

**REGULAR CITY COUNCIL MEETING AGENDA**  
**3:00 P.M. Monday, May 11, 2009**  
**City Council Chambers, Legislative Building, 745 Fourth Street, Sparks, Nevada**

**1. \*Call to Order** (Time: 3:01:31 p.m.)

The regular meeting of the Sparks City Council was called to order by Mayor Geno Martini at 3:00 p.m.

**2. \*Roll Call** (Time: 3:01:36 p.m.)

Mayor Geno Martini, City Clerk Linda Patterson, Council Members Julia Ratti, Phillip Salerno, Ron Smith, Mike Carrigan, Ron Schmitt, City Manager Shaun Carey, City Attorney Chet Adams, PRESENT.

**Invocation Speaker:** (Time: 3:01:52 p.m.)

The invocation was given by Bishop Ron Zanger from the Church of Jesus Christ of Latter Day Saints.

**Pledge of Allegiance** (Time: 3:02:33 p.m.)

The Pledge of Allegiance was led by Council Member Phillip Salerno.

**\*Comments from the Public** (Time: 3:03:05 p.m.)

Pamela and Brad Culbertson, owners of Baskin Robins, spoke regarding them being excluded from the Hot August Nights and Rib Cook-off events due to another ice cream manufacturer being an exclusive sponsor at those events. Mrs. Colbertson stated it was not fair that local businesses be excluded from local events, particularly because the City is a large sponsor and contributes a lot of money to our special events. Mayor Martini asked staff to contact the producers of those events to clarify the rules and the process for becoming a vendor at outdoor events. Council Member Schmitt asked for a report on which local businesses are being allowed to vend at our special events.

Mrs. Shirley Bertschinger spoke regarding the findings of the Ethics Commission banning Mr. Carrigan from voting on any issues dealing with the Lazy 8 Development and the subsequent filing of an emergency petition filed with the Nevada Supreme Court to allow Mr. Carrigan to vote. She asked why the City did not file an emergency petition to allow Mr. Salerno to also vote. Ms. Bertschinger said she felt the City was “stacking the deck” in favor of the applicant, Mr. Whittemore and that the citizens of Sparks did not need or want this proposed casino. Council Member Carrigan stated he is getting tired of Ms. Bertschinger “beating him up” in her comments and not defending himself against her accusations. He went on to clarify that the only reason the City did not file on behalf of Mr. Salerno is because he asked the City Attorney to file an emergency petition and Mr. Salerno didn't. Mayor Martini asked City Attorney Adams to explain the Ethics Commission ruling and the filing of the emergency petition. Mr. Adams explained that Council Member Carrigan's situation involved what was deemed to be a prior restraint of his first amendment right to represent his constituents and vote in accordance to their desires. Council Member Salerno's situation differed solely because it was a stipulated agreement with the ethics commission and something that foreclosed any further legal proceedings.

Ted Kremps explained that he was unable to attend the public hearing scheduled for 6:30 this evening and asked the Council to affirm the Planning Commission's denial of the Lazy 8 master plan amendment request.

Mike Pate of Sentry Security Systems spoke in favor of revising Sparks' ordinances to allow certain types of electric security fences.

**Approval of the Agenda** (Time: 3:20:40 p.m.)

Consideration of taking items out of sequence, deleting items and adding items which require action upon a finding that an emergency exists.

Items 6.6 and 6.7 were continued to a future meeting.

A motion was made by Council Member Smith, seconded by Council Member Schmitt, to approve the agenda as amended. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**3. Recommendation to Approve Minutes of:**

**3.1 Regular Meeting of April 13, 2009** (Time: 3:21:41 p.m.)

A motion was made by Council Member Ratti, seconded by Council Member Schmitt, to approve the minutes of the Regular Meeting of April 13, 2009. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**4. Announcements, Presentations, Recognition Items and Items of Special Interest:**

**4.1 Proclamation – National Public Works Week** (Time: 3:21:41 p.m.)

Mayor Martini read a proclamation naming May 17-23, 2009, as National Public Works Week in recognition of the contributions which public works officials make every day to our health, safety, comfort, and quality of life. The proclamation was accepted by the Public Works Director Wayne Seidel.

**4.2 Proclamation – Older Americans Month** (Time: 3:25:03 p.m.)

Mayor Martini read a proclamation naming May 2009, as Older Americans Month in honor of our older adults and professionals, family members and those who care for them. The proclamation was accepted Mr. Grady Tarbutton, Director of Washoe County Services.

**4.3 Proclamation – Bike to Work Day** (Time: 3:29:03 p.m.)

Council Member Ratti read a proclamation naming May 15, 2009, as Bike to Work Day in recognition of the many benefits of biking. The proclamation was accepted by Mr. Terry McAfee, representing the Northern Nevada Bike to Work Committee.

**4.4 Presentation – Economic Development Authority of Western Nevada (EDAWN) economic development report** (Time: 3:31:04 p.m.)

Mr. Chuck Alvey, President/CEO of EDAWN provided an update of the economic activities provided by EDAWN in the past year. Mr. Alvey stated that the City's continued support will allow them with relocations, expansions, and outreach to prospective businesses in the coming year. He introduced some of the EDAWN Board of Trustees, also present at the meeting: Stan

Thomas, Treasurer/Secretary; Randy Mellinger, Board Member; Julie Ardito, Director of Public Relations; Tina Iftiger, Director of Business Development; Ray McElroy, Director of Investor Development.

**4.5 Presentation – All-Star Band’s trip to Longford, Ireland** (Time: 3:43:10 p.m.)

Mayor Martini noted that the Band teacher had a problem and was not able to attend the meeting today. Therefore, this item will be rescheduled for another meeting. Council Member Schmitt noted that the All Star Band is made up of band members from the three Sparks High Schools (Sparks, Reed, and Spanish Springs). About 75 band members will be spending a week at the Longford, Ireland Music Festival and will be the first marching band to appear at their festival. He said he received an e-mail last week saying that the writer was opposed to this because the money should be used for employee salaries. He clarified that the Tourism and Marketing dollars are regulated by the Nevada Revised Statutes and the funds cannot be spent for any employee salaries—the dollars can only be used for the promotion of tourism. He said if the City decides to contribute money to the bands to help with the expenses of the trip—it would not be funds that could be used for employee salaries. He emphasized that the City has not decided whether or not to contribute toward this trip. Council Member Salerno stated he sent out an e-mail saying he did not support donating money to this trip because he felt that it was not a good use of our tourism dollars.

**4.6 Presentation and dedication of Artist and Sculptor David Johnson’s “The Rose of Justice” to the City of Sparks, City Attorney’s Office** (Time: 3:45:28 p.m.)

Mr. David Johnson discussed the history of the carving and how it came to be donated to the City Attorney’s Office. He noted that the carvings are his “therapy.” City Attorney Chet Adams noted that Mr. Johnson is a local artist and donates his work to public entities on a regular basis.

**5. Consent Items:** (Time: 3:48:16 p.m.)

A motion was made by Council Member Smith, seconded by Council Member Salerno, to approve Consent Items 5.1 through 5.4. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**5.1 Report of Claims and Bills approved for payment and appropriation transfers for the period April 9, 2009, through April 22, 2009**

An agenda item from Finance Director Tom Minton recommending approval of the Report of Claims and Bills as outlined.

**5.2 Consideration and possible approval of a contract for the provision of card-lock fuel services between the City of Sparks and Western Energetix in the amount of \$833,917**

An agenda item Fleet Superintendent Ron Korman recommending the City Council approve a contract for card-lock fuel services. Prior to this contract, the City used the same contract utilized by Washoe County for this card-lock fuel system. Washoe County has recently changed providers; however, the City feels that maintaining a contractual relationship with Western Energetix will continue to provide fiscal and operational savings to the City over the new option

chosen by Washoe County. Funds are budgeted within various departments for fuel expenses throughout the fiscal year.

**5.3 Consideration and possible approval of Bid #09/08-025, an initial seven (7) month contract with the possibility of nine (9) six-month extensions to Kemira Water Solutions, Inc., for the annual amount of \$594,592 to supply Ferric Chloride to the Truckee Meadows Water Reclamation Facility**

An agenda item from Operations Superintendent Starlin Jones recommending the City Council award the bid for ferric chloride to Kemira Water Solutions as outlined. Ferric chloride is used in the water treatment process. Kemira Water Solutions was the lowest bidder.

**5.4 Consideration and possible approval of the destruction/disposal of original building plans and associated documents that have been microfilmed**

An agenda item from Director of Community Development Neil Krutz recommending the City Council grant approval for the destruction/disposal of the documents as requested.

**6. General Business:**

**ANY ITEM ON THE 3:00 P.M. SESSION, NOT COMPLETED BY THE 6:30 P.M. SESSION WILL AUTOMATICALLY BE CONTINUED TO THE 6:30 P.M. SESSION.**

**6.1 Presentation, discussion and possible direction or approval of Federal, State, Nevada League of Cities and Local Legislative Affairs issues (Time: 3:49:15 p.m.)**

Government Affairs Analyst Kathy Clewett and Assistant City Manager Steve Driscoll provided an oral review of activities at the 2009 Nevada State Legislative Session as follows:

- May 15 is the last day for bill to come out of their respective committees
- AB458 – ready to come out on the assembly floor
  - Staff is working with Assemblywoman Buckley’s staff
  - Amendments are still being drafted
- SB201 – RTC 5 transportation bill
  - Will be heard tomorrow morning
  - Mayor Martini will be at the Legislature to support the bill
- SB213 – Sparks Charter Bill
  - Made it out of Assembly Government Affairs Committee this morning and is now on the floor
- President Obama approved the Federal Fiscal Year 2010 Budget last week
  - Staff will provide a written update on the funding we expect to receive

Council Member Schmitt said he received a phone call stating that there are bills now going through the legislature which would cause Sparks to receive a \$1 million hit on our revenue by taking away property taxes from the City. Mr. Driscoll responded the main property tax bill that has been discussed at this point is AB543—it is a proposed 4% reduction from Clark County and from Washoe County. There have been lots of rumor and talk about options to this. We have not seen anything official (in writing) that asks for anything but the 4% from those two counties. There has been some talk about splitting that percentage between the counties and the cities. This bill is being worked on behind closed doors, so all we have right now is rumor. Mr. Schmitt

expressed concern that if we were going to have to cut another \$1 million from our budget, we need to do so now. City Manager Carey stated that if the State Legislature makes a revenue change that affects local government, we would have an opportunity to file an amended budget, and we would have until August 15<sup>th</sup> to do so.

Council Member Carrigan asked staff to let the Council know right away when they hear about any legislation that takes away money from Sparks.

**6.2 Consideration and Possible Acceptance of the US Department of Housing and Urban Development Special Project Grant for the Larry D. Johnson Community Center (Time: 3:55: p.m.)**

Grant Administrator Tracy Wheeler noted that this is a special grant from the US Department of Housing and Urban Development (HUD) for \$245,000 to assist the City with installation of solar panels at the community center.

Mayor Martini asked now that we have the money to install them; how are we going to purchase the solar panels. Ms. Wheeler stated the project itself is a total of \$414,000 and the City does have some funding allocated for the entire project. However, because it is an energy efficiency project, we have an opportunity to get reimbursed for those dollars through another program.

A motion was made by Council Member Ratti, seconded by Council Member Smith, to accept a grant from HUD for the LDJ Community Center. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**6.3 Presentation, discussion and possible direction or approval of American Recovery and Reinvestment Act (ARRA) (CONTINUED FROM 4/27/09) (Time: 4:00:42 p.m.)**

Government Affairs Analyst Kathy Clewett noted staff was asked to start monitoring the ARRA funds and what the City was going to be able to get. So far we have been able to determine that the City Engineer can get some funds, as well as the Sparks Police Department.

City Engineer Pete Etchart stated the City of Sparks will be receiving an \$840,000 direct allocation through the Energy Efficiency and Conservation Block Grant. It will be administered in a similar fashion to the Community Development Block Grant funds. The Federal Government is requiring an Energy Efficiency and Conservation Strategy Plan that is due to them on June 25<sup>th</sup>. He noted he has provided a draft to the Council on what the plan is going to look like and that he will discuss specific strategies, objectives, and goals at the May 26<sup>th</sup> Council Meeting. Once the government has received our plan, they will have 120 days to review it. Once they approve our plan, we will be eligible to start receiving funds. Staff will continue to provide the Council with the latest information as it becomes available.

Mr. Etchart stated he has provided the Council with an updated spreadsheet listing our proposed projects. There are four categories of projects we are proposing:

1. Energy efficiency and renewal energy opportunity audit
  - a. a basic framework for our future projects on our permanent facilities

2. Energy efficiency implementation projects
  - a. Lighting
  - b. Retrofit projects
  - c. Traffic signals—replacing incandescent lights with LED lighting
3. Energy efficiency design projects
  - a. We are not going to wait for the audit on these projects—we know they need to be done
    - i. Parking garage lighting replacements
    - ii. Boiler replacement at Alf Sorenson and maintenance facilities
4. Renewable energy design projects
  - a. Projects we want to go straight to design on
    - i. Floatable tanks for the main building and maintenance building at the Golden Eagle Regional Park

Mr. Etchart noted that this is a multi-year funding source, so once we have the audit and designs, as we get more money we will invest more into renewable energy and efficiencies. We are also coordinating with Reno and Washoe County regarding applications for State fund and competitive EECBG funds. The State has received approximately \$34 million in funds through the recovery act and their plan is due to the Federal Government this week. Once we see their plan, we will have a better idea of what we can do. There is \$400 million available nation-wide in competitive energy efficiency and conservation block grants. The rules for these funds are not available yet, but we are doing our best to be ready to apply for these funds.

**6.4 Possible direction to initiate a code amendment to allow for Electric fences as a permitted fencing material in the Industrial Zoning district (Time: 4:08:50 p.m.)**

Associate Planner Jim Rundle said staff was asking for the City Council's input to allow staff to begin researching a code amendment to allow electric fences. This would allow staff to research the issue and if it found to be feasible, a proposed code amendment would then have to go through the Planning Commission and City Council.

Council Member Carrigan asked that staff include safety information in their research because it was guaranteed that someone would bring up the issue of kids accidentally coming in contact with the fencing.

Council Member Schmitt noted that in our recent branding study there were several examples of resort areas with barbed wire draped around them and how uninviting it was to visitors to our community. He asked if it would be part of the research done by staff to look at fencing as a whole, including aesthetically pleasing fencing. Mr. Rundle stated that the research could entail any direction that Council chose to give to staff; however, staff was not anticipating an entire rewrite of the fencing ordinance for industrial and commercial areas. A discussion ensued regarding visibly pleasing fencing versus "barbed wire" fencing and what message a particular type of fencing gives to the community. Also discussed was whether or not "electric" fencing can be made to look aesthetically pleasing while still serving a security purpose. Mr. Rundle stated that staff would be happy to investigate this issue, along with electrical fencing, but he cautioned that it would take considerably more time to research the issue because the process

would require a lot of additional input from property owners in the affected areas (commercial and industrial).

Council Member Salerno asked if the issue of electric fences has been raised before. Mr. Rundle stated electric fences have been prohibited by the Sparks Municipal Code since his employment with the City; probably based on the technology that was available at that time. However, from what he has seen, the new type of fencing has enough power to make someone back off from the fence, but not strong enough to do actual harm.

Council Member Schmitt asked that the fencing study be done in two phases—the first phase to change the code to allow electric fencing and the second phase to address the aesthetics of fencing in general.

Council Member Ratti said she would like to request that staff also address the issue of access to buildings with electric fencing by emergency personnel.

A motion was made by Council Member Smith, seconded by Council Member Schmitt, to direct staff to initiate a code amendment to allow for electric fences as a permitted fencing material in the Industrial Zoning district; that the amendment first addresses allowing electric fences and then initiate a second phase to address other issues. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**6.5 Possible motion to adjourn to a Closed Door Session to review labor issues (Closed per NRS 288.220) (Time: 4:16:48 p.m.)**

Mayor Martini noted that staff has indicated there is no need to adjourn to a closed session unless the Council wished to do so. He also noted that items 6.6 and 6.7 have been withdrawn from the agenda. It was suggested that staff present items 6.8 and 6.9 and then if there were questions, they could adjourn to a closed labor session.

At the conclusion of the presentations, the consensus was that there was no need for a closed labor session.

**6.6 Discussion, Consideration and Possible Approval of a Memorandum of Understanding with Operating Engineers Local 3 Non Supervisory Unit**  
WITHDRAWN FROM THE AGENDA.

**6.7 Discussion, Consideration and Possible Approval of a Memorandum of Understanding with Operating Engineers Local 3 Supervisory Unit**  
WITHDRAWN FROM THE AGENDA.

**6.8 Consideration, discussion and possible approval on the ratification of a bargaining agreement between the City of Sparks and the Operating Engineer Local 3, Non Supervisory Unit (Time: 4:17:20 p.m.)**

Community Development Director Neil Krutz noted that he was the chief negotiator for Operating Engineer Local 3 (OE3) for both supervisory and non supervisory units. Mr. Krutz

noted that the agreements were for the period July 1, 2008 through June 30, 2010 and they are largely the same as the previous agreements. Highlights:

- There are no cost of living adjustments in either agreement for that period time.
  - This is owing to the City's current financial condition.
- Tentative agreement was made to make adjustments to the annual leave accrual table.
  - Something similar was done to the Group Health Sick Leave Conversion policy with the percentages that are converted from 20 to 25 years, depending on longevity with the City
- Proposal was made to increase the number of personal days from one per year to two per year
- Other changes are largely editorial and "clean up" in nature

A motion was made by Council Member Ratti, seconded by Council Member Carrigan, to approve a Memorandum of Understanding with Operating Engineers Local 3 Non Supervisory Unit for the contract period July 1, 2008 through June 30, 2010. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**6.9 Consideration, discussion and possible approval on the ratification of a bargaining agreement between the City of Sparks and the Operating Engineer Local 3, Supervisory Unit (Time: 4:21:02 p.m.)**

The presentation and discussion on this item was held in conjunction with item 6.8 and is listed under that item.

A motion was made by Council Member Smith, seconded by Council Member Schmitt, to approve a Memorandum of Understanding with Operating Engineers Local 3 Non Supervisory Unit for the contract period July 1, 2008 through June 30, 2010. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**6.10 Discussion, Consideration and Possible approval of an amendment to City of Sparks Civil Service Regulations, Article VIII, Section 5, Layoff Procedure (Time: 4:22:29 p.m.)**

Human Resources Manager Chris Syverson introduced Dr. Larry Kleinworth, chairman of the Civil Service Commission and Civil Service Commissioners Mike Raney and Penny Harrison. She stated the Civil Service Regulations allow for an employee who has been laid off from the City to remain on the layoff register for up to 12 months. This allows an employee who has been laid off to come back to the job they left or apply for a similar job or other job openings they qualify for—in effect allowing the laid off employees to become the list for all open positions. At the prompting of several employees, who addressed the Commission, the Civil Service Commission requested that the layoff register be extended from 12 months to 24 months, because they felt that with the current economic situation, it was possible that people may remain unemployed for a longer period of time.

Council Member Smith agreed that 24 months seemed reasonable and the right thing to do at this time.

Council Member Schmitt asked if this item had been voted on by the Civil Service Commission and what was the vote. Dr. Kleinworth responded the vote was four to one for approval. Mr. Schmitt asked for the reasons for the dissenting vote. Dr. Kleinworth stated that Mr. Brainerd sent the Council a letter outlining his reasons for dissenting on the vote. Mr. Schmitt then asked what the advantages were to extending the list. Dr. Kleinworth stated he felt the City had a large investment in its employees through training and hiring processes and it would be a shame to lose these people that have been trained to fill a particular position.

Mayor Martini said he agreed that the training was an important investment to consider.

A motion was made by Council Member Salerno, seconded by Council Member Smith, to approve the proposed amendment to City of Sparks Civil Service Regulations, Article VIII, Section 5, Layoff Procedure. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**7. Public Hearings and Action Items Unrelated to Planning and Zoning:**

**7.1 Public Hearing, Consideration and Possible Approval of the FY 2009-2010 Community Development Block Grant (CDBG) and HOME Consortium Action Plan (Time: 4:27:02 p.m.)**

Grant Administrator Tracy Wheeler noted that this plan outlines how the City will be allocating our CDBG and HOME consortium dollars to various activities throughout the City. At the time the staff report was due the City had not received notification of what our allocation would be for the next fiscal year. We received the information last week—our entitlement dollars have gone up approximately \$13,000 for a total of \$626,152.00. Staff also went through the prior expenditures and, in addition to the new allocation, staff is proposing to utilize a conditional \$413,000 that had previously been allocated, but due to cost savings, we had not expensed. In addition, we also have a little bit of program income generated by our housing rehabilitation program and we have those dollars to re-expend.

The funding is broken down as follows:

- \$250,000—allocated for housing rehab
- \$590,000—physical improvement projects (primarily pedestrian improvements throughout the community)

Mayor Martini opened the public hearing and asked if anyone wished to speak regarding the proposed action plan. There being no comment, the public hearing was closed.

A motion was made by Council Member Ratti, seconded by Council Member Smith, to approve the FY 2009-2010 Community Development Block Grant Action Plan to HUD as presented by staff. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

Council asked Ms. Wheeler to provide an update at a future meeting on the program where HUD is selling “homes for a dollar.” Ms. Wheeler stated that she would be happy to do this. Council also asked about the “weatherization” program dollars. Ms. Wheeler stated HUD provided the guidelines just last week for the recovery funds and she is working with staff on applications for a number of programs. She said she will provide a follow up on the weatherization program, but

to her knowledge there are no funds for jurisdictions or for public facilities, it is primarily for individual households.

**7.2 Public Hearing, 2<sup>nd</sup> Reading and possible approval of Bill No. 2605, an Ordinance adding an additional classification of business to Chapter 5.20 of the Sparks Municipal Code, pertaining to license fees for specific businesses and other matters properly related thereto (Time: 4:33:14 p.m.)**

Purchasing Manager Dan Marran noted that in 2007/2008, in the discussions leading up to the City adopting a new garbage franchise, there was also discussion regarding allowing for competition in the market, where it makes sense. Prior to adoption of the franchise there was an unlevel playing field in the community, as the franchisee had to pay the city a franchise fee, while their competitors did not. While this condition was alleviated in the adoption of the new trash franchise, due to the change in scope, this move resulted in a reduction in franchise revenues to the City. Every time the potential loss of franchise revenues was discussed last year, it was made very clear by the Council that staff should see a remedy to recoup these lost funds where possible. In testimony, others in the trash hauling industry expressed support for paying fees, similar to the franchise fee. This bill would change the Sparks Municipal Code in order to address this issue. The addition to section 5.20 allows for the use of specialized business license fees for specific business types identified within that section. At this time the City of Sparks has a specialized formula for four different classifications of businesses: telecommunication services; warehousing; manufacturing/processing; transportation/freight; and bulk storage. Adoption of this bill would add a fifth classification: those businesses that rent and service containers for the hauling of solid waste. In short, businesses that provide a container, rental services, and the associated hauling and disposal of those materials in those containers as the primary purpose of their business would pay a business license fee equal to 5% of their gross revenues. The 5% is equal to the franchise fee currently in place in the garbage franchise.

Mr. Marran noted that per NRS 237, adoption of this ordinance is defined as a rule; therefore, the City has drafted a business impact statement that is included in the staff report. The statement details the steps the City went through in drafting the ordinance and soliciting feedback from potentially affected businesses.

Mr. Marran stated that if this ordinance is adopted, there is a 30 day waiting period for appeals. Effective June 12, 2009, any new applicants would be charged the new fee. Those that already have licenses in place—there is going to be some give and take from the Licensing Department on whether the fee would apply to their specific business and calculating the fee versus what they have already paid this fiscal year, and what it would be going forward. The impact on existing licensees would take place no later than October 1, 2009.

Mayor Martini opened the public hearing and asked if anyone wished to speak regarding the proposed ordinance. There being no comment, the public hearing was closed.

A motion was made by Council Member Salerno, seconded by Council Member Smith, to approve Bill No. 2605 (Ordinance No. 2425) an Ordinance adding an additional classification of business to Chapter 5.20 of the Sparks Municipal Code. Council Members Ratti, Salerno, Smith, Carrigan, Schmitt, YES. Motion carried.

**8. Planning and Zoning Public Hearings and Action Items:**

**8.1 Public Hearing, Second Reading, discussion and possible approval of PCN09007 Bill No. 2604, an ordinance for an Annexation request, in accordance with the City of Sparks 7-year annexation program, from Stonefield Inc. for a site approximately 375 acres in size. Upon Annexation the zoning would convert from a Washoe County Designation of Tourist Commercial to a City of Sparks zoning designation of TC (Tourist Commercial) within the City of Sparks Sphere of Influence generally located in the East Truckee River Canyon north of Interstate 80 and Waltham Way approximately 6 miles east of the Sparks city limits (CONTINUED FROM 4/27/2009) (Time: 4:38:32 p.m.)**

Senior Planner Jim Rundle stated this annexation request was for 375 acres in the East Truckee River Canyon, within the City of Sparks' Sphere of Influence and identified in the City's 7-year annexation program. He stated that this annexation request received a recommendation of denial from staff and the Sparks Planning Commission voted to uphold staff's recommendation and voted to forward a recommendation of denial to the Sparks City Council. The reason staff recommended denial was based on the requirement to have services and facilities in place at the time of annexation, which would allow for development. He said he believed that the applicant's request for annexation is based on the fear of discontinuous annexations being made illegal at the State Legislature this year. At the time the annexation request was submitted to Cityworks, there had been no such bill draft that we were aware of, but this doesn't mean that a law regarding discontinuous annexations won't be attached to some bill at some point. Mr. Rundle pointed out that in the opinion of staff, discontinuous annexations are legal in the City of Sparks. NRS 268.6255 and the fact that Sparks has an annexation program in place would allow for the discontinuous annexation because this annexation is voluntary, it does not create an island of 40 acres or less, and it is within the annexation program. The one finding this request does not meet is the facilities being in place at the time of annexation.

Mr. Rundle stated that staff has outlined numerous concerns regarding this annexation request; including wild land fire and emergency response. If there were a wild land fire on this site, Station 3 would respond from Greg Street, leaving the area that Station 3 typically responds to susceptible. There is also the potential for the City having to pick up the tab for fighting a wild land fire. Police would not have a "beat" in that area, so their response would be on a reactive basis and only go out there if they were called.

The annexation program anticipated that the East Truckee Canyon Area Plan would be completed, but it has not been completed at this point. Staff has a draft plan that was held up because a majority of the property owners were concerned about the proposed land use designations. At that time staff stated they were willing to consider any land use designations that would be fiscally positive for the City. Any alternative land use proposals have not been backed up by fiscal analysis that shows a positive for the City.

Council Member Salerno asked if there were a fire out there now, would Sparks respond. Mr. Rundle stated that Reno would be the responder, because they merged with Washoe County. We have a mutual aid response agreement, but Truckee Meadows Fire Protection District, under the

City of Reno, would be first responder. If this area were annexed, Station 3 would respond to the majority of the calls, whether medical or fire.

Council Member Carrigan asked why this property was in our 7-year annexation program if we were not planning to annex it. He also asked how staff felt about the annexation. Community Development Director Neil Krutz explained that staff's recommendation is to deny the annexation because they feel the request is premature: the appropriate planning documents are not in place and adopted so that we have infrastructure to serve the area; nor is there a land plan that is fiscally positive. Therefore staff feels that the planning process should be honored and the annexation should not go forward until the property planning is in place. He said the area is in our Sphere of Influence and it is our intent to ultimately consider annexation; but only once the documentation is all lined.

Council Member Carrigan asked what would happen if this is not approved and then the Legislature comes out with legislation that changes the NRS to prevent noncontiguous annexations. He pointed out that there is a "wind farm" that is supposed to be annexed into the City and if noncontiguous annexations are not allowed these properties can never be in the City of Sparks because there is BLM land between these property and the current City limits. Mr. Carrigan said he has no clue what the Legislature might do and he did not want to jeopardize the future of Sparks. Mr. Krutz stated that is why staff framed the staff report with alternatives—to give the Council the option of making a policy decision to approve the annexation—in as much as there are planning processes underway, but not complete. He noted that the Council can make findings for either approval or denial.

Mr. Smith stated the staff report was very thorough and there are as many reasons to approve the annexation as there are to deny it. He stressed that he had the same fears regarding what the Legislature might do and a plan has been put into place to annex this property at some point in the future.

Council Member Schmitt stated that while he agreed that we were not "there" regarding the infrastructure portion of the plan for this property; he felt that in the past six years we have laid out a plan to make this part of the City of Sparks and investments have been made according to that plan. He said we want to have control over what happens and how this property is developed and he felt there was a very real possibility that the Legislature will make noncontiguous annexation illegal. He said there is a certain degree of risk in approving the annexation without the plan in place, but nothing can be built without the proper plans and we can require infrastructure to be built. Mr. Rundle confirmed that the annexation does not allow for any development to occur on the site; however, if we annex the property, it would receive a Tourist Commercial zoning designation and the property owner could develop single family residences on the property through a Special Use Permit, which would not be fiscally positive for the City. If the property is annexed without the area plan in place, the City could not require a project to be fiscally positive. We would have the ability to condition the infrastructure, but we could not condition that the project be fiscally positive for the City of Sparks. Mr. Schmitt said that because we don't know what the Legislature will do, annexing the property now is a risk worth taking. If we don't annex now, we may not be able to honor our commitments to the developers in the future.

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Council Member Ratti asked who pays for the mutual aid for fire assistance if we annex this area. Chief Flock explained that all the mutual agreements are a little different, but basically they all provide for a specific hourly time frame that is “free” and then any time spent fighting the fire after that specified time frame is billed to the agency that has jurisdiction in the fire area. He said we have been very successful in obtaining reimbursement on the hours that are reimbursable, but we do give a lot of “free” service, with the knowledge that we are going to receive services at some time in the future. Right now the area is not in Sparks’ fire jurisdiction, but if we annex it, it would be. Sparks would then be responsible for reimbursing other fire departments for any mutual aid above and beyond what is “free” according to the mutual aid agreement in place with that agency. Council Member Ratti also asked the Police Chief how this annexation would affect the resources of the police department. Chief Asher noted that up to 1/3 of our force could be pulled to handle any given situation in this area, if it is annexed. She then asked when the East Truckee River Canyon Plan would be complete. Mr. Rundle stated that staff has scheduled a meeting in June with all the major property owners in the East Truckee River Canyon and it is hoped that this meeting will get things moving on the plan; however, he did not feel comfortable with giving an estimate of when the plan will be finalized, because lots of elements, agencies, and property owners are involved. He said the tentative plan contained a lot of business park and single-family development, but a lot depends on the property owners and the economy.

Council Member Carrigan asked the annexation could be approved, contingent upon the completion of the area plan or contingent on whether or not the Legislature chooses to make noncontiguous annexation illegal. Staff asked for a recess in order to research Mr. Carrigan’s question. The meeting was adjourned at 5:12 p.m. and reconvened at 5:16 p.m.

Mr. Rundle stated that after researching Mr. Carrigan’s question, the solution would be to continue the item to the second meeting in June, when we will have a good idea what the State Legislature has decided to do. If they make this noncontiguous annexation illegal, we can consider annexation of this area. If they do not make this annexation illegal (which is probably not going to happen this legislative session), the Council could choose to deny the application based on concurrency concerns and then once the area plan is done, the applicant can come back with the annexation request and staff can recommend approval. Mr. Krutz stated this scenario would work under a number of assumptions; the key one being that if that law comes to pass, it would have an effective date of July 1 or after. The risk would be that the law is applicable upon signature.

Council Member Smith asked for clarification that right now there is no development in this area that would require the police to respond. Chief Asher affirmed that there is nothing out there for them to respond to at this time.

Council Member Schmitt stated that if the annexation is continued, it could affect not only this property, but other properties, such as the proposed solar farm and a possible geotech project. He said that we would like to have these projects under Sparks’ jurisdiction, rather than the County. Mr. Rundle pointed out that all these properties are in Sparks’ Sphere of Influence, so we do have a say in the development of the area, regardless of whether or not it is annexed into

the City. Mr. Schmitt said we might have a say in what is built, but the property taxes go to the County.

In response to further questions from Council, Mr. Rundle stated that the property owner for the solar farm did submit an annexation request to the City; however, the annexation application did not include a fiscal analysis, which is one of the requirements for an annexation application. The fiscal analysis does not have to be fiscally positive, but they do have to submit one. The applicant was informed that they needed to submit a fiscal analysis, but it has not yet been submitted.

Mayor Martini invited the applicant to make a presentation to the Council. Ms. Cynthia Albright of Stantec Consulting, representing the applicant, introduced Gary Nelson of Stonefield, Inc. and Nick Pavich. Ms. Albright noted that they are aware of the consideration requirements for this application; however, these are very unusual circumstances and that this was a discretionary application which they felt deserved special consideration. There are some individuals within the State government who wished to enact legislation to eradicate future discontinuous applications at the local level. Our fear is that this legislation will be quietly tacked onto the bottom of another piece of legislation and get quietly slipped through without notice. If that happens, the \$3 million that her clients have already expended to this point on this property will be voided. Ms. Albright stated that this property and other to the east provide the key parcels for future eastward expansion and growth in the City of Sparks.

Ms. Albright stated that because the applicant is not asking for an intensification of land use with this annexation, they felt they were in compliance with the Truckee Meadows Regional Plan policies that relate to concurrency. She emphasized that they did submit a fiscal analysis in conjunction with this annexation request and it does show that there is a cumulative surplus of over \$3.1 million to the City of Sparks between the 2010 and 2019 ten year planning period just for the development of the 375 acres that is the subject of the annexation. She went on to say that the fiscal impact report was based on all of the property being designated as tourist commercial with the types of uses that would support a truck stop. This would increase the income stream to the City, particularly if other properties were also annexed into the City. Ms. Albright stated that they are aware of the potential costs of public safety; however, she felt that those costs would be offset by the benefits of the property taxes that the City would receive in the future.

Ms. Albright noted that the property owners have diligently working with the City for more than 8 years on the land planning process and also to secure the right to construct and pay for a new interchange (at the City's direction) at Waltham Way to provide access to the area from the freeway. She emphasized that the property is included in the City of Sparks' Seven Year Annexation Program and it does meet the requirements of NRS 286.6255 (with the exception of provision of services at the time of annexation). Because of the timing and because there are no entitlements for the development of the property, concerns regarding the provision of services at the time of annexation are not outweighed by the risk of not annexing the property at this time. She stated the City had considered all the NRS requirements when the property was included in the annexation plan and the goal of having an adopted area plan is, in fact, a goal and not a requirement or force of law. She stated that special circumstances arise and consideration should

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be given when they do arise. They believe this application is one of those special circumstances. She emphasized that Sparks has already completed the City of Sparks' TMSA/FSA conceptual facility master plan; it was endorsed by the Regional Water Planning Commission; and it could be adopted by the City of Sparks within a matter of months, following adoption of the East Truckee Canyon Area Plan. Depending on the way the land use plan actually gets revised, it could require some minor improvements or modifications to the facility plan. She said the owners are working with City staff to revise the area plan and they have even submitted a very preliminary fiscal impact report. The owners are aware that annexation does not mean development, but they have diligently worked with staff to come up with a plan that the City of Sparks can embrace and they are asking for annexation at this time.

Council Member Ratti asked if any of the \$3+ million that the applicants have spent so far on the property would be of value if this property were not annexed into the City, but instead developed in the County. Ms. Albright said certainly the expenditures on the Federal Highway Administration for the interchange (\$1.5 million) would not go to waste. However, the resources spent for the land planning and City of Sparks' processes and requirements would be a loss. A brief discussion ensued regarding whether or not the property could be developed under Washoe County rules and regulations.

Mayor Martini opened the public hearing and asked if anyone wished to speak regarding the proposed annexation. There being no comment, the public hearing was closed.

Council Member Schmitt stated he supported this annexation because in 2003 we encouraged the developer to go ahead with the expenses to start developing out there. It is unfortunate that we have to go this route to protect that area. However; he is going to be very critical of all the projects that come forward because he does not want a repeat of the warehousing district along the Truckee River that the City got stuck with in the early 50's. The projects proposed should be very high quality projects; ones the City can be proud of; ones that produce jobs.

Council Member Ratti said she is not supporting the annexation because there is a process and we should follow that process. The process includes finding of fact and our staff and the Planning Commission could not make a finding of fact and she did not hear any testimony today that changed that finding of fact, which would be the concurrent provision of services at the moment of annexation.

Mayor Martini said he is in favor of the annexation because we need to get this done.

A motion was made by Council Member Smith, seconded by Council Member Schmitt, to approve Bill No. 2605 (Ordinance No. 2424), an annexation request associated with PCN09007, to annex 375 acres into the City of Sparks, based on findings A1 through A4 and the facts supporting these findings as set forth in the staff report. Council Members Salerno, Smith, Carrigan, Schmitt, YES. Council Member Ratti, NO. Motion carried.

(Time: 5:45:45 p.m.)

Council Member Carrigan read a disclosure statement as follows:

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I am required to make the following disclosure under NRS 281A.420(4): Carlos Vasquez is a friend of mine and has volunteered on each of my campaigns for City Council. Mr. Vasquez was at one time a paid representative for Red Hawk Land Company on this project, but he is no longer professionally affiliated with this project. The Nevada Commission on Ethics has determined that this relationship amounts to a commitment in a private capacity warranting disclosure and has further concluded that under the requirement of NRS 281A.420(2), I must abstain from voting on Item. 8.2. on tonight's agenda. The City Attorney's Office has advised me that the Opinion of the Commission on Ethics is binding and that I am required to abstain from voting on this issue. I am hereby filing a written legal opinion from the City Attorney with the City Clerk.

I also want to apologize to my constituency. Because of this statute, they will have no representation tonight on this issue. I want to put it on the record that I do not agree with the Ethics Commissions' opinion and advisement on this issue.

(Time: 5:47:08 p.m.)

Council Member Salerno read a disclosure statement as follows:

I am required to make the following disclosure under NRS 281A.420(4): My company, Nevada Forms and Printing, does business with the Sparks Nugget on a bid/buy basis. The Nevada Commission on Ethics has determined that this relationship amounts to a commitment in a private capacity warranting disclosure and has further concluded that under the requirement of NRS 281A.420(2), I must abstain from voting on Item 8.2. on tonight's agenda. The City Attorney's Office has advised me that the Opinion of the Commission on Ethics is binding and that I am required to abstain from voting on this issue. I am hereby filing a written legal opinion from the City Attorney with the City Clerk.

Agency Attorney Adams stated that based on the respective reasons obligating the abstention by Council Members Carrigan and Salerno, as enumerated in their disclosure, the total membership of the Sparks City Council is reduced to three, as a matter of law, under NRS 281A.420(5). This reduction conforms to the requirements of NRS 241.0355(2) and the written legal opinions which has been provided by this office and relied upon by Council Members Carrigan and Salerno. These documents have been filed with the City Clerk and will be included in the record of today's proceedings. Accordingly, and affirmative vote of two members of the City Council is required for a proposed measure to pass, related to the remaining agenda item 8.2.

The City Council declared a recess at 5:45 p.m. The meeting was reconvened at 6:30 p.m.

**8. Planning and Zoning Public Hearings and Action Items: (CONTINUED FROM 3:00 P.M. SESSION) (Time: 6:30:31 p.m.)**

Mayor Martini noted the Council Members Salerno and Carrigan are recusing themselves and are abstaining from the vote on this item.

(Time: 6:32:04 p.m.)

Pastor Barb West from the Sparks Nazarene Church led the audience in prayer.

**8.2 Public Hearing, Discussion and Possible action concerning City Council review pursuant to Mayor’s request and an Applicant Appeal of Planning Commission decision regarding PCN09005, a Proposed Master Plan Amendment request seeking:**

- A.) To change the land use designation from General Commercial (GC) to Tourist Commercial (TC) on a site approximately 20.5 acres in size generally located east of Pyramid Highway, north of the Lazy 5 park within the Tierra Del Sol Planned Development, Sparks, NV; and**
- B.) To change the land use designation from Tourist Commercial (TC) to 5 du/ac (dwelling units per acre), on a site approximately 27 acres in size generally located at the southwest corner of the intersection of Vista Boulevard and Wingfield Hills Road in the Wingfield Springs Planned Development, Sparks, NV (Time: 6:32:04 p.m.)**

Senior Planner Tim Thompson noted that this was an appeal of the Planning Commission’s decision regarding PCN09005—a proposed Master Plan Amendment request seeking to change the land use designations on two parcels. He reviewed the history of the request, stating that on April 2, 2009, the proposed Master Plan Amendments associated with this case failed to achieve the requisite 2/3 majority vote before the Sparks Planning Commission—a motion to approve the item failed for lack of a second. Certain Planning Commissioners believed that the development project proposed on the parcels of land which would be affected by the proposed Master Plan Amendments would cause unintended impacts on adjacent properties and that the proposed land use is not compatible with the existing surrounding land uses. During the April 13, 2009, City Council Meeting Mayor Martini verbally requested that the Sparks City Council review the decision of the Sparks Planning Commission. On April 1, 2009, the Red Hawk Land Company filed an appeal requesting that the City Council overturn the April 2, 2009, decision of the Sparks Planning Commission regarding the proposed Master Plan Amendments.

Mr. Harvey Whittemore, the Manager of the Red Hawk Land Company, presented his appeal, stating he felt that the original development agreement between Red hawk and the City is a recorded contract and they simply want to be able to receive the benefits that were negotiated in that contract. He said this application is about the sanctity of the negotiated contract and sound planning principles—not about the impact of competition on a downtown business owner. Mr. Whittemore then reviewed the legal principles on which he is basing his appeal.

Mayor Martini opened the public hearing and asked if anyone wished to speak regarding the proposed master plan amendment. He cautioned those that wished to speak that this is a business matter and that personal comments regarding the appellant, council members, the City Attorney, or their families would not be tolerated.

The following individuals spoke in opposition to the Master Plan Amendment:

Vija Cox	Tom Stauss	Bryce Alstead
Michonne Ascuaga	Stephen Peek	Roy Adams
Herman Stewart	Edis Hill	Gary Schmidt
John K. Bradbury	Adam McMillen	Shirley Bertschinger

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The following individuals did not wish to speak, but were present to express their opposition to the Master Plan Amendment:

Rendell L. Banks	Linda Banks	Mari Nigro
Windee Foote	Alma Martin	Beth Lau
Darryl West	Michele Salonek	Heidi Gerhardt
Dusty Capurro	Marlene Raviliuws	W.E. Walters
Nettie Hansen	Delice Aeoster	Brice Alstead
Jeannie Adams	Penny Jones	Stephanie King
Tara Hill	Pete Seaman	Mureal Hogan
Keyanna McMillen	Beau Connolly	Lori Teaklee
Dawn C. Hammond	Rita S. Kahl	Giles M. Marion
Nancy Trabert	Terry Maine	Staci Harold
Don D. Harold	Brian Maine	Sandra Mindeguia
Sau Esquivel	Cindy Rife	Barry Rife
Shannon Waldrop	Kylee Maine	Lindsey Maine
Patricia McDowell	Kevin Schmidt	Danny R. Waldrop
Sarah Mosier-Gallagher	David Maher	Chris Pasioka
John E. Bower	Christine Gray	Steve Henderson
Isis Vann	P. Sue Henderson	Ryan Gallagher
Debbie Trombetta	Adam Bass	Linda Beldon
Doug Kuehn	Mariela M. Sozo	Kelly Lewis
James Southand	Donna Green	Ernie Borba
Carrol Guzman	Tracy Holland	Bob Bertschinger
Tony Delise	Cindy Hall	James Lackie
Jenne Clark	Dunning Lau	Jean Marshall
Adriana Neri	Malik Tariq	Batool Tariq
Ryan Kass	Nyls Nymaa	Glen M. Hall
Jon Snyder	Lynette D. Halsey	Robin Vieas
Kim Johnson	Jerad Mattingly	Shaun Anderson
Karl Rodriguez	Pamela & Brad Culbertson	T. Krembs
Michael Pate		

The following individuals spoke in support of the Master Plan Amendment:

Drew Canavero	William Brainard	Lou Dauria
Scott Whittemore	Garrich Gordon/Louis&Rocha	

The following individuals did not wish to speak, but were present to express their support of the Master Plan Amendment:

Jenny Wilson	Roxanne Doyle	Carri Kihne
Beth Wilson	Katie Wilson	Tom Steinberg
Naalie Okeson	Jim Harris	Renee Harris
Carl Savely	Tim Gonyo	Michelle Stewart
Trevor Puryear		

There being no further comment, the public hearing was closed.

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Mayor Martini called a recess at 7:44 p.m. The meeting reconvened at 7:48 p.m.

City Attorney Adams pointed out that the City has a responsibility to make the appropriate Master Plan Amendment findings as required by Nevada Law. In this case the Council the council has to make specific findings and he asked the Council to disregard the “settlement agreement” the City made with Red Hawk Land Company and look at the specific finding when considering whether or not to uphold the Planning Commission’s denial of this Master Plan Amendment. He noted that our ordinances allow the Council to either affirm, modify, remand for further consideration, or reverse the action or decision [of the Planning Commission]. If the Council is going to modify or reverse that decision, they need to make specific findings and not be swayed, intimidated, or otherwise influenced by the issue that is before the Nevada Supreme Court.

Council Member Ratti stated she would prefer to remand this application back to the Planning Commission for more specificity on their findings before making a decision on this complex issue. She said the findings of fact are important to her and if we don’t make the findings of fact, then we have to decide whether or not this application, regardless of the settlement agreement, is in conformance with the master plan. She stated that she believed the current policy of the City of Sparks, as voted upon by the City Council, is that tourist commercial should be located on the I-80 corridor. Whether we did that because of surveys, citizen petition, or an adhoc gaming group, the master plan, as it is currently written, supports gaming along the I-80 corridor. The question before us is does this particular applicant have an exception to that current master plan standard because they locked in the language in a prior master plan agreement (Sphere of Influence agreement). Then she has to decide whether she holds the applicant to the current standards or does she hold them to the standard of the prior sphere of influence language.

Council Member Schmitt asked if the findings of facts are in the staff report. Mr. Thompson confirmed that all four findings of fact for approval of the Master Plan Amendments are listed in the staff report. Mr. Schmitt noted that when the decision was made to limit tourist commercial development to the I-80 corridor area, it was made very clear that this decision did not involve this property, because of the application already in process at that time.

He also asked for clarification on remanding this application back to the Planning Commission a second time, stating his understanding was that if the Planning Commission denied the Master Plan Amendment requests again, there is no appeal of that second denial. City Attorney Adams clarified if this were remanded back to Planning Commission, they would take a look at the application, anew, and if they chose to deny it again, then it is the appellants right to appeal it back to the City Council, again. Council Member Schmitt said he did not feel that the Planning Commission did their job—they made no findings of fact upon which their denial was based.

Council Member Schmitt stated the most articulate testimony tonight was the prayer by Pastor Barb West. Her prayer was that when this council makes a decision, that the community accepts the decision and moves forward. Mr. Schmitt said we would not be here tonight if the City Council was listened to when we made the settlement agreement and something tells me that we are probably not going to be listened to tonight—not everybody is going to accept the decision of the Council and the fight of the “big dogs” will continue. Mr. Schmitt also made it clear that the

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success or failure of businesses is not something the City Council can base their decision upon. We have no legal status as a City Council to deny a project based upon vacant store fronts. That is not in the NRS and the law does not allow us to do that—those are business decisions.

Mayor Martini commented that, as he recalled, the intent of the Council was to pull this piece of property out of the I-80/TC (Tourist Commercial) corridor restrictions. He also thought that the Council reserved the right to put TC in other areas (besides the I-80 Corridor) if they saw fit. Mr. Krutz confirmed that this intent is reflected in the language that the council adopted regarding the restrictions on TC development.

Mayor Martini said it comes down to the City Attorney's advice—our attorney has never, ever, waived on what his instructions were to us and what he thought was right. He said we had a contract with the land development company and that we should honor that contract. Mayor Martini also said that he felt that the planning professionals employed by the City made the proper findings for approval that the Planning Commission ignored.

Council Member Ratti said she read the minutes of all the meetings involved in this issue and she did not find anything that pulled this particular piece of land out of that policy decision. However it did say that the Council retains the right to make Master Plan changes that would change that policy in the future; however we maintain the right to do this any time we make a Master Plan update. Council Member Schmitt asked staff to review the meeting minutes and find where the Council specifically excluded this parcel from the TC/I-80 restrictions. City Attorney Adams stated that irrespective of what the minutes might show on this issue, the Sparks City Charter gives the City Council the ultimate authority concerning zoning (Section 2.090(5)(11)).

Council Member Smith made a motion to approve the Master Plan Amendment and remand it back to the Planning Commission for a report. Council Member Schmitt seconded the motion for discussion.

Council Member Ratti said that as she sees it, her role is to decide whether or not she agrees with the findings of fact. She said she is thankful for all the people that turned out and said that has been a tough process. The Whittemore family does excellent work and the quality of the project has never been in question and if the casino is built, it will be a high quality project. However, she spent a lot of time researching this issue and she cannot support this project. Her decision is based on whether or not the applicant has an entitlement based on a 1994 development agreement that is transferrable. While the City entered into a settlement agreement that stipulated to the facts of the agreement, we don't have the court's opinion that this is actually valid, and therefore, she can't support approval of this project.

Council Member Schmitt asked for clarification of motion. City Attorney Adams stated the council is moving to approve the Master Plan Amendment and asking the Planning Commission to provide the Council with a report outlining the ramifications or outfall of the decision made tonight, but not necessarily justifying their decision. If they don't give the Council a report, under Nevada law, within 40 days, it is deemed that they have accepted the City Council's

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decision and the Council is free to reconsider the matter and certify it to the Regional Planning Commission.

Council asked how a negative decision from the courts regarding the settlement agreement would affect a vote to approve this Master Plan Amendment. City Attorney Adams that due to the confusing nature of the court issues, he advised the Council not to consider the settlement agreement when making their decision regarding this Master Plan Amendment request.

A motion was made by Council Member Smith, seconded by Council Member Schmitt, to approve the Master Plan Amendment associated with PCN09005, adopting findings MP1 through MP4 and the facts supporting these findings as set forth in the staff report and direct the City of Sparks Planning Commission to prepare a report on the Master Plan Amendment associated with PCN090005 and file that report with the City Council within 40 days pursuant to NRS 278.220(4) with the reasons for denying the Master Plan Amendment. Council Members Smith, Schmitt, YES. Council Member Ratti, NO. Council Members Carrigan, Salerno, ABSENT. Motion carried.

**9. Comments:**

**9.1 \*From the Council and City Manager (Time: 8:18:49 p.m.)**

None.

**10. Adjournment (Time: 8:18:56 p.m.)**

There being no further business, the meeting was adjourned at 8:18 p.m.

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Mayor

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City Clerk

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