

CARSON CITY BOARD OF SUPERVISORS
Minutes of the December 7, 1988 Meeting
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A regular session of the Carson City Board of Supervisors was held on Wednesday, December 7, 1988 at the Community Center Sierra Room, 851 East William Street, Carson City, Nevada, beginning at 9 a.m.

PRESENT: Dan Flammer Mayor
E.M. "Doc" Scrivner Supervisor, Ward 4
Ron Swirczek Supervisor, Ward 1
Tom Fettic Supervisor, Ward 2
Marilee Chirila Supervisor, Ward 3

STAFF:	L.H. Hamilton	City Manager
	Alan Glover	Clerk-Recorder
	Ted P. Thornton	Treasurer
	Paul McGrath	Sheriff
	Gary Kulikowski	Internal Auditor
	Walt Sullivan	Community Development Director
	Mary Walker	Finance Director
	Jack Fralinger	Health Director
	Tom Duncan	Golf Pro
	Charles P. Cockerill	Chief Deputy District Attorney
	Katherine McLaughlin	Recording Secretary
	(B.O.S. 12/7/88; Tape 1-0005)	

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. A tape recording of these proceedings is on file in the Clerk-Recorder's Office. This tape is available for review and inspection during the normal business hours.

Mayor Flammer called the meeting to order at 9 a.m. by leading the Pledge of Allegiance. Roll call was taken. The entire Board was present constituting a quorum.

APPROVAL OF MINUTES - None.

RESOLUTIONS

1. BOARD OF SUPERVISORS, REPORTS, RESOLUTIONS AND PROCLAMATIONS

A. SUPERVISOR SWIRCZEK:

1. DISCUSSION REGARDING CITY MANAGER/DEPUTY CITY MANAGER CORRESPONDENCE AND COMMUNICATION WITH THE BOARD OF SUPERVISORS (1-0018)

2. DISCUSSION REGARDING CITY NOTIFICATION BY E.D.A. REGARDING SERPA ZONE CHANGE - Mayor Flammer noted Deputy City Manager Rody's letter to the Board. (A copy was not given to the Clerk). Supervisor Swirczek introduced Mayor-Elect Marv Teixeira. Mayor-Elect Teixeira expressed his concerns on the Arrowhead Project based upon the Grand Jury report, EDA's failure to express an opinion, the status of the Inspector General's investigation, the numerous news articles generated by the same, and the public opposition to the rezoning request for that area. Mr. Rody's position had been that until EDA's December 7th letter had been received and evaluated, a report to the Board would be incomplete and inaccurate. The rezoning request was, therefore, continued until the Board has had an opportunity to review all of the facts. Mayor-Elect Teixeira questioned the wisdom of staff's advice to Mr. Serpa on October 25th as the Board of Supervisors was not given the same incomplete and incorrect information. Mayor-Elect Teixeira had not attended the meeting due to his feeling that it had violated the

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Open Meeting Law even though only two Supervisors were present. He felt that this established a dangerous precedent for future rezoning applications or was giving an Applicant preferential treatment. Mayor Flammer felt the question was one related to contact by Applicants on issues connected with their requests in an attempt to resolve the controversy related to their requests. Supervisor Swirczek felt that Mayor-Elect Teixeira was not attempting to discuss this procedure but rather to question the communication between one Applicant, the City Manager, Deputy City Manager, staff, and the Board. He suggested Mayor Flammer's concern be agendized for the 15th. Supervisor Swirczek then outlined his reasons for requesting the issue be agendized and concern about the reasons for requesting the significant financial consequences involved with the rezoning request. Although there was significant communication among staff, EDA, and the Applicant, little had occurred among the Board, staff, EDA, and the Applicant. The need for Board involvement was stressed specifically since the Applicant had informed EDA that the "City" had found that the rezoning was in its best interest. Supervisor Swirczek's contact with EDA was outlined and supported his contention that the Board should have been actively informed of the communications and investigation proceedings. (1-0526) Mr. Hamilton expressed his feeling that the view staff had taken was that the rezoning issue was not under the Board's established criteria on the significant financial impact issues. Staff did not contact the Board based on the lack of "official" written communication from EDA. He accepted responsibility for the miscalculation in judgement and apologized. As both contacts with EDA's representative - Mr. Steve Mulhern - were via the telephone, the full context of the conversations could not be verified. He acknowledged the sensitivity of the issue and attempts by staff to handle the matters correctly. The context of the conversation with Mr. Toll indicated a letter would be sent posthaste, however, this did not occur. It had not been an attempt to deceive the Board nor provide preferential treatment. Discussion noted that antagonists had not been notified of EDA's decision. Mr. Hamilton explained that Deputy City Manager Rody was attending an approved airport conference in Hawaii. Mr. Sullivan explained Mr. Mulhern's conversation with Mr. Toll as he understood it and as explained in Mr. Rody's memo. Supervisor Swirczek expressed his feeling that the communications had broken down at the point where Mr. Rody had failed to notify the Board of the conversations. Mr. Sullivan had followed the appropriate procedures. Supervisor Feticc expressed his feeling that it was a judgmental call. He urged the Board to modification of its policy that it would not occur again and that contact would be made on items relating to Arrowhead, EDA, and the golf course. He too felt that the Board should have been contacted. Supervisor Chirila felt that staff should have been aware of the importance and sensitivity related to the issues. She noted the persistent, ongoing communication she and Supervisor Swirczek had continuously experienced during their tenure. She felt it was inappropriate for the Deputy City Manager to be absent at this time. Actions she had taken based on her feeling that EDA had approved the rezoning were outlined. She objected to the lack of communication based upon this dedication of her time and effort. She urged adoption of a policy that the Board will be notified when contact by EDA occurs. This would eliminate the need to question the importance of contacting the Board. Supervisor Scrivner outlined his reasons for having required Mr. Rody to attend the TRPA session when this issue was agendized for the last meeting. In accordance with the chain of command, Board action should be directed through the City Manager. Staff commitments should be reviewed prior to the Board's command attendance elsewhere. Clarification ensued between Mayor Flammer and Supervisor Swirczek on his contact with EDA on November 8 and notification to the other Board members about that conversation. The need for a personnel session was then expressed. Supervisor Swirczek then moved that the Board conduct a personnel session in closed session that dealing with an evaluation of the City Manager in accordance with the provisions of NRS 241. Supervisor Scrivner seconded the motion. Following Mr. Cockerill's request for an amendment, Supervisor Swirczek amended his motion to be in accordance with NRS 241.030. Supervisor Scrivner continued his second. Motion carried 5-0. (Supervisors Scrivner and Feticc stepped from the room. A quorum was still present.) Discussion ensued upon when the meeting was to be closed. (Supervisors Feticc and Scrivner returned. The entire Board was present, constituting a quorum.) Supervisor Swirczek explained the need to address a scheduled item for 10 a.m. Supervisor Swirczek then moved to amend the previous motion on the personnel session to have the session begin immediately following the scheduled 10 a.m. item. Supervisor Scrivner seconded the motion. Motion carried 5-0.

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(1-1378) Evette Weaver explained the Seattle Post-Intelligencer February 4, 1988, article on the investigation of an EDA grant in Carson City. She urged the Board to withhold action on zone changes in that area until after the investigation is completed. She questioned the reasons the Nevada Appeal had failed to run the article and Supervisor Swirczek's involvement with same. Mr. Cockerill expressed his opinion that these issues could not be discussed as the zoning issue was not agendized. Supervisor Swirczek pointed out that this was an indication of the importance of the issue. Mr. Cockerill requested she file the article with the Clerk. Ms. Weaver then explained that she had not been contacted by the staff concerning EDA's communication. She then gave the article to the Clerk.

(1-1540) Supervisor-Elect Kay Bennett expressed her concern about the preferential treatment being given the Applicant. She questioned how Mr. Serpa was notified of the EDA decision when others were not told, specifically the Airport Board and Planning Commission. Their roles in the issue were outlined.

5. PURCHASING AGENT - B-R-PUR-1 CONTRACT 8889-4 - DISCUSSION AND ACTION ON GOLF PROFESSIONAL AGREEMENT (1-1655) - Golf Pro Tom Duncan's Attorney Steve Hartman requested a continuance without discussion of the negotiations and issues. Discussion noted the term of Mr. Duncan's contracts. Due to Mr. Duncan's request that the matter not be discussed, discussion was terminated. No formal action was taken on this matter.

BREAK: At 10:10 a.m., a fifteen-minute recess was declared. When the meeting reconvened, the entire Board was present constituting a quorum.

2. PERSONNEL SESSION - EVALUATION OF CITY MANAGER IN ACCORDANCE WITH THE PROVISIONS OF NRS CHAPTER 241 (1-1758) - Supervisor Scrivner moved that the Board rescind the action on the personnel session until later in the session -- following Kafoury Armstrong and the balance of the agenda -- so that the public and staff do not have to wait all day to complete their business as the personnel session has been going for about six days and he did not wish to remain that long. He urged the other members of the Board to concur with his motion. Supervisor Swirczek expressed his willingness to consider all the items up to the briefing session and have the personnel session at that time. Supervisor Scrivner concurred. Supervisor Scrivner's motion died for lack of a second. Supervisor Swirczek then moved that the Board rescind the original motion scheduling the personnel session for 10:30 and reschedule the personnel session to follow all of the agenda items with the exception of the briefing with the Mayor and Supervisors-elect. Discussion noted Roberts Rules of Order which allow Supervisor Swirczek to make this motion. Supervisor Scrivner seconded the motion. Motion carried 5-0.

3. PETITIONS AND COMMUNICATIONS - B-R-PC-1 RECEIPT OF KAFOURY, ARMSTRONG AND COMPANY 1987-88 CARSON CITY AUDIT (1-1815) - Kafoury, Armstrong and Company CPA Dave Ebner noted the timeliness of the report, the comprehensive nature of the report, the report sections, and that the report had been submitted for consideration of a Certificate of Excellence Award which is issued by the General Finance Officers. He then reviewed the report including the statements, comparison charts, audit exceptions, audit compliance statements, and management letter. Discussion ensued among the Board, Ms. Walker, Mr. Ebner, and Mr. Hamilton on the (1-2005) amount of revenue received from fines and forfeitures; the large influx in the golf enterprise fund, water fund, general fund, and insurance fund; (1-2375) the City's deposit requirements; adequacy of the internal controls; cooperation/assistance received from City staff; and change in the financial report on the RSVP programs. Comments were solicited but none made. (2-0015) David Silver then reviewed the management letter in detail. Discussion ensued among the Board, Mr. Silver, Mr. Ebner and Ms. Walker on the statutes mandating the release of fines and forfeitures to the State; the adequacy of the report itself; and need to establish better grant accounting systems and to establish an inventory system. Ms. Walker then explained the work involved in submitting the report for a Certificate of Excellence Award and that the Deputy City manager has been assigned responsibility for the grants. Supervisor Chirila requested Mr. Hamilton schedule the grant process for Board discussion in January. Mr. Hamilton and Ms. Walker explained the proposed grant

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control program. Mayor Flammer commended Mr. Ebner on the report. Supervisor Swirczek commended staff, Ms. Walker, and Mr. Kulikowski on the report and the improved fiscal accounting/management control program. Supervisor Swirczek then moved that the Board accept the Comprehensive Annual Financial Report for the Fiscal Year ending June 30, 1988, as presented by Kafoury, Armstrong and Company. Supervisor Scrivner seconded the motion. Motion carried 5-0.

4. FINANCE DIRECTOR - MARY WALKER - B-R-FIN-1 APPROVAL OF CHECK DISBURSEMENT REGISTER FOR OCTOBER 1988 (2-0544) - Mr. Kulikowski's review of the register was explained. Discussion ensued among the Board and staff on the cost to print the register in the newspaper. Supervisor Swirczek moved that the Board approve the Check Disbursement Register for October 1988 as reviewed by the Internal Auditor Gary Kulikowski. Supervisor Feticc seconded the motion. Motion carried 5-0.

B-R-FIN-2 ACCEPTANCE OF FIRST QUARTER FINANCIAL REPORT FOR 1988-89 (2-0595) - Ms. Walker compared 1987 and 1988 building permit revenue/expenditures sources; basic sales taxes; Justice Court fines; jail overtime; fire overtime; ambulance personnel costs; projected unallocated reserves; status of the golf courses enterprise fund; room tax projections; and financial concerns regarding the enterprise water fund. Mr. Hamilton explained the modified policy on collecting connection fees at the time building permits are requested, which may have impacted the revenue. Ms. Walker also pointed out that the connection fee increase may have inflated the demand under the old rates and, in turn, the current shortage. Ms. Walker then reviewed the sewer enterprise fund. Supervisor Swirczek urged staff to prepare an 89-90 mini-year budget so that the City's financial picture can be predicted. Mr. Hamilton noted that at the staff retreat, the budget picture had been discussed and a report should be ready within a week. The retreat had also discussed tax override questions. Staff at this time recommended abandonment of such a proposal. Supervisor Swirczek moved that the Board accept the First Quarter Financial Report for 1988-89 as submitted by the Finance Director. Supervisor Scrivner seconded the motion. (2-1085) Gale Thomssen suggested any cuts in services be voted upon by the public before implementation. Board comment stressed that cuts would be made during an open public hearing. The motion to accept the Report as submitted was voted and carried 5-0.

6. BOARD OF SUPERVISORS REPORTS, RESOLUTIONS, AND PROCLAMATIONS - CONTINUED

A. PROCLAMATION - "NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK" DECEMBER 11 - 17, 1988 (2-1097) - Mayor Flammer explained the request and read the Proclamation into the record. Supervisor Feticc moved that the Board approve the proclamation as presented. Supervisor Swirczek seconded the motion. Motion carried 5-0.

During discussion of whether to continue with Item 2 or 6.B., Supervisor Swirczek expressed his regret that he would not be able to attend during Item 6.B. if held later.

CITIZEN COMMENTS (2-1223) - Discussion ensued on when Item 6.B. would be considered. Mayor Flammer scheduled it for 1:45 p.m. He felt the briefing would last approximately one hour.

2. PERSONNEL SESSION - EVALUATION OF CITY MANAGER IN ACCORDANCE WITH THE PROVISIONS OF NRS CHAPTER 241 (2-1270) - Mr. Cockerill explained the need for a motion to close the hearing and matters which could be considered during closed sessions. Supervisor Swirczek then moved that the Board go into a close personnel session for an evaluation of the City Manager in accordance with the provisions of NRS Chapter 241.030. Supervisor Chirila seconded the motion. Motion carried 5-0.

Upon return to an open session, Supervisor Swirczek explained his reasons for felling that the discussions during the closed sessions indicated that the City Manager was "doing a good job," however, on the specific

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issue of communication and, in particular, the EDA/bond issue there were major concerns. Supervisor Swirczek then moved that the Board's overall rating, in the terms of evaluation of his professional competence, that Mr. Hamilton has and is doing a good job, however, he would further as part of the motion state that an official reprimand be part of that motion insofar as the communication on this particular issue which was of a magnitude that warrants his professional competence and that he felt he had lacked that professional competence in following through on this particular matter, and that the reprimand be part of the motion. After the motion he was willing to discuss corrective measures. Supervisor Chirila seconded the motion. Supervisor Scrivner then expressed his feeling that during open session it had been noted that Mr. Hamilton was being "blind sided" by two associations -- CCEA and the Fireman's Association -- however, none of the Board members have attended or were invited to the Association meetings to discuss the issues. He did not feel that the Board or the City Manager had been informed of their decisions to oppose the issue until after it occurred. These Associations and the City differ on a majority of the matters they consider. He felt strongly that the employees had "blind sided" the Board without communication and that a reprimand should be issued to them. These considerations should be eliminated from the motion. Supervisor Feticc then explained that both he and Supervisor Swirczek had been requested to attend the Association meetings and that the Associations' decisions were changed after those meetings. After the meetings, the Associations indicated they understood the items better. Whether Mr. Hamilton was responsible for their decision was questionable. He did, however, feel that he should have been aware of the problem. The motion providing Mr. Hamilton with an overall good evaluation and a written reprimand based on his action concerning communications was voted by roll call with the following result: Swirczek - Yes; Chirila - Yes; Scrivner - No; Feticc - Yes; and Mayor Flammer - No, although he would support the first part of the motion, he did not feel that the section portion could be supported based upon the chronological sequence of events on this particular deal as referenced on the Serpa "misinformation" or "information", he could not support the motion although he could vote for the qualifications being in hand, but he couldn't say that it was a lack of judgement and misuse of judgement, therefore, he voted No. Motion carried 3-2.

Supervisor Feticc stressed that there was no misconduct. Mayor Flammer also noted that he could not vote for a reprimand as was included in the motion. Discussion noted that the matter was not agendized so that policies could be handled under this heading. Under Board goals and objectives, communication policies could be handled. Discussion ensued on the term "reprimand" and how it is to be handled.

Mr. Hamilton then noted that he "had no problem with the motion as he had already accepted responsibility." He felt that a meeting with the Board was warranted to establish a resolution to the problem. Supervisor Swirczek then suggested that the matter be agendized at the next meeting with the Supervisor-Elect and Mayor-Elect due to the pending transition and need for cooperation among all. Reasons for having a joint meeting or a meeting after January 1st when the new members are sworn in were discussed. Mayor Flammer noted that he may not be able to attend the entire afternoon session. Mr. Hamilton noted that Supervisor Swirczek would not be present for some of the discussion. He also explained the items which would be discussed under the briefing. As the public had been informed that these items would be discussed at 1:45 p.m., Mr. Cockerill advised the Board to recess.

Mayor Flammer recessed the meeting at 12:45 p.m. When the meeting reconvened at 1:45 p.m., Board members present were Mayor Pro-Tem Scrivner and Supervisors Feticc and Chirila. Staff present included: City Manager Hamilton, Assessor Weaver, Clerk-Recorder Glover, Sheriff McGrath, Treasurer Thornton, Internal Auditor Kulikowski, Automation Services Director Case, Chief Juvenile Probation Officer Lewis, Community Development Director Sullivan, Finance Director Walker, Health Director Fralinger, Library Director Herman, Parks and Recreation Director Kastens, Personnel Director Fisher, Public Works Director O'Brien, Purchasing Agent Wilson, Assistant Fire Chief Berrum, Deputy District Attorney Auer, Administrative Assistant to the City Manager Sullivan, and Recording Secretary McLaughlin.

6. B. BRIEFING WITH MAYOR AND SUPERVISORS-ELECT CONCERNING MASTER PLAN UPDATE AND BOARD GOALS AND OBJECTIVES (2-1959) - Mr. Hamilton reviewed the list

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of goals, objectives, and accomplishments and other items included in the Board's packet. Mr. Hamilton then introduced staff. Concern was expressed about the number of meetings being required of both staff and the Board and the Board's lack of expertise on some of the committees to which they are assigned. The need to have a goals and objectives session was explained by Mr. Hamilton. Supervisor Chirila stressed the need for communication with new Board members prior to their swearing-in. Mayor-Elect Teixeira elaborated on his request of staff concerning memo(s) explaining their Departments, duties, and functions. He questioned the need to have a consultant assist in establishing the goals and objectives for the City. The pros and cons of having a consultant were discussed. Supervisor-Elect Bennett felt that annual review was necessary. Consensus eliminated the need for a consultant which Mayor Pro-Tem Scrivner directed. (3-0018) Supervisor-Elect Bennett requested a status report on bonds and grants for discussion during the goals and objectives session. Staff support and assistance were commended. Discussion emphasized the need to give Board direction to be based upon a common, singular purpose rather than to have individual direction given which the majority of the Board may not wish. Concern was expressed about testimony staff may give to the Legislature without appropriate Board direction. Procedures which would allow Board involvement were outlined by Mr. Hamilton. This procedure will be presented for Board consideration. Mayor-Elect Teixeira outlined his efforts to establish communication links and procedures with the Legislators and reasons for having a unified front when approaching the Legislature. Comments stressed the need to have a City legislative committee established posthaste. The pros and cons of having a Board appointed legislative committee versus a City Manager appointed legislative committee were outlined. Supervisor Chirila stressed the need to have an ongoing committee on legislative issues. Mayor Pro-Tem Scrivner directed Mr. Hamilton to have a status report on legislative issues which may be of importance to the City/Board on January 15. Mr. Lewis explained his representation of the Nevada Association of Chief Probation Officers and the amount of legislation it had submitted. Discussion ensued on the purpose and procedures for some of these bills. Mr. Lewis was willing to provide a synopsis of these bills at the goals and objectives meeting. Mr. Wilson outlined the legislation the Northern Nevada Purchasing Agents Committee had submitted. Supervisor Fetic noted that these were statewide issues which had been addressed. He was concerned that Carson City issues had not been considered. Mayor-Elect Teixeira explained his feeling that City concerns related to taxation, parking, etc., need to be submitted also. A work session with the Legislators could be utilized in getting these matters to the Legislature. Discussion emphasized the need to do so quickly. Mayor Pro-Tem Scrivner wished the new Board well in its future endeavors and thanked all for their assistance during his term.

There being no other matters agendized for consideration, Supervisor Fetic moved to adjourn. Supervisor Chirila seconded the motion. Motion carried 3-0. Mayor Pro-Tem Scrivner adjourned the meeting at 2:55 p.m.

The Minutes of the December 7, 1988 Carson City Board of Supervisors meeting

ARE SO APPROVED ON January 30, 1992.

_____/s/_____
MARV TEIXEIRA, Mayor

ATTEST:

_____/s/_____

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KIYOSHI NISHIKAWA, Clerk-Recorder