that the State, perhaps through its Public Service Commission, expand its role over the control of public television and create a funding mechanism for review of the Federal regulations. This would provide an advisory source for small communities. The Commissioners should not be required to devote full-time to the program. He urged the Board to consider funding for an off-air television station for those individuals who do not subscribe to cable television so that they could receive governmental programs. He then explained Code restrictions prohibiting installation of satellite dishes and eliminating competition with cable television. This could be considered as discrimination against the nonsubscribers. The lack of control over TCI's rates were also noted. He questioned whether the rate increase was justifiable. He urged the Board to require TCI to have its representatives make a presentation justifying the increases.

(2-2595.5) Commissioner Bachstadt explained his reasons for becoming involved with the Commission. He emphasized the need for television and noted the changing public utility role in television, telephone, fiber optics, etc. At some time in the future a public regulatory body will be required to oversee this operation. His efforts to get the State to provide this function were noted. He urged the Board to expand the Commission's role to allow it to address these other issues. He noted that a Deputy District Attorney no longer attends the meetings. He volunteered to remain on the Commission so long as he could provide a service.

Supervisor Bennett then expressed her disenchantment with the Commission and its inability to obtain through the Executive Director good public access television program reception. Her experience with the transmission of a Committee meeting from the Sierra Room was explained. This problem occurs repeatedly. She felt that someone should be held accountable for this situation. Ms. Teixeira explained that the Commission does not oversee nor control CATF beyond periodic reporting. None of CATF's representatives were present at this time. The City contracts with CATF for the public access television programming. Supervisor Bennett felt that this is the

problem--the failure to have someone who holds CATF accountable--which is shortchanging the community. She respected the work that the Commission had done but urged the Commission to return to its basic operational functions.

Chairperson Tooley responded by explaining that the Commission had not had any control over CATF for two years. He planned to write to CATF's Board to request corrective action be taken. Purportedly, CATF had had new trainees who did not perform their jobs correctly. This problem illustrates a lack of supervision. Every effort possible will be made to obtain a correction to the situation. He had also attempted to watch the program which had encountered the problem.

Supervisor Smith felt that Board action to maintain the Commission's current list of duties would be the demise of the Commission. The testimony provided by the Commission indicates there are other related duties it could perform and recommended expanding the duties. He was not prepared at this time to provide a list of additional duties. He suggested that the Commission be allowed to hold some workshops and return with recommendations on what the Commission should do. The Board could then expand the duties in accordance with its recommendations.

(2-2870.5) Commissioner Bachstadt then explained that CATF uses a lot of volunteers in putting on its programs. Volunteers cannot always be depended upon to be available. The Commission is a volunteer group with minimal costs. The Commission was willing to continue serving if there is a need. The Commission needed an opportunity to determine whether the need was there. The field is changing and this change should be recognized. The City has more control over CATF than the Commission which meets monthly. The problem described by Supervisor Bennett had occurred within the last 24 hours. He then expressed his feeling that CATF's problem could be due to the lack of adequate funding. Although he is an advocate for matching funds, he did not feel that CATF could make a matching funds type of program work. He then explained that he does not have cable television at his home and had only watched the programs on a limited basis at someone else's home.

Supervisor Bennett explained her concern that the Commission, and specifically Chairperson Tooley, had been aware of the problem and merely switched to another channel. She felt that as a Commissioner, he should have called someone. She merely wanted someone to take on this responsibility.

Supervisor Plank felt that the Commission's mission statement allowed it to establish new goals for the Board to consider. He also felt that it would allow the Commission to come up with a mechanism for providing a PEG channel for non-cable viewers. A funding mechanism would have to be found for this service. Discussion indicated that CATF is given capital funding by TCI. He commended the Commission on its service to the community as he felt the City was ahead of other community access providers.

Mayor Masayko encouraged the Commission to hold a strategic planning workshop on October 8 and return to the Board with a recommendation to either expand the services or eliminate the function. He also pointed out that the Board did not have a lot of control over cable television. Control is being eroded by continual deregulation of utilities. Community access in Carson City is the Board's mission. TCI, its rates and regulation should be left to other regulatory agencies outside of Carson City. The Commission should recommend to the Board any changes in its mission statement and indicate what tools are necessary to assist with implementation of those programs. His comments emphasized his feeling that the Commission had made community access television happen. He acknowledged the fact that CATF is a volunteer organization with few paid staff members. Mistakes and problems occur. One time is a mistake. More than that is incompetency. This can be handled through Mr. Berkich or the purse strings. CATF's board and its executive director do respond to calls from the Board of Supervisors and the City Manager's office. He reiterated his recommendation that the Commission analyze its goals and objectives and return with recommendations. Discussion ensued concerning the amount of time the Commission felt it would take to complete the workshop process. Supervisor Tatro moved to table the item indefinitely. Supervisor Smith seconded the motion. Mayor Masayko expressed his desire to have tabled the item for 60 days. Motion carried 5-0.

BREAK: An eight minute recess was declared at 3:38 p.m. The entire Board was present when Mayor Masayko reconvened the session at 3:46 p.m., constituting a quorum.

B. ACTION TO VACATE THE RIGHT TO LEASE CERTAIN PARTS OF THE CARSON CITY FAIRGROUNDS GRANTED TO BAR-ONE ENTERPRISES DECLARED BY THE BOARD OF SUPERVISORS IN RESOLUTION 1995-R-61 FOR BAR-ONE'S FAILURE TO SECURE FUNDING AND SUBSEQUENTLY PRESENT A NEGOTIATED LEASE AGREEMENT AND OTHER MATTERS PROPERLY RELATED THERETO (2-3238.5) - A draft agreement, provided by Ms. Barone, had been included in the packet. Staff had not had an opportunity to analyze it. Mr. Berkich distributed a memo to the Board and Clerk and reviewed same. (A copy is included in the file.) Staff felt that Mr. Bhuie's offer was only a letter of interest and not a firm commitment; therefore, a financial commitment had not been made. Reasons for recommending that the Board require a \$100,000 non-revocable deposit by December 6th and that the final lease agreement be developed by February 6th were explained. Ms. Barone's attorney George Keele had submitted a second letter of interest yesterday. Staff had not had an opportunity to review this package, however, it, too, appeared to be a letter of interest and not a firm financing commitment. Mr. Berkich then introduced Carrie Barone, her attorney George Keele, and Kevin Mirch.

Mr. Keele explained Mr. Mirch's role in the project and background. Bar-One's opposition to the deposit requirement was voiced and is based on the feeling that it would only take a short period of time to complete the agreement. Mr. Keele had purportedly provided Mr. Berkich with a copy of Red Creek Inc.'s financial statement. This firm is the "backup" lender. His comments indicated that the original lender, Mr. Bhuie, was not considered favorably by "certain circles". Mr. Harry Patten, Board Chairperson for Red Creek Inc., had been present earlier in the meeting, however, had to leave due to other commitments. Mr. Keele's personal investigation of Red Creek Inc. and Mr. Patten indicates they could meet the reasonable conditions of the Barone agreement. He agreed that, if the City and Barone are unsuccessful in negotiations for the final agreement, that the commitment would be revoked. (3-0001.5) At this time he felt certain that a final agreement could be consummated. He then explained the negotiation efforts which had occurred on the final agreement as well as the Barones' financial commitment toward completion of the agreement and project. His comments include a brief description of the type of facilities which the Barones were proposing and that the revenue projections were conservative.

(3-0062.5) Mr. Mirch briefly described his role in the financing of the project. His opposition to the non-refundable deposit requirement and, specifically, the amount of that deposit was explained. Financial commitments are not made until a "signed lease" can be displayed. Mr. Keele indicated that there are "confidentiality agreements" in place which is the reason for feeling that the final product would be in the \$120 million range. Mr. Mirch continued to explain various contract terms which the City should include in the final agreement for its protection. Until such a document is consummated, the financial package cannot be finalized. He did not feel that the process could be completed in less than 120 days. He suggested that the \$100,000 deposit could be a "breach of the bid", specifically, if it hurts the Barones' ability to obtain financing. He urged the Board to waive this requirement.

(3-0229.5) Mr. Keele then explained the request to modify the motion to grant a time extension to allow staff and the Barones to finalize the agreement. At that time another extension could be requested or the recommendation will be that the right to lease be vacated. He thanked the Board for its faith in their efforts to finalize the agreement and urged the Board to accept Mr. Mirch's comments. He did not feel that the Barones could at this time deposit the requested \$100,000. He could understand the reasons for requiring the deposit if a third party was waiting in the wings to take over the lease. He then explained the reasons for being offending by the State Fair Board's proposal to relocate to Fuji Park without approaching the Barones first. He reiterated his request for a 90 day extension for development of an agreement. A deposit could then be required. A financial commitment should be completed by March 1 and construction should occur shortly thereafter.

Mr. Lipparelli indicated that Mr. Keele's integrity was not in question. He, however, felt it necessary to respond to Mr. Mirch's comments indicating that the City was the cause for the Barones' inability to obtain financing. At the

most City staff may have had only six or seven days in which to review the 35+ page agreement. Even if the staff had been able to complete the review, he questioned whether it would have been able to have agendized the agreement so that the Board could have acted on it. He questioned the reasons for the delay in producing the agreement. It had been two years since the resolution of intent had been approved. He felt that the good faith deposit should be required. Staff is ready and willing to complete the transaction within the amount of time specified by the Board. He agreed that the resolution of intent had not contemplated a deposit, however, he was certain that none of the participants felt that it would take two years to complete the lease. He felt that the Board had the authority to impose such a deposit requirement.

Supervisor Smith explained the Board's direction to have a funding commitment for consideration at this meeting. A letter of interest had been received by the Board and a second has been indicated. He did not feel that the creditability of Mr. Keele or the Barones was in question. He did not feel that the Board had received what it had requested. He could not believe the attack that a great deal of information had been provided and the City was negligent in its duty. He was still excited about the project. Time is on the City's side. He needed a reason to move forward, either from a good faith or credibility effort, which would support the dedication of staff time required to complete the agreement. He felt that the Barones had failed to meet the deadline which was set several months earlier. He was willing to reduce the deposit from \$100,000 to \$25,000 if it is a problem. Reasons for needing justification for changing staff's priorities were reiterated.

Mr. Berkich clarified for the record that staff had received the lease agreement at the close of business on October 24. Staff did not have an adequate amount of time to review that agreement prior to the Board meeting. Without the funding commitment, staff did not feel that a deeper review of the terms should be made. Board Minutes for July 3 meeting supported this decision.

Supervisor Bennett acknowledged Ms. Barone's commitment to her dream and explained Supervisor Bennett's own personal experience and failure with such a dream. She felt that her deja vu experience paralleled Ms. Barone's. She indicated that her advice to Ms. Barone would be hard for Ms. Barone to accept. Although Supervisor Bennett felt that the project was "wonderful", it was "a lot of blue sky which could not be sold". She respected all that Ms. Barone had attempted to do. She was certain that Ms. Barone believed in the project, however, it has been a 2-1/2 year hunt. It is time for closure. Supervisor Bennett was not willing to proceed any further as would be reflected by her vote on the issue. She hoped that when Ms. Barone has secured funding in the future she would return. She was willing to leave the door open and revisit the project when that happens.

Supervisor Tatro indicated that he had not been present during the July discussion, however, had been here in 1995 when the decision was made to lease the facility. He could not find any costs involved with the City's continuing to negotiate the lease nor could he discover any losses which were occurring against the City if the present situation continues. He questioned where the "fire is" that is forcing a quick decision on this item. The facility is the same as it was in July and will be in February and June. People are not lining up expressing an interest in taking over the operation. The City does not have either short or long-term plans for the facility. He did not understand the need for the current program to be halted. Comments today indicate that negotiations are close and the Board's action or inaction would determine whether the negotiations can be finalized. If a lease is in place, it will serve as a catalyst for completion of the project. If such a lease is in place, it will include terms specifying penalties for failure to meet set goals by specified dates. He agreed that staff would have to spend a lot of time reviewing the lease agreement, however, the risk of doing the project is very small. He again questioned the need to act today.

Supervisor Plank supported Mr. Keele's comments. He, too, felt that the only loss to the City was staff time. He questioned the loss beyond staff time if an extension is given today. Nothing would happen at Fuji Park during the winter. He had indicated during the July meeting that he would support granting an extension in November if "things looked close". He was still willing to grant that extension. He suggested that the deposit be \$10 or \$20,000 which would be refundable if the deal is completed by a specified date. The agreement should include language which would require compensation of staff's time as well as refunding the deposit if a negotiated agreement is consummated but not refunded if the agreement is not finalized.

(3-0675.5) Supervisor Smith reiterated his comments regarding having time on the City's side and the lack of activity which will occur during the wintertime at Fuji Park. He felt compelled to bring up the issue related to the Nevada State Fair based on the lack of cooperation expressed when its proposal was presented. He indicated he would have been willing to extend the period for some time had there been cooperation. He understood Ms. Barone's need to protect her investment due to the amount of time and money which had been committed. Although he, if he had been Ms. Barone, may have been upset about the lack of communication from the State Fair Board on the proposal, he would have handled it a little differently. There is another partner out there now and the longer it takes to finalize this issue, the greater the impact on that partner. In 1995 he had felt that there should have been a deadline on the project. At the very least a deadline should have been set in July. While he was willing to extend the process another three months, it should be clearly understood that it would be based on more than a promise that action would occur. He urged either Mr. Keele or Ms. Barone to provide an indication of what that "good faith" item should be. He had "heard all the blue sky he was willing to listen to" related to this project. The original motion had very clearly indicated that a funding commitment was required by today's date or the agreement would be vacated. He indicated he was aware of Ms. Barone's hard work on the project.

Mayor Masayko supported his comments. The deal should be conducted in a business-like fashion. It had been a "hand shake agreement". Today is the date where a good faith commitment should be made. Promises and "blue sky" are no longer acceptable. He urged Ms. Barone or Mr. Keele to make an offer. He explained that the City could only consider one offer at a time and until this "deal" is closed, another offer could not be considered. He had had inquiries from others about Fuji Park. He was unsure whether these inquiries were real as the City could only deal with one at a time. He felt that Ms. Barone was close on the funding, however, a good faith commitment was necessary.

Mr. Mirch expressed a willingness to pay for City staff's time to review the agreement up to a reasonable amount. He indicated that Ms. Barone was willing to pay \$10,000 at \$25 a hour for staff time by December 5. The lease is the key to obtaining financing. He reiterated his comments that requiring the financing commitment before signing the lease is "putting the cart before the horse". Mayor Masayko indicated a willingness to have the Board consider the \$10,000 offer although he wished for a higher amount. Mr. Mirch also indicated that he had seen dreams and people destroyed by actions such as that experienced by Supervisor Bennett. This is normal for commitments received from financiers who are outside the United States. He then briefly described Red Creek's financial background. He requested an opportunity to complete these negotiations and indicated a willingness to pay for staff's time to review the lease. The project would be beneficial to the City.

Supervisor Tatro moved that the Board declare April 1st, 1998, the date upon which the Board of Supervisors will vacate the right to lease certain parts of the Carson City Fairgrounds granted to Barone Enterprises declared by the Board of Supervisors in Resolution No. 1995-R-61 in the event of Bar-One's failure to secure funding and subsequently present a negotiated lease agreement and other matters properly related thereto with the addition that \$10,000 be provided by Bar-One Enterprises to the City by December 5, 1997, and that, in the event that the City vacates the right to lease the Carson Fairgrounds, that any portion of the \$10,000 will be refunded which was not utilized to reimburse the City for staff costs for reviewing the lease document, and if a lease is successfully negotiated, the \$10,000 will be reimbursed 100 percent, and that the staff costs will be calculated at the actual cost of retaining Mr. Lipparelli and anyone else working on the project. Supervisor Plank seconded the motion. Supervisor Tatro then explained that the motion set the deadline as April 1 and not a 90 or 120 extension. The deadline is 135 days even though the discussion had been for 120 days. This will eliminate this issue in the future. He was not aware of any potential changes between March and April 1. Therefore, he figured to go a little bit beyond that. Regarding the \$10,000, if the City does not come up with a lease at the end of that period, the City's costs for reviewing the lease, our staff time, will be reimbursed out of the \$10,000 at the rate incurred by having staff work on the contract up until the total amount is expended. Staff time is to include Mr. Lipparelli and Mr. Berkich as well as anyone else who works with them. If a lease is developed and finalized, the \$10,000 will be returned. Whatever the terms of the lease are, is what the City will get out of it. This is the intent of his motion.

Mayor Masayko requested the record clearly indicate that it was represented by both Mr. Keele and Mr. Mirch that the lease will contain the security and the evidence of funding. At the time the lease agreement is signed, he suggested that if the City needed an escrow account or a letter of credit for ten/five percent which will run through the project and be released at the termination of the project, which would be the date when the final bill is paid, whatever this negotiated amount is, on the date of the lease, the lease and the financial arrangement must come together on the same date. This is the only way which he could support the motion.

Supervisor Tatro amended his motion to include the following language: "that any lease which is negotiated must contain language setting specific dates for performance and financial commitments". Mayor Masayko indicated that this means that a specified amount must be applied to an escrow account. If there is no escrow account by that date, then its over. Supervisor Tatro indicated this is the meaning of his amendment. **Supervisor Plank concurred.** Mr. Lipparelli read from the draft lease a paragraph indicating "Bar-One shall have until not later than the 31st day of December 1998 to negotiate and execute all appropriate agreements with developers, contractors, and other entities necessary to obtain binding obligations for the financing and construction of the event center which shall be substantially completed no later than the 30th day of June of the year 2000". Mayor Masayko and Supervisor Tatro indicated that this clause had been stricken. Messrs. Keele and Mirch indicated they understood. Mayor Masayko indicated that the draft agreement did not include the financial documents which discussion had put on the record. Mr. Mirch indicated that the City needed to have an escrow account with verification of the funds desired on a given date and that the verification of funds which would satisfy Supervisor Bennett's comments would be in the form of irrevocable letters of credit or actual cash which would have to be in U.S. funds. If these terms are not included in the agreement, he wanted to be notified as it would not be fair to the City. The City needs this for a commitment--real money on a real day with a real lease so that everyone can operate and everyone knows what he/she is doing. He did not like the word commitment as it takes away from the real money--real funds intent as a commitment can be a promise. The commitment which had been made today by Ms. Barone and Bar-One is that they would place into the agreement real money and real funds for the project irreparable on a certain date which staff will have to negotiate. Mayor Masayko felt that this was the intent. Supervisor Tatro indicated that what Mr. Mirch had described was what he had intended to have included in his motion which was the reason for the delay in using the word commitment. Commitment was not the correct word but it was as good a word as he could do at that time. Mr. Mirch indicated that Supervisor Bennett's concern was based on her experience which illustrates that a commitment from a company from outside the United States is worth nothing. Therefore, the term commitment should be defined under the terms of the agreement as being actual cash funds or irrevocable drawn upon funds in an account on a set date, which has yet to be determined. This is reasonable under the financial circumstances. The proposed date is more than reasonable as it is 130 or 135 days away. If this could not be done, then that was fine. Mayor Masayko indicated that this is reasonable, is the terms of the contract, and is in essence what the Board wishes to see. Failure to reach an agreement at that time means that we should either agree to extend it or walkaway. Mr. Mirch then suggested that an escrow account be established immediately to include instructions for the period under which the lease is being negotiated. The escrow company would immediately begin to work with the financier. This will provide for 135 days of parallel lines of people working on the transaction so that at the end the escrow officer will indicate that he is holding in his account the lease and is waiting for signatures from the Board and that "Chase Manhattan" has put \$1 trillion into the account so that the railroad and other projects can be acquired. Supervisor Smith then expressed concern with the terms and questioned how the April date had been established. He felt he could live with either the April 1st date or the date of the Board's first meeting in April. He also questioned how the \$10,000 non-revocable deposit had been determined and when the City should receive this deposit. Supervisor Tatro indicated the City should receive the deposit on December 5 and explained his reason for including this in the motion. Supervisor Smith indicated that the City is to receive the deposit by 5 p.m. on December 5 in an acceptable form. He questioned whether there would be a problem with the term "acceptable form". Supervisor Tatro indicated this is "cash money". Supervisor Smith continued his understanding of the motion as being that the City would set on the \$10,000 while the lease negotiations proceed. If there is a lease agreement successfully negotiated between staff and the Barones, it will come back to the Board for approval. He then questioned what would happen with the money. Supervisor Tatro indicated that motion include two ways for handling distribution of the money--with a successful lease, the money will be returned; without a successful lease--the City will retain whatever portion can

be attributed to the City costs for the review of the lease document--this will be the City's insurance policy. Supervisor Plank continued his second.

Mr. Berkich requested clarification and pointed out that it could be possible that on April 1 the financial party may still not be known. This would mean that the Board will be asked to approve a lease which has a financial performance plan in it without knowing where the money will be coming from. Mayor Masayko indicated that he would not approve such an agreement. Mr. Mirch indicated that he understood this.

Following discussion of the April 1st date, **Supervisor Tatro amended his motion to make the date April 2.** Discussion had indicated that April 2 is a Board meeting date. **Supervisor Plank concurred.**

Clarification for Mr. Berkich indicated that only if the financial entity is known would some of the Board members approve the lease. Mayor Masayko indicated that Mr. Mirch had stated that there would be an escrow account which must be funded by that time in the amount provided within the lease in order for the lease to be signed. This is the same as an escrow account for a house. It will not close without the money. Mr. Berkich indicated that the money would be placed in the account on the same date that the lease is approved. Mr. Mirch responded that the lease term will say what date the funds should be in the account. That date may be before April 2. He was unsure of the date which would be negotiated. The money must be in the account to show that it is a real deal. Mr. Berkich explained to Mr. Mirch that the Board/staff could not accept the funds without the Board's approval. Mr. Mirch felt that a provision of the contract could be included indicating that the contract is subject to the Board's approval. This is similar to gaming contracts, which he explained, and the acquisition of a house. The closing date occurs after the money is in the account, however, funding would not be placed in the account until the offer and acceptance have occurred. The offer and acceptance include specific conditions including a closure date, which could be April 2 or subject to the Board's approval. These are normal conditions and simple to handle. He urged the staff to contact him and he would assist in placing them within the contract. Supervisor Tatro expressed his feeling that it would be unrealistic to believe that the funding would be provided on the date of approval by the Board. He did not feel that anyone would write a check on the belief that the Board may approve it. He felt that the Board would have to approve the agreement and the money would have to be placed into the account on a specified date. That date will be close to the date on which the Board considers the agreement. It may not be the same date as the Board's meeting date. Mayor Masayko felt that if the letter of credit or the money is ready to go into the account, then the agreement will happen. Mr. Mirch felt that if the contract is negotiated fairly, there will be money or a letter of credit in the escrow account. If the approval does not occur, then the escrow instructions will order reimbursement to the financier.

Discussion between Supervisor Smith and Mr. Lipparelli indicated that the Board could include in the motion a requirement that the \$10,000 in non-revocable funds be placed in an escrow account prior to 5 p.m. on December 5th. Instructions to the escrow company would specify that the City will be paid "X" amount of dollars upon presentation of the appropriate invoices showing that staff time has been spent or, if a deal is done, to refund the money to the developer or apply it to the costs. Supervisor Smith then indicated that he would vote for the motion if there are assurances to him that if at 5 p.m. on December 5 the \$10,000 has not been deposited in the fund in some form, that there would not be any further discussion "in his lifetime" on the matter. Mr. Mirch indicated that if they could not pay the \$10,000 by that date, he should/would not be here. Mayor Masayko expressed his feeling that, although it did not have to be within the motion, that if this does not occur then Mr. Mirch's client should withdraw. Mr. Mirch stated that, quite frankly, he could not understand the need for the escrow account for \$10,000 as he did not feel that the City would "steal the money". The City would put the money wherever it is supposed to and will keep track of it. The City's lawyers will help determine this tracking if necessary. Supervisor Tatro noted that the City had already spent \$10,000 on lawyers today and requested a vote on the motion.

Mayor Masayko indicated that the Board understood the motion which had been amended which modified the staff report recommendation and continues the negotiations until April 2 with a target date of December 5 for advanced funds. He felt that the Board realized that there would be a contract available on April 2 and the funding as specified within the contract in place. If this does not happen then, the issue is over. The motion was then voted

by roll call with the following result: Supervisor Tatro - Yes; Plank - Yes; Smith - Yes; Bennett - No; and Mayor Masayko - Reluctantly Yes. Motion carried 4-1. Supervisor Bennett expressed the hope that she could apologize to Ms. Barone in April.

(3-1185.5) Maxine Nietz chastised Mayor Masayko for forgetting to request public comments. Mayor Masayko apologized for his oversight and indicated a willingness to consider her comments and request reconsideration by the Board. Ms. Nietz then acknowledged the effort made by the Barones on the project and expressed her feeling that the Board had made a commitment to the citizens when it established a deadline. To extend the deadline questions the Board's meaning of any deadline in the future. She, personally, opposed giving a private party control over public park land for the private party's development and profit. The public park land is for the benefit of the City's citizens. Mayor Masayko again apologized for the oversight. Additional public comments were solicited but none made. He then asked if any Board member wished to make a motion to reconsider the previous motion. A motion to reconsider was not made.

C. ACTION TO ACCEPT THE PERFORMANCE PLAN FOR THE CITY MANAGER (3-1228.5) - Mr. Berkich indicated a desire to update the plan and requested its continuance to a future meeting.

There being no other matters for consideration, Supervisor Plank moved to adjourn. Supervisor Tatro seconded the motion. Motion carried 5-0. Mayor Masayko adjourned the meeting at 5:15 p.m.

The Minutes of the November 6, 1997, Carson City Board of Supervisors meeting

1998. ARE SO APPROVED ON _____February_19_____,

_____/s/_____

Ray Masayko, Mayor

ATTEST:

_____/s/_____
Alan Glover, Clerk-Recorder