

CARSON CITY BOARD OF SUPERVISORS
Minutes of the December 1, 1994, Meeting
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A regularly scheduled meeting of the Carson City Board of Supervisors was held on Thursday, December 1, 1994, at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 1 p.m.

PRESENT:	Marv Teixeira	Mayor
	Kay Bennett	Supervisor, Ward 4
	Greg Smith	Supervisor, Ward 1
	Janice Ayres	Supervisor, Ward 2
	Tom Tatro	Supervisor, Ward 3
STAFF PRESENT:	John Berkich	City Manager
	Kiyoshi Nishikawa	Clerk-Recorder
	Ted P. Thornton	Treasurer
	Mary Walker	Finance & Redevelopment Director
	Judie Fishers	Personnel Manager
	Basil "Butch" Moreto	Purchasing & Contracts Director
	Tim Homann	Acting Public Works Director
	Paul Lipparelli	Deputy District Attorney
	John Iratcabal	Dep. Purchasing & Contracts Dir.
	Jay Ahrens	Dep. Dir. of Public Utilities
	Katherine McLaughlin	Recording Secretary
	Shiela Dargert	Recreation Office Supervisor
	(B.O.S. 12/1/94 Tape 1-0001)	

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 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.

Mayor Teixeira called the meeting to order at 1:03 p.m. Rev. Al Tilstra of the Seventh Day Adventist Church gave the Invocation. Mr. Berkich lead the Pledge of Allegiance. Roll call was taken. The entire Board was present constituting a quorum.

1. APPROVAL OF MINUTES (1-0049) - None.

(1-0289) Discussion indicated the Board had Minutes for May 19, 1994, in their packets. Due to the desire to be sure these Minutes had been approved, Supervisor Smith moved to approve as presented. Supervisor Tatro seconded the motion. Motion carried 5-0. (NOTE: These Minutes had been approved on August 18, 1994.)

2. SPECIAL PRESENTATION - ACTION ON RETIREMENT RESOLUTION FOR RODNEY BANISTER (1-0059) - Personnel Manager Judie Fisher introduced the item. Mayor Teixeira congratulated Mr. Banister on his election as Sheriff and presented a plaque to him. He wished him well in his new venture. Supervisor Tatro moved to adopt Resolution No. 1994-R-86, A RESOLUTION COMMENDING RETIREMENT FOR Rod Banister and read the entire Resolution into the record. Supervisor Smith seconded the motion. Motion carried 5-0.

CITIZEN COMMENTS (1-0145) - None.

LIQUOR AND ENTERTAINMENT BOARD (1-0153) - Mayor Teixeira recessed the Board of Supervisors session and immediately reconvened the session as the Liquor and Entertainment Board. A quorum was present although neither Member McGrath nor his Designee Freeman were present.

3. TREASURER - Ted P. Thornton - ACTION ON AN APPLICATION FOR A LIQUOR LICENSE

FOR THE CARLSON HOUSE, INC., CONNIE EASLEY, VICE PRESIDENT - Discussion noted Ms. Easley is currently involved with the Giribaldi Restaurant. The Sheriff's Office recommended approval. Ms. Easley explained that the final inspections should be made next week. The name was taken from a family member. The restaurant will open on December 16. Member Bennett moved that the Board of Supervisors--. Following a request for an amendment, Member Bennett moved that the Liquor and Entertainment Board approve a Liquor License for Connie Easley, Vice President of The Carlson House, Inc., fiscal impact is \$200 per quarter. Member Tatro seconded the motion. Sheriff's Designee Vic Freeman arrived and indicated the Sheriff's Office recommended approval. Motion to approve the Liquor License was voted and carried 6-0.

4. TREASURER - Ted P. Thornton - CONSENT AGENDA - ACTION ON SPECIAL EVENT SHORT-TERM BUSINESS PERMIT WITH WAIVER OF THE \$50.00 PER DAY PROMOTER FEE FOR CARSON CITY RECREATION DIVISION (1-0255) - No discussion occurred. Member Tatro moved that the Liquor and Entertainment Board approve the Liquor and Entertainment Board Consent Agenda as presented. Members Smith and Bennett seconded the motion. Motion carried 6-0.

There being no other matters for consideration as the Liquor and Entertainment Board, 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.

5. CONSENT AGENDA (1-0301)

A. TREASURER - ACTION ON TREASURER'S REPORT FOR THE MONTH OF OCTOBER 1994

B. CLERK-RECORDER

i. ACTION ON CERTIFICATION OF THE 1995 JURY VENIRE

ii. ACTION ON A RESOLUTION AUTHORIZING THE DESTRUCTION OF FIRE DEPARTMENT'S PAID ACCOUNTS, FISCAL YEAR 91/92 AND FISCAL YEAR 92/93

C. CITY MANAGER - ACTION ON APPROVAL OF A RESOLUTION ORDERING THE DEADLINE FOR ISSUING A RATE ORDER BE TOLLED FOR 90 DAYS IN ORDER TO ALLOW TIME TO REVIEW AND ANALYZE TCI'S SUBMITTAL OF FCC FORMS 1210 AND 1215

D. PUBLIC WORKS DIRECTOR - ACTION ON APPOINTMENT OF WAYNE KOCHER, P.L.S. NO. 6304, AS ACTING CITY-COUNTY SURVEYOR EXCLUSIVELY FOR THE REVIEW AND APPROVAL OF THE AMENDED RECORD OF SURVEY NO. 2073

E. COMMUNITY DEVELOPMENT DIRECTOR - ACTION ON APPROVAL OF OPEN SPACE USE ASSESSMENT DESIGNATION FOR 1614 NORTH CURRY STREET, APN 1-155-02, A PROPERTY LOCATED WITHIN THE HISTORIC DISTRICT

F. PURCHASING AGENT

i. ACTION ON CONTRACT NO. 9495-106 - VOLTAIRE WATER MAIN, AWARD

ii. ACTION ON CONTRACT NO. 9495-114 - SKID-STEER LOADER, AWARD

iii. ACTION ON CONTRACT NO. 9495-28 - VOLTAIRE WATER TANK, 12 INCH MAIN WATERLINE, REQUEST FOR FINAL PAYMENT - Deputy Director of Purchasing and Contracts John Iratcabal and Supervisor Bennett requested Item F.i. be pulled for in depth discussion. Supervisor Tatro moved to approve the Consent Agenda as presented including Resolution No. 1994-R-87, A RESOLUTION AUTHORIZING DESTRUCTION of Fire Department Paid Accounts for Fiscal Years 92/93 and 92/93 and Resolution No. 1994-R-88, Action on Approval of a RESOLUTION ORDERING THE DEADLINE FOR ISSUING A RATE ORDER BE TOLLED FOR 90 DAYS IN ORDER TO ALLOW ADDITIONAL TIME TO REVIEW AND ANALYZE TCI'S SUBMITTAL OF FCC FORMS 1210 AND 1215 and with the deletion of Contract 9495-106 which will be heard separate. Supervisor Bennett seconded the motion. Motion carried 5-0.

F. i. Mr. Iratcabal corrected the funding source and the bidder list. Mr. Berkich explained the reasons for using the Fairground Improvements Account. There should be adequate funding left to do the windbreak project. Supervisor Tatro moved that the Board accept the Purchasing Department recommendation and award Contract 9495-106 to Mike's Trenching, 3725 Lyon Lane, Carson City, as the lowest responsive and

responsible bidder pursuant to the requirements of NRS Chapter 332, 338, 339, and 624 for a contract amount of \$274,738 and a contingency amount of \$27,478.30 with the funding source being Voltaire Water Main Project and Various Main Extension funded in fiscal year 9495 and in the Fuji Park Windbreak Project as was previously funded. Supervisor Bennett seconded the motion. Project carried 5-0.

AGENDA MODIFICATIONS (1-0445) - Item 12. District Attorney ordinances related to the CCMC 4.04.107 and 5.12.020 on the Telephone Company and the Price-Costco Development Agreement were continued. Discussion included reasons for the continuances.

6. TREASURER - Ted P. Thornton - ORDINANCE - FIRST AND SECOND READING - ACTION ON AN ORDINANCE DESIGNATED AS THE "12-1-94 BOND ORDINANCE"; AUTHORIZING THE ISSUANCE BY CARSON CITY OF ITS FULLY REGISTERED, "CARSON CITY, NEVADA, HIGHWAY IMPROVEMENT REVENUE (MOTOR VEHICLE FUEL TAX) BONDS, SERIES DECEMBER 1, 1994", FOR THE PURPOSE OF FINANCING STREET AND HIGHWAY CONSTRUCTION WITHIN THE CITY; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS, THE METHOD OF THEIR PAYMENT AND THE SECURITY THEREFORE, AND OTHER DETAILS IN CONNECTION THEREWITH; PROVIDING FOR THE DISPOSITION AND PLEDGE OF THE PROCEEDS OF CERTAIN MOTOR VEHICLE FUEL TAXES, SUCH BONDS, AND THE REVENUES PLEDGED FOR THEIR PAYMENT; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD ISSUING SUCH BONDS AND EFFECTING THE PURPOSE OF THEIR ISSUANCE; BY DECLARING THIS ORDINANCE PERTAINS TO THE SALE, ISSUANCE AND PAYMENT OF THE BONDS, PROVIDING FOR ITS ADOPTION AS IF AN EMERGENCY EXISTS; AND PROVIDING THE EFFECTIVE DATE HEREOF (1-0575) - Mr. Thornton introduced Financial Consultants Linda Harvey and Scott Nash and Bond Counsellor Jennifer Stern. He corrected the final bond amount to be \$2,085,000, explained the bids, and submitted new pages including the recommended bid. He noted the need to have an unanimous vote to approve the declaration of an emergency and bond. Mr. Nash responded to Supervisor Bennett's questions concerning Griffin, Kubik. Supervisor Smith moved to adopt Bill No. 157, Ordinance No. 1994-62, AN ORDINANCE DESIGNATED AS THE "12-1-94 BOND ORDINANCE"; AUTHORIZING THE ISSUANCE BY CARSON CITY OF ITS FULLY REGISTERED, "CARSON CITY, NEVADA, HIGHWAY IMPROVEMENT REVENUE (MOTOR VEHICLE FUEL TAX) BONDS, SERIES DECEMBER 1, 1994", FOR THE PURPOSE OF FINANCING STREET AND HIGHWAY CONSTRUCTION WITHIN THE CITY; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE BONDS, THE METHOD OF THEIR PAYMENT AND THE SECURITY THEREOF, AND OTHER DETAILS IN CONNECTION THEREWITH; PROVIDING OTHER COVENANTS, AND MAKING OTHER PROVISIONS CONCERNING SUCH MOTOR VEHICLE FUEL TAXES, SUCH BONDS, AND THE REVENUES PLEDGED FOR THEIR PAYMENT; RATIFYING ACTION PREVIOUSLY TAKEN TOWARD ISSUING SUCH BONDS AND EFFECTING THE PURPOSE OF THEIR ISSUANCE; BY DECLARING THIS ORDINANCE PERTAINS TO THE SALE, ISSUANCE AND PAYMENT OF THE BONDS, PROVIDING FOR ITS ADOPTION AS IF AN EMERGENCY EXISTS; AND PROVIDING THE EFFECTIVE DATE HEREOF, with the following changes: that being the inclusion as presented of the revised pages 4, 32, 33, 61, 65, 67, 87, 90 which is Exhibit 1, 90A, 90B, and 90C; fiscal impact will be \$2,085,000; funding source is the four cent per gallon excise tax on all motor vehicle fuel which is currently being collected. Supervisor Tatro seconded the motion. Following a request for a correction, Supervisor Smith corrected the motion to be "METHOD OF THEIR PAYMENT AND THE SECURITY THEREFOR" rather than "THEREOF". Supervisor Tatro continued his second. Motion was voted by roll call with the following result: Ayes - Ayres, Bennett, Tatro, Smith, and Mayor Teixeira. Naves - None. Motion carried 5-0. Mayor Teixeira then read the final paragraphs from Page 92.

7. REDEVELOPMENT AUTHORITY (1-0871) - 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. REDEVELOPMENT DIRECTOR - Mary Walker - ACTION ON MRS. MORAN'S REQUEST FOR REDEVELOPMENT INCENTIVES FOR PROPERTY LOCATED AT 711 SOUTH CARSON STREET (1-1282) - Supervisor Ayres moved to approve Moran, Young, Williams, Williams and Hunstiger application for incentives for the project known as "Sierra Land Realty" in the amount of \$54,987 subject to the applicant signing a lien and grant agreement in accordance with the Redevelopment Incentives Program; further, the Redevelopment Authority hereby finds this project meets the requirement of NRS 279.486 and finds the project is of benefit to the redevelopment area and the immediate neighborhood in which the redevelopment area is located and that no other reasonable means of financing this project is available; the Authority further determines the incentive amount paid by the Redevelopment Authority shall be on a reimbursement basis only after the work has been completed and as tax dollars or other financing is available to the Redevelopment Authority; further, this application is approved subject to the applicant fulfilling any other City requirements; fiscal impact not to exceed \$54,987; funding source: Redevelopment Incentives Program. Supervisor Bennett seconded the motion. Motion carried 5-0.

9. PERSONNEL MANAGER - Judie Fisher - ACTION ON APPOINTMENT TO THE GOLF COURSE ADVISORY COMMITTEE(1-1345) - R. Kelly Bieri, Keith Flanders, Candace Duncan, and Robert Conroy were interviewed by the Board.

(2-3039) Each Supervisor listed his top two candidates and occasional gave reasons for the selection. From this procedure R. Kelly Bieri was selected. On second go-round, Keith Flanders was selected. Mayor Teixeira suggested Mr. Bieri be appointed to fill the immediate vacancy. Supervisor Ayres moved that the Board of Supervisors appoint R. Kelly Bieri to the Golf Course Advisory Committee to fill the vacancy which begins in December 1, 1994, and that Keith Flanders fill the term commencing February 1, 1995. Discussion indicated the date is to be when the vacancy occurs. Supervisor Bennett seconded the motion. Motion carried 5-0.

BREAK: A ten minute recess was declared at 2:10 p.m. When the meeting reconvened at 2:20 p.m. the entire Board was present constituting a quorum.

10. COMMUNITY DEVELOPMENT DIRECTOR - Walter Sullivan - ACTION ON A REQUEST BY CLARK AND JEAN RUSSELL OF PROPOSED BOWLING CENTER, CASINO/HOTEL TO EXCEED GROWTH MANAGEMENT RESOLUTION NO. 1994-R-2 COMMERCIAL AND INDUSTRIAL SEWER AND WATER LIMITATIONS PURSUANT TO CARSON CITY MUNICIPAL CODE 18.82.150 (1-2531) - Deputy Utilities Director Jay Ahrens - Discussion ensued between the Board and staff on the reasons the request was being considered at this time instead of prior to beginning construction. The project would exceed Growth Management allotments by four times. Water conservation measures required of the applicant was noted. Concern was expressed about the Board not having seen the project before this request. Mr. Berkich agreed to have staff analyze the time concerns. Acting Public Works Director Tim Homann stressed staff's attempts to work with the building community to get a project moving. All of this is done under a caveat that the project may be halted at any time if questions are not resolved. Guarantees are not made. Mayor Teixeira felt that this is one of the items which should be included in the "One Stop Shop" program. Mr. Berkich again agreed to analyze the suggestion. Comments again reiterated concern about the Board's lack of information on the total project. Discussion indicated the Board had reviewed the project in that individual's absence. An apology was given. Supervisor Ayres moved that the Board of Supervisors approve a request by Clark and Jean Russell to exceed Growth Management Resolution No. 1993-R-60 commercial, industrial, sewer and water limitations pursuant to CCMC 18.82.150 subject to the conditions of approval as contained in the Utility Manager's report; fiscal impact has not been determined. Supervisor Smith seconded the motion. Motion carried 5-0.

11. PUBLIC WORKS DIRECTOR - Acting Public Works Director Tim Homann - ACTION TO CONSIDER THE USE OF ROLLED CURB AND GUTTER WITHIN CITY RIGHTS-OF-WAY (1-3105) - Mr. Homann discussed with the Board the staff's policy to allow limited use of rolled curbs in subdivisions, the pros and cons of both types of curbs, the disagreement among professionals concerning the advantages/disadvantages to both types, and corrected the Board Action Request to indicate there are other Nevada agencies which allow the use of rolled curbs. Discussion included the number of curb cuts allowed per lot and the

handicapped standards, which rolled curbs would not meet. (2-0068) Construction costs were equal for either curb style. Supervisor Bennett urged staff to analyze the proposal thoroughly including testing handicapped access. The Board could then make an informed decision based on the merits of the different curbs. A warning from Douglas County on rolled curbs was noted. (2-0275) Western Engineering Services of Carson City Representative Dennis Smith supported the use of rolled curbs particularly in cul-de-sacs or residential districts. Commercial districts should not use it. He explained his experience with these curbs in Douglas and Lyon Counties. A rendering of this curb was displayed. He detailed the advantages and disadvantages of each style. Mayor Teixeira noted that the request was for the Department to have discretion in considering where the rolled curb could be used. He felt that this request was appropriate and cited examples of where he felt rolled curbs in SF6000 should not be allowed. Supervisor Smith moved that the Board of Supervisors include the use of rolled curbs and gutters for a specific development project within Carson City rights-of-way and direct the Public Works Department to return at a later date with the special details for the adoption of the standard for the Public Works policy. Supervisor Tatro seconded the motion and suggested that there be a workshop with the engineers, builders, and individuals with ADA responsibilities to look at including the practical applications in the standards. Both Supervisor Smith and Mr. Homann agreed with his suggestion. Supervisor Ayres also suggested the transportation providers, i.e., Senior Citizens Center and RSVP, etc., be included in the workshop. The motion to direct staff to create a rolled curb standard was voted and carried 5-0.

12. DISTRICT ATTORNEY - Deputy District Attorney Paul Lipparelli

B. ACTION ON APPROVAL OF INDEMNITY AGREEMENT INDEMNIFYING THE OWNER OF PARCEL NUMBERS 07-061-19, 07-051-03, 07-051-08 AND 07-051-06 FROM LIABILITY FOR CERTAIN POTENTIAL ENVIRONMENTAL CLEANUP COSTS AND OTHER RELATED MATTERS (2-0549) - The packet included a model agreement. Board direction was solicited on it. History of the site, testing performed at the site, and reasons for bringing the issue to the Board at this time were reviewed. Mr. Berkich further detailed the testing conducted at the site. The agreement included a clause which would void the agreement at the City's sole option if the property owners do not convey the property to a public entity on or before a date which remains to be defined. Mr. Berkich indicated the need to resolve the issue posthaste. Supervisor Bennett supported the concept particularly in view of the letter from the Department of Environmental Protection. Mr. Berkich thanked Steve Walker for his assistance. Mr. Lipparelli also noted a clause which requires the indemnitees maintain the conditions as stipulated by the Soil Conservation Officials. These conditions are also included in the State's mitigation requirements. A joint management agreement with the public agency may be warranted once the property is dedicated. This public agency may assume the maintenance requirements and may either perform the maintenance itself or contract the work. The City may be responsible for monitoring the site. Supervisor Bennett voiced her support for the proposal. Additional comments were solicited but none made. Supervisor Bennett then moved that the Board approve the indemnity agreement indemnifying the owner of parcel numbers 07-061-19, 07-061-26, 07-051-03, 07-051-08, and 07-051-06 from liability for certain potential environmental cleanup costs and other matters properly related thereto. Supervisor Ayres seconded the motion. Discussion noted the Board did not have the final draft and that staff was seeking approval in concept/direction on any changes which were felt to be warranted. Supervisor Bennett then corrected the motion to direct the City Manager and District Attorney to pursue an indemnity agreement with the owners of the parcels which had been mentioned and return to the Board for final approval. Supervisors Ayres and Tatro seconded the motion. Motion carried 5-0.

C. ACTION ON APPEAL BY THOMAS Y. JOHNSON OF CITATION NO. 40692 ISSUED AUGUST 11, 1994, FOR A VIOLATION OF CARSON CITY MUNICIPAL CODE 4.04.010, DOING BUSINESS WITHOUT A VALID LICENSE (2-1048) - Attorney Linda Johnson, Business License Inspector Kevin McCoy, and Treasurer Ted P. Thornton - Ms. Johnson indicated a formal notice had not been received by her or Mr. Johnson and questioned use of traffic citation forms for citing an individual. She encouraged the Board to change the forms and notification procedures. Ms. Johnson felt the policy was arbitrary, capricious, and unconstitutional. She maintained the Code does not support the policy and that the Board should direct staff to

abandon same. Reasons for the citation and appeal, court ruling on the issue, the City's policy on licensing per commercial rental building site, the fee, and potential licenses held at each commercial site including several examples were discussed at length. Mrs. Johnson felt that other commercial building owners had chosen to pay the licensing fee rather than fight the ticket due to the cost of fighting the ticket. She continued to stress her feeling that the Code did not address Mr. Johnson's situation. Mayor Teixeira felt that the Code needed to be modified so that commercial property owners would be taxed by square footage rather than by the number of tenants. Supervisor Ayres voiced her opinion that CCMC 4.04.010 did not require Mr. Johnson to have a business license for each unit. Ms. Johnson responded by expressing her feeling that as a property owner he was also paying property taxes and that this could be double taxation. Mr. Lipparelli indicated for the record that Ms. Johnson and District Attorney Waters had discussed the criminal case related to the citation and had agreed to postpone it until the administrative appeal procedure had been pursued. A stipulation had been submitted by Ms. Johnson to that effect. He apologized for her failure to received the Code mandated notice. He was willing to continue the matter until such time as deemed appropriate if Ms. Johnson so requested. Ms. Johnson indicated she was willing to go forward rather than delay the process. Mr. Lipparelli then numerated the reasons for feeling that the Business License was not a tax and that the City was not conceding that it is a tax. He then explained the Board's ability to adjust or modify the Code without changing the Code which is the reason the issue was before the Board at this time. Mayor Teixeira suggested a motion which would uphold the Department's interpretation of the Code, delete citation 40692, and direct staff to bring clarification of the Code which would address the ambiguity concerns. Mr. Lipparelli suggested the Board follow the code which would adjust or modify the fee and return later with an agenda item amending the Code. **Supervisor Tatro then moved that the Board of Supervisors modify/adjust the amount of the Business License fee for Thomas Y. Johnson to zero which would void Citation No. 40692 and direct the City staff to develop an ordinance to amend Section 4.04 of the Carson City Municipal Code to clarify licensing requirements for commercial buildings. Supervisor Bennett seconded the motion.** Discussion indicated the motion would not imply the Board was exempting all the other commercial buildings from licensing. Mr. Lipparelli felt that the Board action was taken on facts and information provided during the meeting which may or may not apply to others. The citations which were on hold pending resolution of this situation will continue to be held in abeyance until the ordinance is modified. Mr. Lipparelli then outlined Mr. Johnson's situation, i.e., owns five commercial sites. All occupied by tenants who have Business Licenses. The motion would not change the requirement for tenants to have Business Licenses. The landlord who is doing business in Carson City will be required to obtain a Business License. The motion would not change the requirement for property managers to be licensed. Supervisors Smith and Bennett felt that individuals in Mr. Johnson's situation may seek reimbursement of their fees. Mr. Lipparelli felt that these cases may be different and a "flood" of requests would not occur. Supervisor Tatro read from Section 4.04.200 concerning the timeframe for appealing. He felt that if the license fee had been paid more than ten days ago, the individual would have waived his appeal. Mr. Thornton explained Section 4.04.010 which requires anyone conducting business for a profit in Carson City to have a Business License. He urged the Board to maintain a strict interpretation of this Code. A property manager could be licensed under a realtor's license, however, the property owner should be licensed as one conducting business for a profit. A Business License is not a tax. Mayor Teixeira agreed and stressed that as multiple commercial buildings are not defined in the Code. The Board was merely saying clarification was warranted. **The motion to modify Mr. Johnson's Business License fee to zero, void the citation, and direct staff to develop an ordinance amending Section 4.04 to clarify the licensing requirement for commercial buildings was voted by roll call with the following result: Ayes - Smith, Ayres, Bennett, Tatro, and Mayor Teixeira. Nays - None. Motion carried 5-0.**

13. BOARD OF SUPERVISORS (1-2995)

B. ACTION ITEMS REQUESTED BY A MEMBER OF THE BOARD OF SUPERVISORS - ACTION ON REAPPOINTMENT OF SUPERVISOR TOM TATRO TO THE CARSON CITY CONVENTION AND VISITORS' BUREAU - Supervisor Smith moved that the Board of Supervisors reappoint Supervisor Tom Tatro to another term on the Convention and Visitors Bureau. Supervisor Tatro seconded the motion. Motion carried 5-0.

A. NON-ACTION ITEMS - INTERNAL COMMUNICATIONS AND ADMINISTRATIVE MATTERS (3-0020) - Discussion ensued among the Board about the need to have an ex-officio member from the Convention and Visitors Bureau appointed to the Golf Course Committee. Mayor Teixeira apologized to the community for scheduling the Tree Lighting Ceremony at the same time as a Board of Supervisors meeting. The Ceremony had been scheduled by the Governor's office without City coordination. Mainstreet President Steve Brown was aware of the conflict. Supervisor Ayres also pointed out a potential conflict on December 15. Supervisors Ayres, Smith, and Tatro did not have reports to give. Supervisor Bennett explained that the transit program would utilize from its small funding source enough funds to hire a coordinator and start a program. Carson River Advisory Committee's technical committee is beginning to look at the issues and mapping of the GIS system. NTRPA has appointed Steve Wynn as its Nevada Member-at-Large. He is also on TRPA. Mayor Teixeira reported on the NACO meeting. The Public Lands issue is still under debate. He also noted the State OSHA mandated minimum manning requirements for fire fighters and its fiscal impact. Discussion ensued among the Board on the "fight over the Carson River" and need for a status report from the Subconservancy District. Comments included the "non-disclosure" stipulation placed on the participants involved in the Federal "negotiations" on the Truckee/Carson Rivers/Pyramid Lake/Newlands Project.

BREAK: There being no other matters for discussion until 6 p.m. a recess was declared at 4:15 p.m. When the meeting reconvened at 6:05 p.m. Supervisors Ayres, Smith, Bennett, and Mayor Teixeira were present, constituting a quorum. (Supervisor Tatro arrived at 6:06 p.m.) Staff members present included: City Manager Berkich, Deputy District Attorney Lipparelli, Principal Planner Joiner, RTC Engineer Brotzman, and Recording Secretary McLaughlin.

14. NEVADA DEPARTMENT OF TRANSPORTATION - PRESENTATION AND STATUS REPORT ON BYPASS HEARINGS HELD BY THE NEVADA DEPARTMENT OF TRANSPORTATION (3-0375) - NDOT Deputy Director Ron Hill provided a brief status report on the recent workshops NDOT had held on the Bypass and outlined the next phase. NDOT's Board of Director's have offered to put \$8 million toward the Bypass/Expressway and for NDOT to perform maintenance once the project is completed. Mayor Teixeira explained he had attended the workshops. There had been significant input. NDOT Engineer Susan Martinovich indicated the Department is still receiving written comments. Mayor Teixeira gave Mr. Hill additional "FAXes" for inclusion in the record and elaborated on the next phase. Mr. Hill stressed that the final product would meet all standards. Mayor Teixeira introduced Ms. Martinovich, Daryl James, Robert Ferris, Paul Lumos and Ken Dorr and noted there are aerial photographs containing the proposed route available. Mr. Hill discussed with the Board other highways which are similar to the proposed At-Grade Bypass. The uniqueness of the program comes from the City's participation plan. The base would be usable when the freeway is constructed in 15+ years. The question which an individual must answer is whether the City needs an alternate route or can the City afford to continue to handle the impact on Carson Street. Highway funding cuts were noted. He felt that the project would have to be "staged" over several years. Cost estimates have not been finalized. He encouraged the City to complete the Bypass to Fairview. (3-0895) Mr. Lumos explained the improvements required for Fairview to handle the traffic including widening to double lanes as well as a concept for triple lanes and the amount of property which must be acquired to accomplish both widenings. Preliminary cost estimates indicate a cost of approximately \$2 million. He displayed a conceptual plan indicating the areas where additional right-of-way will be required for both concepts. Discussion indicated the need to analyze the level of service required for both the freeway and the Bypass. The new National Guard Building will not be impacted by either the freeway or Bypass.

(3-1105) Dwayna Lompa questioned the funding source. Mayor Teixeira explained that there may be a five cent gas tax. The southern portion will be paid with Federal tax monies. The City will only fund the at-grade facility to Fairview. He was not aware of any comments indicating the southern portion would not be constructed for 50 years. Funding restrictions and competition from Las Vegas were noted. He also stressed that if community support is not given, the City will not see another highway project for at least 20 years. Ms. Lompa expressed her feeling that the five cent gas tax may not materialize. Mayor Teixeira explained the difference between Carson City's proposal and Douglas County's five cent gas tax for undesignated projects and its financial problems. He also reiterated the Legislature's questions asking when Carson City is going to help fund the project. Ms. Lompa

expressed a willingness to help support the freeway but opposition to an at-grade project. She also expressed her feeling that the tourist would not use it as it is not convenient. Mayor Teixeira expressed his concern about the amount of truck and hazardous material going through Carson City daily. Ms. Lompa felt that some of this material was not truly hazardous. She also felt that the road would be flooded and could not handle the trucks' weight unless mitigation procedures are taken.

(3-1350) Bob Hilderbrand questioned whether the Fairview and Carson intersection was wide enough to handle the truck turning movement. He felt that it could be used as a temporary measure but not longer than two, three, or four years. Fifteen or 20 years was unacceptable. Mayor Teixeira questioned how long it would be to get a complete freeway if the southern section takes 15 years. Something must be done to address the current traffic problem. Mr. Hilderbrand suggested the five cent tax be used to improve and extend the City streets which may relieve some of the traffic problem. Mayor Teixeira felt this alternative will be analyzed if the Bypass is unsuccessful. Discussion indicated whatever alternate route is selected would put the truck traffic in residential areas. Mayor Teixeira explained his concerns due to the rapid expansion occurring in the surrounding counties which will increase the traffic volume in Carson City. Mr. Hilderbrand continued to voice his opposition to the proposal. He conceded that none of the freeways which had been constructed in the State had been a joint project with the community.

(3-1605) Mrs. Eva Lompa voiced her opposition to having the freeway "in her backyard" and encouraged "Carson City to wake up".

No formal action was taken nor required on this item.

BREAK: A five minute recess was declared at 6:40 p.m. When the meeting reconvened at 6:45 p.m. the entire Board was present constituting a quorum.

15. COMMUNITY DEVELOPMENT - Principal Planner Rob Joiner and Senior Planner Juan Guzman - PLANNING COMMISSION REVIEW AND APPEAL MATTERS - ACTION ON S-94/95-2 - A TENTATIVE SUBDIVISION MAP REQUEST FROM RICHARD SCOTT, IRON MOUNTAIN ACQUISITION COMPANY, TO DEVELOP AN EIGHT LOT SUBDIVISION (VALLEY VIEW) ON APPROXIMATELY 1.4 ACRES OF LAND PRESENTLY ZONED MULTI-FAMILY APARTMENT LOCATED ON THE SOUTH SIDE OF PHEASANT DRIVE AND EAST OF MOCKINGBIRD WAY, APN 10-351-29 (PLANNING COMMISSION DENIED 6-1-0-0) (3-1635) - Acting Public Works Director Tim Homann, Iron Mountain Acquisition Engineer Rob Loveberg, Eagle Highlands Phase I Homeowners Association President Roberta Redican and Eagle Highlands Phase II Homeowners Association President Fred Suwe - Discussion between the staff and Commission stressed the reasons for requiring Mr. Scott to bring the project to the Board even though the zoning would allow him to construct apartments on the parcel. Neighbors' and staff's concerns with such proposals including negotiations with Mr. Scott on those issues were outlined. This included reasons another access/egress onto Edmonds was not recommended, reasons for restricting such an access/egress to right turning movements only, traffic on Pheasant specifically as Latigo has been developed, potential development of another access/egress route further south including a bike or foot path, need for parking restrictions on Pheasant, size and spacing of the trees, and the type of facility which could be built by Mr. Scott without Board review. Board comments urged staff to complete the Code modifications which will mandate review of any projects. Mr. Homann agreed that the project would increase the traffic at Edmonds, however, would not increase the traffic sufficiently to warrant a signal or major changes at the intersection. Before the entire parcel is developed, such warrants may require traffic mitigations. The developer was aware of this potential. Staff had not mandated interior street lighting due to the lack of public streets within the project.

(3-3156) Mr. Loveberg reviewed the proposed eight lot four-plex plans for the site. He also reviewed the negotiated agreement terms which included a painted pedestrian crossing and two pedestrian crossing signs for Edmonds even though the exact location has yet to be determined. The CC&Rs will provide for architectural review and an architectural review committee which includes two representatives from Eagle Highlands and a real

estate broker. The developer and contractor will be replaced on the committee at the time of the sale of the final unit with four-plex owners. The committee will be composed of five individuals and can be rescinded only by a majority of the home owners after all the units are constructed and amenities developed. Fencing on Pheasant Drive will be decorative and similar to the fencing along Eagle Highlands but only along that area which Mr. Scott owns and is included in this project. Mayor Teixeira urged Mr. Scott to work with the property owner on the corner of Pheasant and Edmonds and continue the fencing to Edmonds and in front of the corner unit on Edmonds. Mr. Loveberg agreed to attempt to obtain the property owner's cooperation. Clarification by Mr. Guzman explained the reasons this individual did not have to bring the project to the Board for approval. Supervisor Bennett stressed the need to raise the standards which will be addressed at another meeting. Mr. Loveberg continued by explaining the fencing plans. He felt that Mr. Scott may be amenable to discussing a second access to the project when the Special Use Permit is discussed. The playground was explained including its location, impact on the number of units, and reasons for retaining the playgrounds on the parcel rather than in an adjacent area. Mayor Teixeira responded by explaining his reasons for feeling that it should be located off-site. Discussion ensued on whether this condition should be placed against the project as the area where the playground was being proposed was a part of another project which will require a Special Use Permit and the other conditions for that permit which have not yet been compiled. Clarification indicated the condition could be considered as part of the Planned Unit Development for the remainder of the property rather than as part of the Special Use Permit. Supervisor Tatro then suggested that the project conditions include a provision which would require the playground at the stipulated area unless a site is developed in the adjacent contiguous property owned by Mr. Scott. Mr. Loveberg agreed to to this condition. He then explained that he did not have a copy of the lighting plans with him. He indicated that there would be safety lighting included in the project as well as at the accessways to the parking area. Supervisor Bennett outlined the areas which she felt should have street lighting. Mr. Homann indicated appropriate lighting within the project would be required as mandated by the Code.

(4-0702) Ms. Redican expressed her feeling that the individual developing the parcels west of the project was also Mr. Scott's contractor and indicated that Mr. Scott should be able to obtain the fencing requirement from him due to that relationship. Mockingbird has been dedicated to the City and was not a private road. She then read her statement into the record. A copy was given to the Board and Clerk. Mr. Suwe thanked the Board and staff for their efforts to protect the neighborhood and its integrity. He submitted petitions protesting the project to the Clerk. He explained their reasons for fighting the project. Mayor Teixeira thanked both Ms. Redican and Mr. Suwe for their efforts to mediate the situation. He also expressed his feeling that if open dialogue had been provided in the beginning the animosity which arose may have been averted. Additional public comments were solicited but none made.

(4-1089) Supervisor Tatro moved that the Board of Supervisors overturn the Planning Commission's recommendation and approve S-94/95-2, a tentative subdivision map application from Iron Mountain Acquisition Company to develop eight parcels of land for construction of a five plex unit and seven four-plex units within a portion of land containing 1.38 acres of land zoned Multi-Family Apartment located east of the intersection of Pheasant Drive and Mockingbird Drive, a portion of Assessor's Parcel No. 10-351-29 based on the three findings contained in the September 27, 1994, staff recommendation to the Planning Commission and based on the 13 conditions of approval contained in the September 27, 1994, Planning Commission staff recommendation with the following amendments: Condition 9 - the property shall be subject to Covenants, Conditions and Restrictions to be administered on behalf of the proposed eight parcels; the CC&Rs must provide provisions as contained in the sample CC&Rs provided by the applicant and contained in the staff packet presented to the Board for this meeting with the amendment that there shall be five members on the architectural review committee including the two members designated by the developer as indicated, two members from Eagle Highland Homeowners Association, and one real estate broker; that the CC&Rs be amended from the draft as presented so that no rescission of the CC&Rs could be voted on or exercised until complete construction of the development; Condition 11 be amended to include the requirement that a fence in similar design to the Eagle Highlands fence on the north be constructed along Pheasant Drive for property under the ownership of the applicant, that the applicant make every attempt to secure permission to run the fence along Pheasant Drive across that portion toward

Edmonds that is not under the ownership of the applicant; that the requirement for the shade trees is there (included); and with an additional Condition that a playground area be provided for the subdivision from the land under the ownership of the applicant that is immediately south of the subdivision and that that land be granted to the homeowners association of this subdivision. Supervisor Tatro expressed a feeling that this should be the motion and that amendments would be considered to it. **Supervisor Bennett then seconded the motion.** Supervisor Tatro then amended the motion to correct the added condition to be that the playground area be provided for the subdivision and that the playground area either be as designated on the tentative subdivision map as presented or that land be provided by the applicant on property directly south of the subject parcel and that if in the property directly south of the parcel, that it be in a size approximately equal to the size shown on the area master plan as one duplex lot, and that it be offered to this subdivision, then the requirement for the playground within this subdivision itself be removed under the condition that the lot being offered be accessible to this subdivision. **Supervisor Bennett continued her second.** Supervisor Smith then requested the condition mandating the fence be amended to include the area along Edmonds. Mr. Guzman explained a suggestion which Mr. Homann had made which would allow the fence to be built in the City right-of-way under an encroachment permit if the property owner was not amenable to having the fence on his property. Mr. Loveberg indicated the fence would require a minimum of six or more inches and be of similar wrought iron fencing but not the same design. Mayor Teixeira indicated the condition was based on the Eagle Highlands Homeowners Association request and would support their requirement.

(4-1438) Marian Battaglia expressed her desire to have the CC&Rs continue for 30 years. Clarification indicated the developer had nodded agreeing to this amendment. Mr. Scott then explained his personal experience with CC&Rs may indicate that a condition prohibiting rescinding the CC&Rs may not be legal. He felt that either a simple majority or a super majority of the individuals who would be affected by the change should be able to change or rescind the CC&Rs.

Supervisor Tatro modified his motion in the description of the changes to the CC&Rs, Condition 9 of the 13 Conditions included in the staff report, his comments indicated that there would be a change so that they could not be rescinded until after construction was complete on all parcels, he withdrew this portion of the motion and replaced that sentence with "that the CC&Rs cannot be rescinded for a period of 30 years and can only be amended by a super majority". Mr. Loveberg requested the condition be modified to allow its inclusion so long as it is determined it is legal. **Supervisor Tatro then amended the motion concerning this condition to include that so long as it is in compliance with the Nevada Revised Statutes and Carson City Municipal Code. Supervisor Bennett continued her second.**

Discussion ensued between the Board, Mr. Loveberg and Mr. Scott on the fence. Mr. Loveberg indicated the adjacent property owner was in the process of constructing a fence and that an additional fence on the outside of that fence would not be productive. He agreed to run the fence along that footage provide either the property owner or City grant an adequate easement. Mr. Scott agreed to make every effort possible to obtain the property owner's approval for the fence and that he would pay for the fence. Mr. Guzman indicated the City would grant an easement if the property owner would not cooperate. Mr. Scott indicated that the units currently under construction are to have private patios. The patio would be fenced with opaque wood fencing and he questioned the need for a second fence along Edmonds. He felt the fencing should terminate at Edmonds. Mayor Teixeira requested he work as hard as possible to obtain permission for it in order to provide continuity of the fencing and blending with Eagle Highlands. Mr. Scott indicated he would and that the fence would also blend with his architectural design and building. Supervisor Bennett questioned whether there would be trees along Edmonds. Mr. Scott indicated there is a landscape plan prepared by a landscape architect which had been submitted to the City several months ago. He was unable to state whether it included trees. He would attempt to influence the owner to put in trees and would volunteer to pay for them himself if necessary. He had also contacted the power company concerning installing street lights and had been informed there is an adequate number of street lights in the area and that street lights are installed on only one side of the street. He indicated he did not have a problem installing a street light in that section. Mayor Teixeira and Supervisor Bennett directed staff to work on this situation. Supervisor Bennett also indicated that the area is inadequately lit. Mr. Scott agreed to install a street

light at the intersection of Mockingbird and Pheasant if the power company would cooperate. Supervisor Ayres expressed her feeling that the Master Plan needed improvements. Mr. Scott had agreed to do more than was required and commended him on his cooperation. Mayor Teixeira expressed his feeling that it was unfortunate that the neighborhood had to rally together to get the community's attention and force the changes which would benefit not only Mr. Scott but the total community. He also congratulated Mr. Scott. **The motion to approve the Tentative Subdivision Map as amended was voted by roll call with the following result: Supervisor Smith - It's free speech; I was tempted to vote no just on principal of the project, but I think I agree with what Janice just said, I think Mr. Scott has come in here and made one heck of a good faith effort, something I had not seen in previous times before this Board, and I will return that with a Yes and hope that in the future we will be able to work together and develop some nice properties - Yes; Ayres - Yes; Tatro - Yes; Bennett - Yes, with a comment, I have to re-emphasize the point I made before, that we need to give direction to staff/the City Manager to bring back to this Board at the earliest possible convenience an ordinance or a revision to that section of the ordinance that addresses multi-family dwellings so that we do not have to put an applicant in this position again or the community in that position, I think we have learned a great deal, I think we understand now the values of the community, and let's make every effort to encode that and give you the tools and the Planning Commission the tools that they need to work with, and the answer is - Yes; and Mayor Teixeira - Yes. Motion carried 5-0.**

There being no other matters for discussion/action, Mayor Teixeira moved to adjourn and Supervisor Ayres seconded the motion. Motion carried 5-0. Mayor Teixeira adjourned the meeting at 8:20 p.m.

The Minutes of the December 1, 1994, Carson City Board of Supervisors meeting

ARE SO APPROVED ON _____ January 5__, 1995.

_____/s/_____
Marv Teixeira, Mayor

ATTEST:

_____/s/_____
Alan Glover, Clerk-Recorder