

CARSON CITY BOARD OF SUPERVISORS
Minutes of the May 16, 1996, Meeting
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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, May 16, 1996, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 1 p.m.

PRESENT:	Marv Teixeira	Mayor
	Greg Smith	Supervisor, Ward 1
	Janice Ayres	Supervisor, Ward 2
	Tom Tatro	Supervisor, Ward 3
	Kay Bennett	Supervisor, Ward 4
STAFF PRESENT:	John Berkich	City Manager
	Alan Glover	Clerk-Recorder
	Rod Banister	Sheriff
	Al Kramer	Treasurer
	Jay Aldean	Public Works Director
	Paul Lipparelli	Deputy District Attorney
	John Iratcabal	Deputy Purchasing & Conts. Dir.
	Bill Callahan	Chief Deputy Sheriff
	Katherine McLaughlin	Recording Secretary
	(B.O.S. 5/16/96 Tape 1-0001.5)	

NOTE: Unless otherwise indicated, each item was introduced by staff's reading/outlining/clarifying the Board Action Request and/or supporting documentation. Staff members present for each Department are listed under that Department's heading. Any other individuals who spoke are listed immediately following the item heading. A tape recording of these proceedings is on file in the Clerk-Recorder's office. This tape is available for review and inspection during normal business hours.

CALL TO ORDER, INVOCATION, PLEDGE OF ALLEGIANCE, AND ROLL CALL - Mayor Teixeira convened the meeting at 1:03 p.m. Rev. Bill McCord of the First Methodist Church gave the Invocation. Virginia Orcutt lead the Pledge of Allegiance. Roll call was taken. The entire Board was present constituting a quorum.

1. APPROVAL OF MINUTES - March 29 and April 4, 1996 (1-0021.5) - Supervisor Bennett moved to approve the Minutes of March 29 and April 4, 1996, as presented. Supervisors Tatro and Ayres seconded the motion. Motion carried 5-0.

CITIZEN COMMENTS - None.

2. SPECIAL PRESENTATION - ACTION ON PROCLAMATION FOR NATIONAL PUBLIC WORKS WEEK - MAY 19-25, 1996 (1-0334.5) - Public Works Director Jay Aldean - Mayor Teixeira read the Proclamation into the record. No action was required or taken.

3. LIQUOR AND ENTERTAINMENT BOARD - Mayor Teixeira recessed the Board of Supervisors session and immediately convened the hearing as the Liquor and Entertainment Board. The entire Board was present including Sheriff Banister, constituting a quorum.

TREASURER - Al Kramer - CONSENT AGENDA

A. ACTION ON SPECIAL EVENT PERMIT WITH WAIVER OF PROMOTER FEES (\$50 PER DAY) FOR CACTUS JACKS

B. ACTION ON A SPECIAL EVENT PERMIT WITH WAIVER OF APPLICATION (\$100), PERMIT (\$100) AND PROMOTER FEES (\$50 PER DAY) FOR KIT CARSON RENDEZVOUS (1-0070.5) - None of the Items were pulled for discussion. Member Bennett moved that the Liquor and Entertainment Board approve the Consent Agenda as presented to the Authority. Member Ayres seconded the motion. Motion carried

6-0.

(1-0089.5) Clarification indicated Member Banister had voted in favor of the motion.

Chairperson Teixeira invited the public to the Cactus Jack and the Kit Carson Rendezvous activities. Cactus Jacks' General Manager Steve Browne and Convention and Visitors Bureau Executive Director Candy Duncan explained the dates for each function. There being no other matters for consideration, Chairperson Teixeira 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. BOARD OF SUPERVISORS - CONSENT AGENDA (1-0090.5)

A. TREASURER

i. ACTION ON TREASURER REPORT FOR THE MONTH OF APRIL 1996

ii. ACTION ON REMOVAL AND REFUND OF PARTIAL 1995-96 REAL PROPERTY TAXES ON PARCEL NO. 8-171-12 DUE TO STATE OF NEVADA ACQUISITION OF PROPERTY

iii. ACTION ON REMOVAL AND REFUND OF PARTIAL 1995-96 REAL PROPERTY TAXES ON PARCELS NO. 8-161-29 AND 8-161-31 DUE TO STATE OF NEVADA ACQUISITION OF PROPERTIES

iv. ACTION ON PARTIAL REFUND OF 1995-96 REAL PROPERTY TAXES DUE TO ADJUSTED ASSESSED VALUE BY ASSESSOR ON PARCEL NO. 7-191-04

B. PUBLIC WORKS/REGIONAL TRANSPORTATION COMMISSION - ACTION ON APPROVAL OF REVISED AGREEMENT WITH KATHLEEN K. THOMPSON FOR THE PURCHASE BY CARSON CITY OF A 13,113 SQUARE FOOT PORTION OF PROPERTY LOCATED AT 3941 EAST NYE LANE LOCATED AT THE INTERSECTION OF GRAVES/COLLEGE PARKWAY AND EAST NYE LANE IN CARSON CITY, NEVADA, FOR THE EXTENSION OF GRAVES/COLLEGE PARKWAY

C. PURCHASING DIRECTOR

i. ACTION ON CONTRACT NO. 9596-224 - DISPOSAL OF SURPLUS VEHICLE, 1986 DODGE SEDAN AND 1982 FORD DUMP TRUCK

ii. ACTION ON CONTRACT NO. 9596-004 - TRAFFIC SIGNALS, SALIMAN AND FIFTH AND SALIMAN AND FAIRVIEW - None of the Items were pulled for discussion. Supervisor Ayres moved that the Board of Supervisors approve the Consent Agenda. Supervisor Smith seconded the motion. Motion carried 5-0.

5. PURCHASING DIRECTOR - Deputy Director John Iratcabal

A. ACTION ON CONTRACT NO. 9596-208 - 1996 SEWER REPLACEMENT PROJECT, AWARD; AND B. ACTION ON CONTRACT NO. 9596-203 - SOUTHEAST CARSON SEWER EXTENSION, PHASES 2 AND 3, AWARD (1-0109.5) - Attorney Jim Puzey from Allison, MacKenzie, Hartman, Soumbeniotis, and Russell representing Canyon Creek, and Attorney Mark Bruce from Bible, Hoy, Trachok, and Wadhams, representing Gerhardt and Berry Construction - Ford Construction Company did not have a representative present. Mr. Iratcabal explained the projects, the bids, the problems with the Ford bids, and the protests. Discussion explained Mr. Iratcabal's contact with Ford and notification of the Board's consideration of the awards. Mayor Teixeira again asked if a Ford representative was present. No response was given. Discussion indicated the differences in low bidder and the next lowest bidder are \$70,000 and \$40,000 respectively. The notary problem had been resolved, however, proof of paid taxes for the preferential bidder requirements had not covered the mandated 60 month period. Mr. Iratcabal explained the reasons for having a preferential bidder status requirement and the reasons the City only requires an affidavit indicating the firm has the State preferential bidder status. Supervisor Smith expressed his concern about rejecting a bid which would cost the City an average of \$50,000 per contract due to the failure to include "a piece of paper" in the bid documents. This is a technicality which will cost the City \$50,000, which is a lot of money. Mr. Iratcabal indicated that his contact was with Ford Construction Project Manager Scott Davis at Susanville, California.

Mr. Lipparelli explained the Statutes regarding preferential bidder status mandating "proof of payment" and the City's practice to require an affidavit stating that the firm is entitled to the preferential bidder status due to the payment of appropriate taxes for a period of time. The first bid had included a statement which was not notarized and, therefore, was invalid. This defect was cured as is allowed within the bid documents. The other bidders filed a protest due to a different clause in the bid documents requiring that all of the proposals be completed prior to submittal which had not been met as evidenced by the missing notary item. The second bid included the completed affidavit. The invoices for the first bid were given to the bidders who had appealed. During their investigation of the invoices, it was discovered that the firm may not have paid taxes for the entire 60 month period. He agreed that the notary question was a technicality, however, the second issue may be more than a technicality.

Discussion between Mr. Iratcabal and Supervisor Bennett indicated that the other bidders had complied with the requirements without a problem.

Mr. Bruce indicated that Mr. Puzey's arguments were similar in nature to his and that he would not repeat Mr. Puzey's statements.

Mr. Puzey distributed a packet on the bids to the Board. (A copy was given to the Clerk.) He reviewed the packet in depth including reading from the bid documents language on disqualification of bidders, Section 1.9.1.7; NRS 338.147.2.b; the 60 month timeframe; the Legislature's minutes on the intent of this requirement; the firm's failure to meet the mandatory \$5,000 minimum tax limit; and NRS 372.105 and 372.025. He felt that a majority of the materials obtained had been used on a California project and should not be allowed as proof of payment of Nevada taxes for a Nevada project. Also, the tax information included payment of taxes on labor and transportation services which is prohibited by the Statutes. He emphasized the intent of the Statutes as being to reward Nevada firms for doing Nevada jobs. He requested the Board deny the firm preferential bidder status and award both contracts to the second low bidder.

Mr. Bruce again indicated for the record that all of the information provided by Mr. Puzey also applied to his contract. He then explained bid document item 1.9.1.7 which mandates that all of the supporting document be provided in the bid packet. He felt that Ford had failed to elect to utilize the five percent preferential status. Mr. Lipparelli displayed a copy of the form on this item. Gerhardt and Berry is within the five percent preference allowance and should be awarded the job if Ford's preferential preference is disallowed.

Mr. Puzey also indicated Canyon Creek was within five percent if Ford's preferential preference is disallowed. He also urged the City to consider implementing NDOT and Douglas County's requirements that cancelled checks be provided as supporting documentation. He responded to Mayor Teixeira's question by indicating that he would file an injunction prior to award of the job if Ford is given the contract. He then indicated for the record that the documents contained on the poster boards were copies of the information in the packets which he had given to the Board and Clerk.

Mr. Lipparelli then explained for Supervisor Smith that if Ford had had a representative present to respond to questions, a fair hearing would have provided the Board with the appropriate information necessary to reach a decision on this item. He also noted, for Ford's defense, that the affidavit required by the bid documents could have been signed with every intent of being truthful. The bid document does not track the Statute language requirement of 60 months in 12 month intervals from the time of submission back in time. The Board could award to the number two bidders based on the evidence presented and allow Ford to challenge the decision. The Board could also defer action for two weeks and allow Ford an opportunity to supplement the record. He recommended that a basis for rejection be included in the motion. A singular motion could both reject and award the contract. Discussion indicated that Ford could also challenge award of the contracts to the second lowest bidder.

BREAK: A five minute recess was declared at 1:45 p.m. When the meeting was convened at 1:50 p.m. the entire Board was present constituting a quorum.

Mayor Teixeira again asked if a Ford representative was present. No-one responded.

Supervisor Tatro explained his employment at NDOT and his contact with his office during the break. From this contact he had determined that NDOT would determine the timeframe in 12 month periods. Based on this information and the accuracy of the information presented during the meeting, Ford would not be able to be pre-qualified for preferential status with NDOT. Ford is not presently pre-qualified nor does it have preferential status. Neither has an application been filed for this status. Based on the information provided during the meeting, preferential status would not be granted. Supervisor Smith felt that the Legislature's intent had not been to force Carson City to spend \$50,000 unnecessarily. There is a process and a reason for it. This process should remain in tact. Supervisor Smith then moved that the Board of Supervisors reject the Purchasing Department's recommendation and not award Contract 9596-208 to Bidder No. 2, Ford Construction for the reason that the bid as received was nonresponsive pursuant to the testimony that was received here today. Supervisor Bennett seconded the motion. Motion was voted by roll call with the following result: Yes - Smith, Bennett, Ayres, Tatro, and Mayor Teixeira. Nays - None. Motion carried 5-0.

Supervisor Smith then moved that the Board of Supervisors award Contract 9596-208 to Bidder No. 5, Gerhardt and Berry Construction, P. O. Box 7837, Reno, Nevada 89510, as the new lowest responsive and responsible bidder pursuant to the requirements of NRS Chapter 332, 338, 339, and 624 for a contract amount of \$338,839 and a contingency in the amount of ten percent, funding source is Water Main Replacement and Sewer Main Replacement Accounts as provided in fiscal year 9596 and 9697 budgets. Supervisors Ayres and Bennett seconded the motion. Motion carried 5-0.

Supervisor Smith then moved that the Board of Supervisors reject Purchasing Department's recommendation and not award Contract 9596-203 to Ford Construction as not being a responsive bidder pursuant to the testimony that was received here at today's meeting. Supervisor Bennett seconded the motion. Motion carried 5-0.

Supervisor Smith then moved that the Board of Supervisors award Contract 9596-203 to Bidder No. 2, Canyon Creek Construction at P. O. Box 21270, Carson City, Nevada 89721, as being the newest lowest responsive and responsible bidder pursuant to the requirements of NRS Chapters 332, 338, 339, and 624 for a contract amount of \$949,310 and a contingency amount in the amount of ten percent, funding source is the Sewer Line Extension Account as provided for in fiscal year 9596 and 9697 budgets. Supervisor Bennett seconded the motion. Motion carried 5-0.

6. CARSON-TAHOE HOSPITAL - Administrator Steve Smith

A. ACTION ON THE PURCHASE AGREEMENT BETWEEN CARSON-TAHOE HOSPITAL AND THE DREYER FAMILY FOR THE ACQUISITION OF 8.62 ACRES OF LAND LOCATED AT IRONWOOD DRIVE AND HIGHWAY 395 FOR THE PROPOSED MEDICAL MALL IN THE CARSON VALLEY AREA OF DOUGLAS COUNTY (1-0731.5) - Mr. Lipparelli noted for the record that he was handing the Clerk a copy of the appraisal for the property. Supervisor Bennett moved that the Board of Supervisors approve the purchase agreement between Carson-Tahoe Hospital and the Dreyer Family for the acquisition of 8.62 acres of land located at Ironwood Drive and Highway 395 for the purpose of the proposed medical mall in the Carson Valley area of Douglas County and indicated that the document was before the Board. Supervisor Ayres seconded the motion. Motion carried 5-0.

B. ACTION ON AN AGREEMENT BETWEEN CARSON-TAHOE HOSPITAL, CARSON CITY, AND THE CARSON CITY SENIOR CITIZENS' CENTER, INC., FOR THE ACQUISITION AND USE OF 1.93 ACRES OF LAND LOCATED CONTIGUOUS AND SOUTH OF THE PROPERTY LOCATED AT 911 BEVERLY DRIVE FOR THE CONSTRUCTION OF THE SUB-ACUTE/REHABILITATION/PHYSICAL THERAPY FACILITY (1-0763.5) - Carson City Senior Citizens' Center Executive Director Jamie Lee - Discussion indicated the facility should open on July 2, 1997. Comments were solicited but none given. Supervisor Bennett moved that the Board of Supervisors approve the agreement

between Carson-Tahoe Hospital and Carson City Senior Citizens' Center, Inc., for the acquisition of 1.93 acres of land located contiguous and south of the property located at 911 Beverly Drive for the construction of the sub-acute/rehabilitation/physical therapy facility. Supervisor Ayres seconded the motion. Discussion ensued on the need and plans to relocate the cemetery office. Mr. Smith indicated that the Hospital had donated \$50,000 for the removal of the building. Mr. Berkich indicated that this would not fund the entire relocation. The City's Capital Improvement Program would have to fund the remaining portion. The City's commitment to this relocation would hinge on its ability to provide this funding. Mr. Smith indicated that the building would not hamper the first phase of the project and the July opening date. There is no timetable for BLM's deeding the remaining portion of the property and for the Senior Center to develop the other phase. The contract does not mandate the relocation. Senior Center Inc. Board of Directors Member Bob Kennedy felt that the existing building would be expanded within the next three years and suggested that the Cemetery building be relocated within two or three years. There being no other matters for consideration, the motion to approve the agreement between Carson-Tahoe Hospital as indicated was voted and carried 5-0.

Mr. Lipparelli noted for the record that he gave the Clerk a copy of the exhibits to be attached to the agreement. Mr. Smith also requested the record indicate that the \$90,000 and the agreement apply not only to the 1.93 acres which the discussion was on but, should BLM deed the property to the City, that the \$90,000 also includes half of the portion which is in the agreement to be utilized to expand the project for the Hospital. This had been negotiated previously.

C. ACTION ON A SUBLEASE AGREEMENT BETWEEN CARSON-TAHOE HOSPITAL AND SMITHKLINE BEECHAM CLINICAL LABORATORIES, INC., FOR EEG SERVICES OFFICE SPACE LOCATED IN THE WATERS BUILDING, SIERRA PROFESSIONAL COMPLEX (1-0869.5) - Following Mr. Smith's introduction, comments were solicited but none made. Supervisor Bennett moved that the Board of Supervisors approve the sublease agreement between Carson-Tahoe Hospital and Smithkline Beecham Clinical Laboratories, Inc., for EEG services office space located in the Waters Building, Sierra Professional Complex. Supervisor Ayres seconded the motion. Motion carried 5-0.

D. ACTION ON A LEASE AGREEMENT BETWEEN CARSON-TAHOE HOSPITAL AND THE PARK CATTLE CO., FOR A FAMILY PRACTICE PHYSICIAN'S OFFICE, LOCATED IN THE TILLMAN CENTER, GARDNERVILLE RANCHOS, DOUGLAS COUNTY (1-0881.5) - Following Mr. Smith's introduction, comments were solicited but none made. Supervisor Bennett moved that the Board of Supervisors approve a lease agreement between Carson-Tahoe Hospital and the Park Cattle Company for a family practice physician's office located in the Tillman Center, Gardnerville Ranchos, Douglas County. Supervisor Ayres seconded the motion. Motion carried 5-0.

7. REDEVELOPMENT AUTHORITY - Mayor Teixeira then recessed the Board of Supervisors session and passed the gavel to Redevelopment Chairperson Tom Tatro. For Minutes of the Redevelopment Authority, see its folder. Following adjournment of the Redevelopment Authority, Chairperson Tatro passed the gavel to Mayor Teixeira who reconvened the Board of Supervisors. A quorum was present as noted.

8. TREASURER - Al Kramer - ACTION ON MOTION SELECTING AN UNDERWRITER TO NEGOTIATE THE PURCHASE OF THE REDEVELOPMENT AUTHORITY TAX ALLOCATION BONDS (1-1329.5) - Supervisor Tatro moved that the Board of Supervisors ratify the selection of "HSE" and Company as the underwriters for the Redevelopment Authority negotiated sale. Supervisor Smith seconded the motion. Motion carried 5-0.

9. FINANCE AND REDEVELOPMENT DIRECTOR - Mary Walker

A. ACTION ON CARSON CITY REDEVELOPMENT AUTHORITY RESOLUTION DECLARING THE PUBLIC PURPOSE TO REDEVELOP PROPERTY AT 302 NORTH CARSON STREET,

COMMONLY KNOWN AS THE LUCKY SPUR, AND AUTHORIZING REDEVELOPMENT STAFF TO SOLICIT PROPOSALS FOR THE REDEVELOPMENT OF THE PROPERTY; AND, B. ACTION ON CARSON CITY REDEVELOPMENT AUTHORITY RESOLUTION DECLARING THE PUBLIC PURPOSE TO REDEVELOP PROPERTY AT 716 NORTH CARSON STREET, COMMONLY KNOWN AS THE GOLDEN SPIKE AND AUTHORIZING REDEVELOPMENT STAFF TO SOLICIT PROPOSALS FOR THE REDEVELOPMENT OF THE PROPERTY (1-1338.5) - Supervisor Tatro moved that the Board of Supervisors ratify the adoption of Redevelopment Authority Resolutions 1996-RAR-2 and 3 and the effective date to be July 1, 1996 for both of the Resolutions. Supervisor Bennett seconded the motion. Motion was voted by roll call with the following results: Bennett - Yes; Tatro - Yes; Ayres - Yes; Smith - No; and Mayor Teixeira - Yes. Motion carried 4-1. (NOTE: These resolutions are numbered 1996-R-22 and 1996-R-23 respectively.)

C. ACTION ON APPROVAL OF RESOLUTION TO AUGMENT AND AMEND CARSON CITY REDEVELOPMENT AUTHORITY FISCAL YEAR 95-96 BUDGET (1-1363.5) - Supervisor Tatro moved that the Board adopt Resolution No. 1996-R-24, A RESOLUTION TO AUGMENT AND AMEND THE CARSON CITY REDEVELOPMENT AUTHORITY fiscal year 9596 budget in the amount of \$516,240. Supervisor Smith seconded the motion. Motion carried 5-0.

BREAK: A six minute recess was declared at 2:32 p.m. When the meeting reconvened at 2:38 p.m. the entire Board was present constituting a quorum.

D. ACTION ON APPROVAL OF RESOLUTION TO AUGMENT AND AMEND CARSON CITY FISCAL YEAR 95-96 BUDGET (1-1375.5) - Ms. Walker explained each of the augmentations. Comments were solicited but none given. Supervisor Tatro moved that the Board adopt Resolution No. 1996-R-25, A RESOLUTION TO AUGMENT AND AMEND THE CARSON CITY FY 95-96 BUDGET IN THE AMOUNT OF \$7,403,812. Supervisor Ayres seconded the motion. Motion carried 5-0.

10. PERSONNEL MANAGER - Judie Fisher - ACTION ON APPOINTMENT OF MEMBER TO THE AIRPORT AUTHORITY (1-1615.5) - Ms. Fisher recommended the term be for the remaining portion plus four years. Discussion indicated that only Mr. Melsheimer was present and that he wished to serve only the remaining portion of Mr. Foley's unexpired term. Mr. Anderson had submitted a letter. Airport Authority Chairperson Neil Weaver had requested Mr. Melsheimer fill the vacancy until October 1996. Supervisor Smith indicated that in absence of Mr. Anderson, he would recommend appointing Mr. Melsheimer. Supervisor Smith then moved that the Board of Supervisors appoint Ted Melsheimer to fill the unexpired portion of the term for David Foley, until October 1996. Supervisor Ayres seconded the motion. Supervisor Bennett expressed her respect for the nomination and Mr. Melsheimer's abilities. She felt it was time for a change. It appears as if the Board is appointing and reappointing the same individuals to the Authority over and over again. She was disappointed that Mr. Anderson was not present as she felt that he would open the door for a change in individuals on the Authority. Mayor Teixeira expressed his understanding of her comments and indicated it would only be for a few months. Ms. Fisher indicated she would re-advertise the vacancy. The motion to appoint Mr. Melsheimer to fill the vacancy until October 1996 was voted and carried 5-0.

11. PUBLIC WORKS DIRECTOR - Jay Aldean

A. DISCUSSION ON TRUCK TRAFFIC THROUGH PINION HILLS AND PROPOSED OVERLAY OF DEER RUN ROAD (1-1702.5) - Tom Quigley explained his concerns about the heavy truck traffic and use of Deer Run Road with the use of photographs on a poster board. (At the end of the discussion, Mr. Quigley took the photographs.) Bertagnolli had obtained a permit from BLM to remove sand from BLM's pit. When this permit expired, BLM opened the pit to the community and is allowing other sand purveyors to use it. A copy of October 2, 1992, administrative decision and the November 4 mining and reclamation plan were displayed authorizing this usage. He questioned the reasons Bertagnolli could work the pit for eight or nine years without disturbing the neighborhood. In 1992 the trucks began using Sedge Road without notification to the City or residents. Current

truck volume is in the neighborhood of 100 trips a day. He objected to the noise, speeding, dust, convoys, etc. He had called the Sheriff's Office repeatedly who had attempted to enforce the speed limit. He also voiced his concerns about the guard rail at Deer Run Road over the Carson River. He did not believe that it would stop either an automobile nor a school bus. It is purportedly two inches under the required height. Purportedly, Deer Run Road's accident rate is higher than any other area in the State. Statistics supporting his contention were quoted. His attempts to restrict the hours of operation were explained and had been futile. Efforts to obtain assistance from the Regional Transportation Commission and the Planning Commission were also noted. He felt that his quality of life was being negatively impacted. He questioned how BLM could help the City develop the Joint Use Area while the other hand promotes trucks on Deer Run Road. He suggested that as the Board can regulate truck traffic within Carson City, it prohibit truck traffic on Deer Run Road. He then referenced the Planning Commission's conditions for Cinderlite and Bertagnolli which had protected their neighborhoods. His efforts to be a good neighbor to BLM were noted but felt betrayed by BLM by its action on the pit which allowed the trucks into his neighborhood. Also, the Carson River Master Plan opposes heavy truck traffic in this area.

Mayor Teixeira commended him on his case. A BLM representative was not present. Mr. Lipparelli explained Community Development Director's involvement with this issue and his contacts with BLM. Mr. Sullivan had requested that BLM obtain a Special Use Permit for operation of the pit. BLM has initially indicated that it is not required by Federal supremacy provisions to obtain one. Preliminary legal research into this question has indicated the City could make a case on this issue, however, this is a costly and lengthy process. He suggested that the first approach use "sugar" and then "vinegar". Mayor Teixeira expressed a willingness to reagendaize the issue for discussion and action. Mr. Quigley felt that it should have been agendaized for action today. Mayor Teixeira questioned whether this was the only sand pit available for the area. Mr. Aldean explained his commitment to work with BLM and establish an alternate route. This would move the trucks off of Sedge Road. The trucks may still have to use a portion of Deer Run Road to reach Highway 50. He expressed a willingness to involve Mr. Quigley in the selection of a route. Mr. Berkich indicated that his contact with BLM had indicated a willingness to work on this alternate route. He would contact Mr. Quigley with the date and time for that meeting. The major concern with this approach is responsibility for development of the alternate route. He agreed to reagendaize the issue and provide a status report at that meeting. Supervisor Bennett explained that the Regional Transportation Commission had heard the request and felt for Mr. Quigley. She, too, expressed a desire to establish a final resolution of the situation. She then questioned whether the Board could regulate the type of traffic using the City's streets. Mr. Lipparelli indicated the Board could do so, however, it would only be as good as the City's ability to enforce the regulation. Such enforcement may pose a hardship on the Sheriff's Department particularly if the pit remains open. This is the reason the original focus has been on the pit operation and placement of conditions upon its operation. Supervisor Bennett felt that this could be used in the negotiation process as it would restrict access to the resource. She also urged the pit users to apply pressure on BLM so that an amicable solution could be reached. Supervisor Smith requested Mr. Aldean, or staff, provide the individual's name at BLM with whom he is dealing so that the Board could contact this individual also. He also suggested that the Board apply pressure through the Congressional Representatives if necessary. Mayor Teixeira reiterated that the direction having been given to Mr. Berkich would reagendaize the issue for the first Thursday in June.

(1-2178.5) Mr. Quigley responded by explaining that the trucks were going south on Deer Run Road and taking a short cut to other locations south of the City. He urged the Board to consider this issue when reagendaized. He urged the Board to establish the meeting with BLM as a public meeting so that other individuals from the public could attend. Mayor Teixeira indicated that if the issue is not resolved amicably, it would be agendaized and their presence requested. Mr. Quigley urged the Board to take action prohibiting truck traffic until that meeting. Mayor Teixeira explained that action could not be taken due to the Open Meeting requirements. Mr. Quigley then explained his concern about the proposal to chip seal Deer Run Road and its need to be maintained. His contact with an individual at NDOT had indicated that if the trucks are allowed to use the road, it "was a bad idea". He then used the Capital Focus newsletter to support his contention that the public would become aware and voice its opinion in the future.

B. ORDINANCE - FIRST READING - ACTION ON AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY, ALBERTSON'S, INC. AND

CLEARVIEW, L.L.C., RELATED TO THE DEVELOPMENT OF ASSESSOR'S PARCEL NO. 09-262-08 LOCATED IN CARSON CITY, NEVADA (1-2258.5) - Following Mr. Aldean's introduction, comments were solicited but none given. Supervisor Tatro moved that the Board introduce Bill 119 on first reading, AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY, ALBERTSON'S, INC. AND CLEARVIEW, L.L.C., regarding improvements related to the development of Assessor's Parcel No. 09-262-08 LOCATED IN CARSON CITY, NEVADA. Supervisors Ayres and Smith seconded the motion. Motion carried 5-0.

C. ORDINANCE - SECOND READING - ACTION ON BILL NO. 118 - AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND A. L. GASPER, REGARDING ASSESSOR'S PARCEL NO. 08-221-17 LOCATED ON NYE LANE, CARSON CITY, NEVADA (1-2301.5) - Comments were solicited but none given. Supervisor Tatro moved that the Board adopt Bill NO. 118, Ordinance No. 1996-18 on second reading, AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT BETWEEN CARSON CITY AND A. L. GASPER, REGARDING ASSESSOR'S PARCEL NO. 08-221-07 LOCATED ON NYE LANE, CARSON CITY, NEVADA. Supervisor Ayres seconded the motion. Discussion ensued on the correct parcel number and Supervisor Tatro amended his motion to correct the parcel number to be 08-221-17. Supervisor Ayres continued her second. The motion was voted and carried 5-0.

12. PARKS AND RECREATION DIRECTOR - Steve Kastens

A. ACTION ON RESOLUTION ADOPTING CHANGES IN CERTAIN POLICIES AND FEES FOR LONE MOUNTAIN CEMETERY (1-2342.5) - Supervisor Smith moved to adopt Resolution No. 1996-R-26, A RESOLUTION ADOPTING CHANGES IN CERTAIN POLICIES AND FEES FOR LONE MOUNTAIN CEMETERY. Supervisor Ayres seconded the motion. Motion carried 5-0.

B. ACTION ON ADDITIONAL FUNDING FOR THE SKATEBOARD FACILITY (1-2379.5) - Mr. Kasten's introduction explained the bidding problems, the donor's problems with submitting a bid, and the recommendation to utilize \$50,000 of Residential Construction Tax monies to develop the project. He also explained his recommendation that the bids for Contract 9596-105, Item 13, be rejected. Discussion indicated that with the present \$35,000 allocation and the proposed \$50,000 allocation, the project could be rebid and may come in under bid. Mayor Teixeira felt that Mr. Serpa was a willing participant in the program. There is also a program from Mr. Shaw. He then explained a "public works project" undertaken at the golf course which had utilized donations. He felt that an agreement could be developed to include the donations and funding. Mr. Berkich indicated that the City did not have the necessary expertise on staff to do the construction. He was willing to explore this alternative if so directed. He then explained his concerns about the need to meet the tolerance levels and specification requirements to mitigate liability issues. Supervisor Smith suggested that the City's funding be used in a participatory manner to support Mr. Serpa's efforts to construct the project and that the project be deeded to the City when it is completed. He questioned the reasons for staff's unwillingness to consider this process. Mr. Lipparelli explained the Statutory requirement that competitive bidding be allowed for any project over \$10,000. He agreed that portions could be bid and the remainder constructed by donations, however, if the community fails to respond, the Board could not demand it. This would require a second bid for the completion. Supervisor Ayres felt that the donors were willing to perform, the architect had provided the drawings, and the project should be completed. Mr. Kastens agreed that the City could build to the funding level. Comments indicated the donations were "there". Mr. Kastens indicated he would use the donations to the level provided and then seek additional funding. Supervisor Smith expressed his feeling that the "donations were there" and his dismay at the length of time it had taken to get the project constructed. He voiced his feeling that staff had been unable to take Board's direction with the amount of funding available, to work with the private donations which had already been made, make the project a priority, and get it constructed. He felt embarrassed and that the entire Board should be embarrassed by the delay. He did not feel that additional RCT funding was necessary and neither were General Funds necessary. He "charged" staff to "get the project done". Mr. Berkich explained that staff had desired to have a contract ready for award. Unfortunately, this had not occurred. Staff could not control this failure. He indicated staff would commit to following the direction provided. Mayor Teixeira expressed his feeling that, in

defense of staff, the City had anticipated a bid from Mr. Serpa, and so had he. That broke down. There is a bid for \$89,000, however, the City does not have the funding for it. He urged staff to work it out as the donations are there. If it can't be worked out within \$10 to \$15,000, then additional RCT funding should be requested. Supervisor Ayres supported allocating additional RCT funding. Mayor Teixeira indicated the Parks and Recreation Commission should be involved. Supervisor Ayres agreed and moved to direct staff to take this Item to the Parks and Recreation Commission for review and put aside \$20,000 of Residential Construction Tax funding so that if we need this amount of money to complete the skateboard park in concert with Shaw Construction and also John Serpa's Construction in working out a plan that will enable us to complete the skateboard park and direct staff to move in that direction. Supervisor Smith seconded the motion. Clarification by Supervisor Ayres indicated that if the funds are not needed, they will not be spent. Mayor Teixeira indicated that this would establish a \$55,000 funding limit, allow the donors to be involved, and attempt to get the project completed. Clarification by Supervisor Ayres indicated the Item is to be referred to the Parks and Recreation Commission. The motion was then voted and carried 4-1 with Supervisor Bennett voting Naye.

13. PURCHASING DIRECTOR - Deputy Director John Iratcabal - ACTION ON CONTRACT NO. 9596-105 - SKATEBOARD PARK FACILITY REJECTION OR ACCEPTANCE OF BID (1-2735.5) - Supervisor Tatro moved that the Board reject the bid from Malibu Pacific Tennis Courts for Contract 9596-105 because insufficient funds are available. Supervisor Smith and Ayres seconded the motion. Motion carried 5-0.

(1-2748.5) Virginia Orcutt expressed her feeling that Carson City was leading the area on a skateboard park. Her assistance had been requested in Douglas County and Reno. She also explained the need to obtain a permit before she could seek financial contributions as well as a tax free number to keep from having to pay Federal income taxes. The banks are willing to accept the contributions. She felt it would set an example and get the kids off the street. Mayor Teixeira commended her on her efforts.

14. COMMUNITY DEVELOPMENT DIRECTOR - Walter Sullivan

A. ACTION ON M-95/96-19 - A REQUEST BY SILVER OAK DEVELOPMENT COMPANY FOR GRANT OF A CONSERVATION EASEMENT ACROSS A PORTION OF THE SILVER OAK PLANNED UNIT DEVELOPMENT (1-2815.5) - Supervisor Tatro moved that the Board of Supervisors approve the grant from Silver Oak Development Company of a Conservation Easement as described in Exhibits A and B as attached to the staff report with the conditions and limitations as described in the easement agreement. Supervisor Ayres seconded the motion. Motion carried 5-0.

B. PLANNING COMMISSION REVIEW AND APPEAL MATTERS

i. ACTION ON U-95/96-21A - AN AMENDMENT OF A PREVIOUSLY APPROVED SPECIAL USE PERMIT FROM JOE HOPPER (PROPERTY OWNER: FIRST SECURITY BANK OF UTAH) BY ALLOWING TENT SALES PROMOTIONS AND SPECIAL PROMOTION SALES OF RV'S, AUTOS, BOATS, SPAS AND HOME SHOWS IN AREAS OF THE PARKING LOT ON PROPERTY ZONED RETAIL COMMERCIAL-PLANNED UNIT DEVELOPMENT (R-PUD), LOCATED AT 3456 NORTH CARSON STREET, APN 8-061-33 (PLANNING COMMISSION APPROVED 5-0-0-2) (1-2835.5) - Senior Planner Juan Guzman, Donna Kuester, Kmart General Manager Joe Hopper - Mr. Guzman explained Ms. Kuester's complaint that the noticing had failed to include the name "Kmart". He indicated that it is adequate to meet the noticing requirements. If the Board wished, the item could be continued and it renoticed and agendized. Ms. Kuester explained her concerns with the noticing. She was willing to allow the process to continue. Mayor Teixeira indicated that there had not been an attempt to deceive the public and expressed his feeling that "the world knows Joe Hopper". He understood her concerns. Ms. Kuester then explained her opposition to the request due to Super K's failure to meet the conditions imposed during the previous Special Use Permit, e.g., continuing noise problems with the early starting hour for street sweeping.

Supervisor Smith explained his personal knowledge of Kmart's facility. He indicated that he could still hear the

condenser in spite of all of the efforts to mitigate same. He then questioned how the Board could believe that the conditions for this Special Use Permit would be honored if the noise problem had not been addressed from the previous Special Use Permit. Mr. Hopper responded by expressing his feeling that all of the conditions had been met. He was not prepared to discuss the noise from the condensers as this is not an area of his expertise. Mr. Mommer will address this issue at a meeting the end of this month. He had met all of the conditions under his control and that many of these conditions had beyond that required of other City retailers.

Supervisor Ayres moved that the Board of Supervisors approve an amendment of a previously approved Special Use Permit from Joe Hopper, First Security Bank of Utah, by allowing tent sales promotions and special promotion sales of RVs, autos, boats, spas and home shows in areas of the parking lot on property zoned Retail Commercial-Planned Unit Development located at 3456 North Carson Street, APN 8-061-33. Supervisor Bennett seconded the motion. Motion carried 5-0. Mayor Teixeira urged Mr. Hopper to make sure that something is done about the noise issue and encouraged him to sensitize Mr. Mommer about the matter.

ii. ACTION ON AB-95/96-5 - AN ABANDONMENT REQUEST FROM ROBERT HALL (PROPERTY OWNER: HALL FAMILY TRUST) TO ABANDON A 50 FOOT BY 622 FOOT PUBLIC RIGHT-OF-WAY, LOCATED ON DEER RUN ROAD, BETWEEN US HIGHWAY 50 EAST AND SHEEP DRIVE ADJACENT TO APNS 8-541-07, 10 AND 22 (PLANNING COMMISSION APPROVED 5-0-0-2) (1-3082.5) - Supervisor Tatro moved that the Board of Supervisors approve an abandonment request from Robert Hall, Property Owner: Hall Family Trust, to abandon a 50 foot by 622 foot public right-of-way located on Deer Run Road between US Highway 50 East and Sheep Drive, adjacent to Assessor's Parcel Number 8-541-07, 10, and 22. Supervisor Bennett seconded the motion. Motion carried 5-0.

iii. ACTION ON MPE-95/96-3 - ADOPTION OF A MASTER PLAN PARKS AND RECREATION SUB-ELEMENT, SPECIFICALLY, THE EAGLE VALLEY TRAIL SYSTEM (PLANNING COMMISSION APPROVED 5-0-0-2) (1-3108.5) - Supervisor Tatro moved to adopt Master Plan Parks and Recreation Sub-Element, specifically, the Eagle Valley Trail System. Supervisor Ayres seconded the motion. Motion carried 5-0.

C. ORDINANCES - FIRST READING

i. ACTION ON A-94/95-7 - AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE SECTIONS 18.03.030 ACCESSORY BUILDING OR ACCESSORY STRUCTURE, 18.03.035 ACCESSORY FARM STRUCTURE OR ACCESSORY FARM BUILDING, 18.03.141 PRIMARY BUILDING, 18.04.040 DETERMINATION OF DISTRICTS, 18.05.123 GENERAL REQUIREMENTS, 18.05.051 ANIMALS AND FOWL, 18.05.109 INDOOR/OUTDOOR COMMERCIAL, 18.06.247 CONDITIONAL USES, AND OTHER MATTERS PROPERLY RELATED THERETO (1-3127.5) - Senior Planner Sandra Danforth, Tracy Edgar, and Francis Hall - A poll of the audience indicated its concern with Section 18.05.051. Mr. Sullivan suggested the entire ordinance be returned to the Planning Commission. Ms. Danforth explained the three letters of opposition, her contact with those individuals, and the request to pull only the concerned section--18.05.051. A poll of the audience supported her recommendation.

Ms. Edgar indicated that it may not need to go back to the Planning Commission if the section is removed and the current Animal Control regulations are enforced. Ms. Hall explained her review of the modification indicated the 50 foot setback and a 7,000 square footage area requirements would prohibit her from having a horse on her property. She supported Ms. Edgar's recommendation. Mayor Teixeira noted that Ms. Hall's letter is in the packet. Ms. Hall indicated that the audience had not been aware of the proposed changes and that animal owners had not been involved in the process. As the ordinance would impact the entire community consideration should be given to other than just the complainant's concerns and neighborhood. It would impact property values. The same 7,000 square footage regulation for a horse would allow 15 sheep and 600 chickens. Mayor Teixeira felt the item should be on the next Planning Commission agenda. Supervisor Tatro moved that the Board of Supervisors introduce on first reading Bill No. 120, AN ORDINANCE AMENDING CARSON CITY MUNICIPAL CODE

SECTIONS 18.03.030 ACCESSORY BUILDING OR ACCESSORY STRUCTURE, 18.03.035 ACCESSORY FARM STRUCTURE OR ACCESSORY FARM BUILDING, 18.03.141 PRIMARY BUILDING, 18.04.040 DETERMINATION OF DISTRICTS, 18.05.123 GENERAL REQUIREMENTS, 18.05.109 INDOOR/OUTDOOR COMMERCIAL, 18.06.247 CONDITIONAL USES, AND OTHER MATTERS PROPERLY RELATED THERETO and delete the amendments to Section 18.05.051. Supervisor Ayres seconded the motion. Mr. Lipparelli indicated that the motion would effectively omit Section VII on Page 8, beginning at Line 24, through Page 10 and reference to Section 18.05.051 in the Title. Supervisor Tatro agreed. The motion to introduce Bill 120 as amended was voted and carried 5-0.

ii. **ACTION ON Z-95/96-9 - AN ORDINANCE EFFECTING A CHANGE OF LAND USE DISTRICT ON ASSESSOR PARCEL NUMBER 4-153-06 FROM SINGLE FAMILY 6,000 (SF6000) AND RESIDENTIAL OFFICE (RO) TO RESIDENTIAL OFFICE (RO) ON APPROXIMATELY 1.61 ACRES OF LAND LOCATED SOUTH OF HIGHWAY 50 EAST, NORTH OF ROBINSON STREET ON THE EAST SIDE OF ROOP STREET IN CARSON CITY, NEVADA, AND OTHER MATTERS PROPERLY RELATED THERETO (1-3423.5)** - Associate Planner Tara Hullinger - Supervisor Tatro moved to introduce Bill 121 on first reading, AN ORDINANCE EFFECTING A CHANGE OF LAND USE DISTRICT ON ASSESSOR'S PARCEL NUMBER 4-153-06 FROM SINGLE FAMILY 6,000 (SF6000) AND RESIDENTIAL OFFICE (RO) TO RESIDENTIAL OFFICE (RO) ON APPROXIMATELY 1.61 ACRES OF LAND LOCATED SOUTH OF HIGHWAY 50 EAST, NORTH OF ROBINSON STREET ON THE EAST SIDE OF ROOP STREET IN CARSON CITY, NEVADA, AND OTHER MATTERS PROPERLY RELATED THERETO. Supervisor Ayres seconded the motion. Motion carried 5-0.

BREAK: A five minute recess was declared at 4:10 p.m. When the meeting reconvened at 4:15 p.m. the entire Board was present constituting a quorum.

15. BOARD OF SUPERVISORS

B. SUPERVISOR BENNETT - ACTION ON ASSISTANCE TO THE CHILDREN'S MUSEUM OF NORTHERN NEVADA (1-3480.5) - Supervisor Bennett explained the Museum's grant loss and requested consideration by the Board of a grant request. Discussion indicated Supervisor Bennett felt the Board direction/action today should place the funding request on the budget wish list. Children's Museum Director Michelle Nelson reminded the Board of the original community support and displayed items provided at the Museum. (2-0016.5) Mayor Teixeira felt that the entire Board had visited the facility at least once. She stressed that the Museum does have a variety of exhibits and is becoming an attractive resource for schools and youth groups. Each of the Board Members had received her handouts. (A copy is in the Clerk's file.) She then reviewed these documents on its attendance, revenue and expenditures, and 1996-97 funding raising strategy. She responded to Board questions concerning the group fees charged schools and other functions; reasons for the apparent drop in visitors during the Summer of 1995 when compared to the Summer of 1994; the impact the grant loss had on her budget; her personnel costs; and the funding request submitted as part of the supplementals to the budget. Mayor Teixeira suggested that the ending fund balance or contingency funds be used to provide the Museum with funding during the current year and then the funds be repaid from next year's General Fund. Mr. Berkich suggested that the ending fund balance be used based on the commitments made for additional Deputies. Discussion indicated the Board could also use the current fiscal year's ending fund balance and not use the budget process for next year. Clarification indicated that the grant would not terminate until the end of June. Mayor Teixeira outlined the budget procedures, e.g., the wish list. Supervisor Bennett indicated she had given Ms. Nelson the forms, encouraged the Board to support the Museum's request, and urged the Board to leave in tact the present \$14,000 supplemental request which is planned for other items. Clarification by Mayor Teixeira indicated the budget request was for \$5,500 instead of \$14,000. Supervisor Bennett placed \$25,000 in funding on the wish list.

A. NON-ACTION ITEMS - INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (2-0338.5) - None.

BREAK: There being no other matters for consideration until 6 p.m., Mayor Teixeira recessed the session at 4:45 p.m. When Mayor Teixeira reconvened the session at 6:03 p.m., the entire Board was present constituting a quorum. Staff present included: City Manager Berkich; Community Development Director Sullivan; Director of Golf Bushman; Deputy District Attorney Lipparelli (only during the Golf Course issue); Deputy Purchasing and Contracts Director John Iratcabal; Deputy District Attorney Forsberg (beginning with the Langson appeal); Recording Secretary McLaughlin; Senior Planners Danforth and Guzman; and Associate Planner Hullinger.

18. SUPERVISOR SMITH - DISCUSSION WITH GARY BUSHMAN, DIRECTOR OF GOLF, ON CONTRACT COMPLIANCE AND GOLF COURSE OPERATIONS (2-0337.5) - Supervisor Smith began by explaining his reasons for agendizing this matter. He acknowledged the potential for a change in the management style at the course and stressed the desire to complete the year in a harmonious fashion with the best possible product. He indicated that neither Mr. Bushman's nor his staff's relationship with the golfing public had never ever been in question. Mr. Bushman has tremendous support from the golfers and Supervisor Smith had observed first hand how he and his staff deal with problems which occur. He had never heard a complaint in this area. He then questioned whether there had been a decision to allow the pro shop's inventory to "run down" as Mr. Bushman's contract may not be renewed next December. He noted the contract terms mandating the pro shop operation and the "successor's" mandated acquisition of the stock when his contract is terminated. He felt that a low stock would present a bad image to out-of-town golfers. (2-0432.5) Mr. Bushman expressed his support for the buy-out provision and his intent to maintain the stock. There is currently an inventory of approximately \$150,000. By mid-summer it should reach \$200,000. Supervisor Smith explained the public comments he had heard which indicate he supports "big corporate golf" and the course's privatization. He had never said this. He then referenced the March Men's Club Newsletter and the article which was purportedly written by Mr. Bushman. He read the portion stating: "ALSO EAGLE VALLEY MEN'S CLUB MEMBERS BEWARE. THE NEW REQUEST FOR PROPOSALS IS NOT", in bold letters, "IN THE BEST INTEREST OF THE EAGLE VALLEY MEN'S CLUB OR THE COMMUNITY OF CARSON CITY. NOT ONLY ARE THE PASSES AND PUNCHCARDS IN JEOPARDY BUT WE MAY LOSE ALL TOGETHER THE RELATIONSHIP BETWEEN CLUBS AND OPERATIONS THAT HAS EXISTED FOR 20+ YEARS. PLEASE HELP. CONTACT YOUR SUPERVISOR. LET'S INSURE THAT EAGLE VALLEY GOLF COURSE REMAINS AN INTREGAL PART OF OUR COMMUNITY." He then referenced a petition which had been circulated. He stressed the purpose of the RFP as being an attempt to obtain information which could be analyzed and acted upon. He indicated that the Board had never discussed the passes and punchcards as part of the RFP. He acknowledged that the petition had not have been initiated by Mr. Bushman or his staff. The pro shop is a public facility. Neither Mr. Bushman nor his staff had attempted to coerce/intimidate anyone to obtain a signature. He did not feel that it should have been in the pro shop as it would present a division from the Board's efforts. He could understand a statement indicating "following through" on an RFP may not be in the best interest of the City. Mr. Bushman indicated that in the future he would "hold his thoughts" on any such item. He felt strongly that corporate golf is not in the City's best interest which is based on his many years as a golf professional. He is definitely against it. Supervisor Smith indicated that there are many individuals voicing the same opinion. Supervisor Smith then questioned the reasons the rental fees and the driving range fees had gone unpaid from November 1995 through March 23, 1996. Mr. Busman then explained the "deal" which ARA had received and his desire to have a similar break. He had discussed this with the Golf Course Advisory Chairperson and the item was removed from the Committee's agenda with Mr. Bushman issuing the check. Supervisor Smith indicated that his opposition to the ARA contract had been based on this concern. He had purportedly been the single vote against the proposal. He complimented Mr. Bushman on his demeanor and professionalism during the entire RFP and ARA contract process, however, the contract stipulates specific requirements and, unless a change is made, these requirements should be fulfilled. Mr. Bushman then indicated that he had spent \$13,000 and \$25,000 respectively during the last two years on advertising. Mr. Berkich explained the City's advertising efforts which he felt totaled \$6 or \$7,000. Mr. Bushman indicated that he and the City work together on the marketing as spelled out by the "Marketing Public Golf Course" guidelines issued by the PGA of America. Supervisor Smith then questioned the reasons two advertising contracts and a verbal contract had been cancelled. The advertiser had purportedly indicated that it was due to the feeling "that he would not be around after December '96". Mr. Bushman explained that he had made a loan to KPTL and that he had been repaid with "air time". When the loan was repaid, he had dropped the advertisement.

Supervisor Smith felt that this was a satisfactory response the same as if it had been determined that the advertisements were not effective. Therefore, a change had been made to a different media. Supervisor Smith's concerns had been about the apparent appearance that Mr. Bushman "was pouting, mad", etc., and "not going to spend money promoting the course". Such an attitude would cost the City customers and require a great deal of effort to get them back. Mr. Bushman responded by reading the PGA constitution and code of ethics conditions which prohibit such a response. This is now he feels and how he would respond. Supervisor Smith then indicated that he was going to "skip over" several other issues as they had calmed down at the course during the time lag. Supervisor Smith then explained comments he had heard which indicated Mr. Bushman felt he was getting a "raw deal" by the City's putting out the RFP and that the City was "not dealing with him fairly". As a result when Mr. Bushman does leave, he would take 200 tournaments with him. Mr. Bushman indicated that he "did not hold anyone". He was not positive that he had said that but felt that it was similar to his statement that he would run for Mayor. Supervisor Smith indicated that such a statement could have been made during the heat of the conversation and/or taken out of text. He again commended Mr. Bushman on his demeanor during the entire process. He stressed his hope that the conversation was "over and done with" and that it had not been serious. He indicated that the City would not know about such an activity until the next year when the tournaments dropped. He could understand the tournaments following Mr. Bushman due to his staff and the facility. Mr. Bushman responded that as a professional with PGA of America he could not do this. Mr. Bush then indicated that he is reporting to Mr. Berkich on a monthly basis as required in the contract. Tournament contracts are normally mailed out in February in a large mailing unless a booking is done the preceding month. He had mailed all of the contracts in the February/March timeframe. Mr. Bushman also indicated he had received a couple of commitments for 1998. A contract will not be mailed until next February on those. Priorities are established by the receipt date which staff places on them when received. Supervisor Smith then requested any questions or comments on any issues or items which should be addressed. Mr. Bushman expressed a willingness to meet with the Board whenever desired individually or collectively. He indicated this could be weekly, bi-weekly, monthly, whatever. He felt that communications at the golf course had improved considerably and with staff. He expressed a desire to continue to do everything possible to make it a success. Mr. Berkich expressed his feeling that communications had improved. He did not hesitate to contact Mr. Bushman on any issue at any time. He had not heard any complaints from the City staff or Mr. Bushman. Supervisor Smith responded by indicating that this is the way he wanted it and it should be operating. He was gravely concerned and disappointed when he heard that the attorneys were the only ones talking to each other. Mr. Bushman then distributed to the Board and Clerk a packet on the communications which had occurred. Mr. Bushman agreed that communications should not go backwards. Supervisor Smith indicated he did not have any additional questions and thanked him for his presence. He also indicated that Mr. Bushman had responded to all of his questions in satisfactory manner. He explained his reasons for agendizing the matter and desire to have all of the Board talk with Mr. Bushman. He pointed out that Mayor Teixeira meets with Mr. Bushman on a regular basis. He felt that Mr. Bushman had not closed the door for other members but that the opportunity had not been exercised.

Discussion ensued between Mr. Berkich and Mayor Teixeira on another report which had been given to the Board. (A copy was not given to the Clerk.) This report had purportedly been used at the Golf Course Advisory Committee meeting the evening before. Clarification indicated it had been placed in the Mayor's box at the office this morning and was not related to this Item. Mr. Bushman then indicated that the April lower rate program had been very successful. Mayor Teixeira then explained that the document he had referenced was an analysis by City staff which indicated the "net-net" loss on the April promotion had been \$9,000. Mr. Berkich indicated that it had been compared to 1994. The year 1995 had not been used as the courses were closed due to snow. Mayor Teixeira pointed out that the Genoa course was not on line in 1994.

16. COMMUNITY DEVELOPMENT DIRECTOR - Walter Sullivan - ACTION ON M-95/96-16 - AN APPEAL FROM DON LANGSON OF A PLANNING COMMISSION DENIAL OF AN APPEAL OF STAFF'S INTERPRETATION THAT A SPECIAL USE PERMIT APPROVAL IS REQUIRED FOR AN RV PARK, SPECIFICALLY SECTIONS 18.06.277, 18.06.275, AND 18.02.060 (PLANNING COMMISSION DENIED 5-0-0-2) (2-0813.5) - Senior Planner Guzman, Deputy District Attorney Forsberg, Applicant's Attorney Scott Heaton, Mr. Sullivan, Senior Planner Danforth, Associate Planner Hullinger, Don

Langson - Mr. Forsberg explained his involvement in the matter and his legal opinion that the Special Use Permit is required based on the RV Park Code requirement that should there be any Code conflicts, the RV Park Code would prevail. Reasons for requiring the Special Use Permit were noted. He also expressed his feeling that the Tourist Commercial ordinance was in error and should be updated. He emphasized that a Special Use Permit had not been denied and Mr. Langson's project had not been prejudiced by a denial. Mr. Langson was speculating that the project would be denied as evidenced by his appeal. Discussion between staff and the Board indicated that the issue for consideration was whether or not a Special Use Permit should be required for the project. The actual permit/project was not under consideration.

(2-0992.5) Mr. Heaton explained the zoning of the property, which is Tourist Commercial. He felt that Mr. Langson owns the bulk of the remaining undeveloped Tourist Commercial property. He then expounded at length on his reasons for believing that as the Tourist Commercial property has listed as a primary permitted use RV park, it should be allowed without having to obtain a Special Use Permit. All of the other districts indicate that a Special Use Permit is required. He felt that a Special Use Permit should only be required when a special use is being requested for property which has not been designed specifically for that usage. He then referenced the packet he had given to the Planning Commission and reviewed Page 9 containing Section 18.06.277. It was his contention that if the Tourist Commercial district was to have required a Special Use Permit it would be listed as a conditional use. The previous page, Section 18.06.275, lists RV Parks as a primary permitted use in the Tourist Commercial district. He then explained the Code's definition of a primary permitted use to support his contention. He questioned the number of times which the Board had dealt with primary permitted uses in a specific use district. He also objected to the District Attorney's opinion indicating that when errors are made in the Code, a conflict provision should be used to resolve the issue. He then referenced Pages 27 and 28 of his packet concerning Section 18.24.040. Page 28, Paragraph 2, dealing with a Special Use Permit indicates that an applicant "may submit" an application for a Special Use Permit once the major project review process has occurred. The next sentence is the basis for staff's interpretation, "A special use permit is required because RV parks are considered as conditional uses in Agricultural zoning district, Conservation Reserve zoning district, Public zoning district, Tourist Commercial zoning district, General Commercial zoning district, Retail Commercial zoning district." He then indicated this statement was "wrong" as Agricultural, Conservation Reserve, Public, General Commercial, and Retail Commercial zoning districts do not allow RV parks as a conditional use. These are mistakes. The RV Park is a conditional use only in Retail Commercial and General Commercial districts. Staff had purportedly indicated that the errors would be brought to the Planning Commission's attention in May and bring the section into conformity. (2-1200.5) Mr. Heaton then explained that he had brought this very issue to Mr. Sullivan's attention in July 1995. Mayor Teixeira asked if he had any substantiation of this. Mr. Heaton responded that his packet contained this information. Mr. Heaton felt that staff was only going to change the conditional uses of Agricultural, Conservation Reserve, and Public rather than modify the Tourist Commercial uses to indicate it is a conditional use. He felt that this had not been the Board's intent when the ordinance was amended in 1995. Mr. Heaton then read the following sentence on Page 28 which referenced Section 18.05.061, which is no longer in existence. He felt that staff had agreed that this section is also in error and should be addressed in May. Based on these mistakes, he felt that staff should not force the applicant to use the only section related to RV parks being a condition use particularly as another section indicated RV parks are a primary permitted use in Tourist Commercial districts. He then referenced Page 34, Paragraph 2, which is the campground ordinance, Section 18.09.050, is "virtually identical to the RV park language", which he read. It indicates that campgrounds are a primary permitted use in Tourist Commercial and do not require a Special Use Permit. He felt that this language should have been contained in Section 18.24.040. He expounded on his reasons for feeling that the Board should not consider any other Sections, including the conflict resolution code, when a conflict arises. He felt that Mr. Langson's request was unique in that there is no other undeveloped Tourist Commercial property remaining in the City. As the usage is a primary permitted use, it should be allowed without the burden of obtaining a Special Use Permit.

(2-1312.5) Clarification by Mr. Forsberg indicated that Mr. Heaton's statements were his opinion based on his client's view. He agreed that the Ordinances include conflicts, however, the RV Park Ordinance is very clear and it specifically indicates that "wherever the provisions of this chapter impose a more stringent regulation, it shall apply". There is no evidence to indicate that the RV Park ordinance should be changed to allow it as a primary

permitted use as a campground is allowed. The Applicant is only qualified to make an application for a Special Use Permit after a Major Project Review has occurred. He indicated that the same ordinance later indicates that the "applicant shall follow the special use permit process". He urged the Board to follow the clear and precise language of the ordinance and mandate the Special Use Permit. He emphasized that his advice was not based on any interest in or against the project. His opinion was based on his understanding of the entire Section 18 and the most legally defensible position the Board should take from that reading. Mr. Heaton is an advocate for his client, which is his job. Mr. Forsberg indicated that he had consulted with other individuals in his office on the subject to verify his opinion.

(2-1390.5) Mr. Heaton then responded to Supervisor Ayres' question concerning the reasons for not wishing to apply for a Special Use Permit as being that, based on the required information, it is a discretionary power and that it would present compatibility issues with surrounding properties as a part of the Special Use Permit process. He did not feel that the airport compatibility issue could be addressed any differently than the attempt undertaken for the Mobile Home Park. He then indicated that they were apprehensive.

Supervisor Smith then indicated for the record that this request was unlike anything which normally comes before the Board. He felt a little at a loss because he did not have the legal knowledge and expertise. He felt like a judge and jury setting here with two attorneys arguing different legal points with are difficult for him to decipher. He felt he did better with ordinary laypersons in ordinary instances, however, this type of a thing is a little bit different. Clarification indicated that the conflict code is not contained in all Sections of the Code. Mr. Forsberg felt that if it had been included in every Section of the Code it would have little meaning. Supervisor Smith felt that this indicated it was unusual to have it in the Code. Mr. Forsberg felt that it was the reason additional requirements were being placed on the project. The Conflict Code addressed any potential Code conflicts which had not been discovered. It is not to cover mistakes but to cover conflicting regulations. Mr. Forsberg did not feel that a law could be ignored based on an individual's feeling that it is a mistake. He did not feel that the Board should discuss "proving there was a mistake". He also did not feel that the appeal had been an attempt to force either the Board or Commission to make a determination as whether there was a mistake. Legal interpretations and legal issues should not be addressed by the legislative body, such as the Board or Commission.

Mr. Heaton reiterated his attempt as being to derive the Board's intent and indicated the question was whether it had been the Board's intent to make a Special Use Permit an obligation of every property owner when the usage is listed as a primary permitted use.

Mr. Guzman responded to Supervisor Bennett's question by explaining that the Special Use Permit is required to allow additional review of the project specifically when conflicts are present. This process is found throughout the country. Zoning by itself will not resolve the conflicts. Conflicts occur when different land uses are adjacent to each other as well as when temporary uses are adjacent to permanent structures. The Special Use Permit process allows for resolution of issues related to the property values, noise, light, traffic, safety, welfare, aesthetics, etc. This allows a case-by-case review from which requirements can be determined and efforts to mitigate impacts addressed. This process allows staff and the Board to make judgements related to the public benefit, looks at a broader scope than just the project, and considers the impact potential(s) of the project. This tool is used by many municipalities and not just Carson City. Mr. Heaton interjected by indicating that it is never used for primary permitted uses. Ms. Danforth then explained for Supervisor Smith that the RV Park ordinance had been written in 1993. The RV Park use was allowed in the Tourist Commercial District long before that date. When the 1995 ordinance was adopted the Section addressing RV Parks was not touched; therefore, the issue of a conflict in ordinances was not recognized. Staff had told the applicant that a correction would be made in May to resolve the conflict. This would change the Agricultural, Conservation Reserve, General Commercial, and Public Districts to make them conform to the RV Park. She also expressed her concern that if the Special Use Permit process is removed from the RV Park ordinance, Carson City would no longer be able to obtain the type of project which is adequate in all instances. It would leave the project to the applicant and the site. The RV ordinance has a very limited amount of design criteria. She felt that this had been based on the ability of the Special Use Permit to insure a site-by-site review.

(2-1642.5) Mr. Heaton reiterated his comments concerning staff's reliance on the RV Park ordinance to require the Special Use Permit. This infers that the RV Park is a special use. He felt certain that staff would change the other districts to require a Special Use Permit. He urged the Board to make a determination as to the statute's intent when adopted in 1993. He then indicated that he would be happy to follow the requirements of Section 18.05.061 which had been repealed. Mr. Forsberg indicated that this Section had merely be placed in a different portion of the Code and was not eliminated. He encouraged Mr. Heaton to read the Code a little further.

(2-1678.5) Ms. Hullinger indicated that the change would be made adding RV Park Special Use Permit requirements to the other zoning districts. This would make the Code consistent.

Clarification by Mr. Heaton indicated that an RV project had been through the major project review process. Mayor Teixeira explained that the mobile home project previously considered had raised a major concern about the noise impact. He did not feel that the RV park would encounter the same concern due to the transient nature of the occupants. He felt that Mr. Heaton was making an unfair assumption which was not fair to the Board or the process. He felt that the Board would judge the merits of the project. He questioned Mr. Heaton's/his client's reluctance to go through the process. He indicated that he had liked the previous project and that it had had a lot of merit. He felt that if Mr. Langson submitted a first class project and worked with the staff/community it should provide a product which would be in everyone's best interest. Mr. Heaton indicated that it had not been Mr. Langson's desire to be appeal. Mr. Heaton, as the attorney, was appealing the issue as failure to appeal would waive the ability to challenge it at a later date. His reading of the Code indicated that this is the procedure. He was not stating that denial of the appeal would indicate an application for a Special Use Permit would not be filed. He reiterated his reasons for feeling that the Special Use Permit should not be required. Mayor Teixeira noted that his comments were his own and not necessarily the opinion of the Board. Mr. Heaton also reiterated that his reason for appealing was based on the need to have a record.

Discussion ensued between Mayor Teixeira and Mrs. Danforth indicating that without the Special Use Permit Mr. Langson would be free to construct an RV park. The RV ordinance does not have much in the way of design criteria, e.g., roadways, restroom facilities, lot size, and vehicle parking. There are no setback requirements to adjacent properties. There are some landscaping requirements. Mr. Heaton felt the information which was being requested was contained in CCMC 18.24.040. Mrs. Danforth indicated there are no fencing requirements. Without the Special Use Permit considerations, a good product may not be developed. Discussion explained that Pinion Plaza RV Park on Highway 50 East and Camp-N-Town's expansion had been required to obtain Special Use Permits. Mr. Heaton felt that it had not been required for Mr. Lepire's park--Camp-N-Town. Discussion indicated that there had been one. This park is in the General Commercial district. Mr. Heaton reiterated that the reason this was before the Board was that one had never been required in Tourist Commercial zoning. This site was the only zoning district where it is the primary permitted use. Mr. Guzman explained that the reason the Board had not received a request previously had been based on staff's efforts and the requirement that a Special Use Permit be obtained. Mayor Teixeira noted that this was the remaining undeveloped Tourist Commercial area. He also felt that all similar projects had been required to obtain a Special Use Permit.

(2-1872.5) Don Langson voiced his objection to the inference that he would construct a substandard project. He had redesigned the park many times in an attempt to meet the staff's standards at a cost of thousands and thousands and thousands of dollars. It is very expensive to meet all of the requirements of the Building Code. He felt he should not be penalized if staff left something out of the Code. He then questioned Mr. Forsberg if Section 18.24.040 required the Special Use Permit in Tourist Commercial zoning. Mr. Forsberg recommended he discuss his question with his attorney. Mr. Langson read Sections 18.24.040 and 18.02.060 which he felt indicated that he should not be required to obtain a Special Use Permit as one could not be issued. Mayor Teixeira noted that his point had been made by Mr. Heaton. Mr. Langson then asked if he could construct a campground without a Special Use Permit. Mayor Teixeira indicated that Mr. Langson was making assumptions. The Board had not considered a campground in several years and he was unsure of the requirements. Mr. Langson felt that the Board should read and be aware of all of the ordinance requirements. Mayor Teixeira reminded him that this issue was not agendized and he could not respond. Mrs. Danforth indicated she was unsure. Mr. Forsberg felt it was an unfair question. Mayor Teixeira indicated that an answer could not be given this evening. Mr. Guzman explained

that in the heat of the discussion Mrs. Danforth had not meant to infer that Mr. Langson's project was inferior. If Mr. Langson had felt that this had been the comment, he apologized as this had not been the intent.

(2-2021.5) Supervisor Bennett moved that the Board of Supervisors uphold the Planning Commission's recommendation to deny M-95/96-15, an appeal from Mr. Langson of the Planning Commission denial of an appeal of staff's interpretation that a Special Use Permit approval is required for an RV Park, specifically Sections 18.06.277, 18.06.275, and 18.02.060. Supervisor Ayres seconded the motion. Supervisor Tatro explained his reasons for voting against the motion due to his examination of the Campground Ordinance and the errors in the RV Park Ordinance. He had been on the Board when the ordinances had been adopted. He could not tell you what the intent of the Board had been at the time on either ordinance. The language in the Campground Ordinance makes him believe that the failure to follow through had occurred in the RV Park Ordinance. He also noted that a member of his family is a judicial judge and that he (Supervisor Tatro) had served on a jury once which had convicted a young man whose case was overturned by the Supreme Court. The issue was the interpretation of law and, although he was not sure that he is good at that, this is his opinion. Supervisor Ayres noted that none of the Board Members were attorneys but that the Deputy District Attorney is a competent individual who is paid to provide the Board advice. She felt that the Board was neither the judge nor jury. She urged the Board to be extremely cautious of its actions and to not freely hand out exceptions on a case-by-case. This would lead to arbitrary and capricious actions. This would also set a precedence and be asked to approve exceptions from a wide variety of persons who benefit from not having to comply. She urged the Board to be careful and not do this. If the Board was not going to take the advice of the people who know more about this than the Board, which is the staff and the Deputy District Attorney, then she felt that the Board would be trying to make decisions which it is not capable of doing on its own. Those are the reasons she seconded the motion and would vote for it. Supervisor Bennett then explained one of her reasons for making the motion is based on the principal which the Board takes in its oath of office which is to uphold the Board's own ordinances, laws, and codes. The ordinance is very clear. She believed that the Board should uphold its own ordinances. If the Board chooses in its wisdom to change its ordinances to say something else, then the Board should come back at another time and amend that section. However, at this point this is what the law says and she agreed with the representation of staff and the District Attorney to what is stated in Section 18.24.024 and this is the basis for her motion. The motion to uphold the Planning Commission recommendation and deny the appeal of staff's interpretation that a Special Use Permit is required for an RV Park was voted by roll call with the following result - Supervisor Smith - I will make my comment just before I vote; I have my own ideas on what I would like to see on that property but in this instance, I think I have to do what I believe is fair, impartial and just, and I won't run the risk of repeating everything Supervisor Tatro just said but I have to tell you that I feel exactly the same way he does so my vote is no - No; Ayres - Yes; Tatro - No; Bennett - Yes; and Mayor Teixeira - Isn't this fun; I sat back and I said this would happen; I know it; this is life; I am going to net it out; I feel very secure that a good project even under a Special Use Permit will get a fair hearing; I know how I feel about the project and I respect Mr. Langson and his property rights; and I respect Mr. Langson and the product he would bring forward; we have a feud; we have a conflict tonight; I'm not an attorney; but I am going to try and make sense of it; I think that in fact he wants to build the best product with the highest and best use of his land, so do I; but at the same time I have a responsibility to insure that people will do the best job that they can, and I can go back to the developers, and I have played a lot of games out there with the developers in trying to get a better product; you know for the most part its always been a win-win and I really believe sincerely, Mr. Langson, that if it is really your true intent to build an RV Park on that land that will fly and I am sure that you will get the full cooperation and a level playing field as an applicant with the RV Park Ordinance that requires a Special Use Permit; your reality of what you want will be there and it will go through the process; if that is what you want, I am sure, it will happen; you will build a good product and I am going to support the motion; I think it should and I feel very strongly that it should be under a Special Use Permit; it, the project and type of zoning that needs to be examined and have scrutiny in the best interest of you, us and the community; therefore, I vote yes - Yes. Motion carried on a 3-2 vote.

BREAK: A five minute recess was declared at 7:45 p.m. When the meeting reconvened at 7:50 p.m., the entire Board was present constituting a quorum.

17. CITY MANAGER - John Berkich

A. ACTION ON APPROVAL IN CONCEPT OF THE FORMATION OF A REGIONAL HOUSING CONSORTIUM UNDER THE AUSPICES OF WESTERN NEVADA DEVELOPMENT DISTRICT (2-2175.5) - Northern Nevada Development District Executive Director Mary Lou Bentley - Discussion explained the reasons Mr. Berkich had agreed to be the lead agency in the consortium, the other participants, other Counties and Cities which had been invited to participate, and potential HUD support for the revised program. Supervisor Tatro moved that the Board approve in concept the formation of a regional housing consortium under the auspices of the Western Nevada Development District. Supervisor Bennett seconded the motion. Motion carried 5-0.

B. ACTION TO APPROVE AN AGREEMENT WITH THE STATE OF NEVADA FOR THE LEASE OF CERTAIN FACILITIES AT THE FORMER NORTHERN NEVADA CHILDREN'S HOME (2-2324.5) - Mayor Teixeira voiced his opposition to having to pay for the utilities in light of the improvements which the City would be making. Comments indicated that the State would not experience "any out-of-pocket" costs for the lease. Supervisor Smith moved that the Board approve the agreement with the State of Nevada for the lease of certain facilities at the former Northern Nevada Children's Home; fiscal impact is \$10,000; and the funding source is the General Fund from the 96-97 Budget. Supervisors Ayres and Tatro seconded the motion. Motion carried 5-0.

C. ACTION TO APPROVE THE REMODELING PLANS FOR THE CITY HALL FACILITY LOCATED AT 201 NORTH CARSON STREET (2-2415.5) - John Ganther of Ganther, Melby and Lee - The floor plan has been finalized with staff's input. The building will be expanded by approximately 2600 square feet on the north, west, and south sides. The proposed layout was illustrated and explained. Construction documents are being drafted. A public meeting room is included on the southeast corner. The building will meet ADA requirements. The exterior facade was included in the design illustration and explained. This will radically change the building's appearance and blend it with the surrounding historical buildings. Computerized enhancements illustrated the remodeled appearance. (Supervisor Smith stepped from the room during this presentation--8:08 p.m.--and returned--8:10 p.m. A quorum was present the entire time.) Discussion indicated the glass windows would be removed and the walls moved out to the edge of the block fascia. Concern was expressed about the flat roof. Mr. Berkich then explained that the additional facade treatment would cost approximately \$120,000 and reasons he believed the Board should support the project. Mr. Ganther also noted that this would make the project fit the Downtown Design Guidelines. He indicated a remodel would cost approximately 25 to 30 percent more if constructed after the staff is relocated. Supervisor Smith noted that the building is attractive as it currently is constructed. He had not seen any renderings of how it would appear if the walls are moved out. Mr. Ganther provided an illustration of how the building would look without the fascia treatment which indicated it would become a "box". He felt that the project should be completed by January 1997. Discussion noted the suggested funding source. Supervisor Bennett suggested one/two V&T arches be added the facade, specifically in the entrance, and that the appearance of arches be added to the windows. Mr. Berkich agreed to explore this concept. Mayor Teixeira felt that it should be added to the budget process and indicated a decision would not be made this evening. Supervisor Ayres supported the concept. No formal action was taken on this Item.

There being no other matters for consideration Supervisor Ayres moved to adjourn. Mayor Teixeira seconded the motion. Motion carried and Mayor Teixeira adjourned the meeting at 8:20 p.m.

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ARE SO APPROVED ON _____ July 18 _____, 1996.

_____/s/_____
Marv Teixeira, Mayor

ATTEST:

_____/s/_____
Alan Glover, Clerk-Recorder