

CARSON CITY CHARTER REVIEW COMMITTEE

Minutes of the June 29, 2010 Meeting

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A regular meeting of the Carson City Charter Review Committee was scheduled for 5:30 p.m. on Tuesday, June 29, 2010 in the City Hall Capitol Conference Room, 201 North Carson Street, Carson City, Nevada.

PRESENT: Chairperson Donna DePauw
Vice Chairperson Ernie Adler
Member Ron Allen
Member Stephen Lincoln
Member Gail Parsons
Member Bruce Robertson

STAFF: Larry Werner, City Manager
Kristin Luis, Senior Deputy District Attorney
Janet Busse, City Manager's Office Supervisor
Deborah Gottschalk, Recording Secretary
Transcribed by: Recording Secretary Kathleen King

NOTE: A recording of these proceedings, the committee's agenda materials, and any written comments or documentation provided to the recording secretary 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 - 2. CALL TO ORDER AND ROLL CALL (1-0008) - Chairperson DePauw called the meeting to order at 5:30 p.m. Roll was called; a quorum was present. Member MacKenzie was absent.

3. ACTION ON APPROVAL OF MINUTES - May 25, 2010 (1-0018) - Member Lincoln moved to approve the minutes, as presented. Member Allen seconded the motion. Motion carried 6-0.

4. ADOPTION OF AGENDA (1-0027) - Chairperson DePauw entertained requests to modify the agenda and, when none were forthcoming, deemed it adopted.

5. PUBLIC COMMENTS AND DISCUSSION (1-0038) - None.

6. AGENDA ITEMS:

6-A. DISCUSSION AND POSSIBLE ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS AN AMENDMENT TO THE CHARTER REGARDING LANGUAGE THAT WOULD PROTECT ESCROWS FROM ENCUMBRANCES (1-0056) - Chairperson DePauw introduced this item, and provided an overview of the agenda materials. Mr. Werner provided background information and reviewed the agenda report, noting staff's recommendation not to recommend a Charter amendment. Chairperson DePauw provided additional background information, noting a request by former Chief Deputy District Attorney Melanie Bruketta for examples of similar provisions from other charter cities.

(1-0095) Sierra Nevada Association of Realtors Government Affairs Director Sara Ellis advised of having been requested "on repeated occasions by Carson City leadership to come up with proactive strategies to assist the real estate community ..." She described the proposed amendment as an opportunity, through the Charter, for Carson City to make a declarative, proactive statement that "it is not the interest of Carson City

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to engage ... in interfering with escrows in any way." She clarified the purpose of the proposed amendment is not to eliminate the City's ability to "lien or collect back taxes." In reference to the June 15, 2010 letter included in the agenda materials, she discussed concerns relative to "regulations ... that have been put forth by the Nevada Legislature that would have been an example of an interference in the escrow process."

Ms. Ellis advised of having reviewed all Nevada city charters "to look [for] ... other examples of prohibitions of any kind." She described the proposed amendment as "prohibitive language," and advised that the only other prohibitive language is found in Section 2.272. She advised of having been unable to find any example in any other charter. She suggested that Carson City could be the first chartered city to "make this kind of declaration" about escrow encumbrances. She reiterated the opportunity for a proactive solution in that Carson City will not "be engaged in this regulatory process when it comes to escrows, except for taxes and liens." She emphasized no intent to interfere with any existing authority.

Mr. Werner reiterated the request for examples of escrow encumbrances, and expressed concern that the proposed amendment would "try to prevent something that isn't occurring." Member Lincoln noted the freedoms and liberties associated with private property rights, and expressed concern over not being able to "exercise those because of something that's in the way." Discussion ensued, and Ms. Ellis read into the record the language of Section 2.272, Franchises for the provision of telecommunication service, as an example of prohibitive language. Mr. Werner advised that the section was required to be included by state law, and responded to questions of clarification.

Ms. Ellis reiterated the request by City supervisors for the Sierra Nevada Association of Realtors to present solutions, and advised of having considered the proposed amendment as "an opportunity for a solution." She suggested that Charter Section 2.272 represents precedent language. Member Allen suggested the Board of Supervisors could pass an ordinance relative to prohibiting escrow encumbrances without amending the Charter. He expressed concern over "ty[ing] up the Charter with ... things of this nature," and described the Charter as "a foundation" from which the City builds its municipal code. Member Lincoln suggested that presenting this concern to the Board of Supervisors at the joint meeting would provide an opportunity for their consideration.

Vice Chairperson Adler advised that the legislature generally prefers to take action on matters such as real estate and encumbrances "with a statewide law affecting all the counties equally." He expressed doubt that the legislature would "sign off" on closings in Carson City that are different from those in other Nevada counties. "They'd want to have it consistent among all the counties." Ms. Ellis suggested that the proposed amendment would accomplish prohibiting the Board of Supervisors from passing ordinances relative to encumbering escrows. Vice Chairperson Adler explained the process for the Charter Review Committee to recommend the amendment to the Board of Supervisors which, in turn, forwards the proposed amendment to the legislature in the form of a bill draft. In response to a comment, he explained that unless the legislature considered the prohibition as proper and beneficial for the whole state, the bill would be killed. Ms. Ellis requested the committee to forward the recommendation to the Board of Supervisors for consideration, without considering "what the legislature may or may not do." Chairperson DePauw explained the committee's advisory responsibility to the Board of Supervisors.

Chairperson DePauw entertained additional questions or comments; however, none were forthcoming. Ms. Ellis noted there was only one example of an escrow encumbrance listed in the June 15, 2010 letter included in the agenda materials. She advised of examples in California, but clarified they were from local

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ordinances and not city charters. Member Allen reiterated the recommendation for the Board of Supervisors to consider an ordinance, but not a Charter amendment. Ms. Ellis reiterated that the Charter amendment “would prevent the ordinance from ever being considered which is what we’re asking for.” Discussion took place regarding examples of escrow encumbrances, and Vice Chairperson Adler explained the differences between charter law and general law cities. Additional discussion followed.

Chairperson DePauw entertained a motion. Member Lincoln moved to recommend to the Board of Supervisors an amendment to the Charter regarding language that would protect escrows from encumbrances. Motion died for lack of a second. Chairperson DePauw entertained a motion. **Member Parsons moved to not recommend to the Board of Supervisors an amendment to the Charter regarding language that protects escrows from encumbrances. Member Allen seconded the motion. Motion carried 5-1.** Chairperson DePauw requested Mr. Werner and Ms. Busse to communicate the concerns expressed to the Board of Supervisors. Discussion ensued, and Mr. Werner expressed the opinion that the legislature would have to authorize an ordinance prohibiting escrow encumbrances.

6-B. DISCUSSION AND POSSIBLE ACTION TO RECOMMEND TO THE BOARD OF SUPERVISORS AN AMENDMENT TO THE CHARTER REQUIRING THAT A GRAND JURY BE IMPANELED AT LEAST ONCE EVERY FOUR YEARS (1-0497) - Chairperson DePauw introduced and provided background information on this item. Vice Chairperson Adler provided historic information on the last grand jury impaneled in Carson City, and expressed no enthusiasm for the idea in consideration of the cost / benefit. Member Allen noted that a grand jury can always be impaneled for the purposes of specific investigation. “Otherwise, if you just automatically schedule one for every two years or four years ... they’re going to meet because that’s what they’re supposed to do. What happens? They’re going to spend a lot of time and a lot of money and possibly nothing will come out of it.” Vice Chairperson Adler expressed a preference for “a little bit more focus.” Chairperson DePauw noted that a grand jury is comprised of “the people of this community, who are interested and involved and want to know what’s going on.” She expressed the opinion “this ... keeps everybody on their toes in relationship to the residents within the community.” She expressed the further opinion, “There’s a lot of things that can be discussed,” and advised of having been informed that approximately \$10,000 a year would have to be set aside to fund the cost of the grand jury. Mr. Werner advised that the cost associated with the last grand jury, impaneled in 1998, was approximately \$40,000. Chairperson DePauw provided an overview of Parks and Recreation Commission discussion, which came out of the last grand jury, relative to residential construction tax. She advised of a list of nine items for consideration by a grand jury, “besides the City’s functions.”

Discussion followed and, in response to a question, Vice Chairperson Adler explained the purpose of grand juries which are retained indefinitely. “They’re generally used for counties where you have a lot of crime and it’s easier to indict people for crimes. ... They usually aren’t investigating things like parks ... It’s usually murder, sometimes organized crime activities where you don’t want to do a preliminary hearing and reveal all your evidence.” Vice Chairperson Adler expressed the opinion that grand juries are inappropriate for “investigating things like parks because they’re all done in private. And with some issue like that, it should be done in public and ... before the Board where the whole community can find out what’s being discussed ...” He expressed opposition to investigating civil matters in private, and explained the provisions of Nevada’s grand jury law which prohibits revealing any information unless an indictment is issued.

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Chairperson DePauw entertained additional questions or comments and, when none were forthcoming, a motion. **Member Robertson moved to not recommend to the Board of Supervisors an amendment to the Charter requiring that a grand jury be impaneled at least once every four years. Member Allen seconded the motion. Motion carried 5-1.** In response to a question, Chairperson DePauw reviewed her list of grand jury items, as follows: the redevelopment audit “on the projects and over the expenditures of the money;” Question #18 funding; transition of the hospital from public to private; airport development of the new master plan; conversion of Eagle Valley Golf Course; the V&T expenditures “to see if everything is going as it should because of that 1/8 of a cent sales tax;” “why we’re still paying five cents for this freeway.” A brief discussion followed.

6-C. DISCUSSION AND POSSIBLE ACTION ON A DATE FOR A JOINT MEETING WITH THE BOARD OF SUPERVISORS AND THE CHARTER REVIEW COMMITTEE (1-0791)

- Chairperson DePauw introduced this item. Ms. Busse acknowledged the next available Board of Supervisors meeting as July 15th. A brief discussion ensued, and Chairperson DePauw entertained a motion. **Member Lincoln moved to agendize the joint meeting with the Board of Supervisors and the Charter Review Committee for July 15, 2010. Vice Chairperson Adler seconded the motion. Motion carried 6-0.** Discussion took place regarding the time for the joint meeting, and Ms. Busse advised that the Board of Supervisors agenda will be finalized by July 8.

7. ACTION TO ADJOURN (1-0916) - Member Allen moved to adjourn the meeting. Member Lincoln seconded the motion. Motion carried 6-0.

The Minutes of the June 29, 2010 Carson City Charter Review Committee are respectfully submitted this 15th day of July, 2010.

ALAN GLOVER, Clerk - Recorder

By:

KATHLEEN KING, Deputy Clerk /
Recording Secretary